



PUBLIC NOTICE

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

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DA 06-2586
Released: December 22, 2006

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF
CONTROL OF LIGHTYEAR NETWORK SOLUTIONS, LLC,
FIRST COMMUNICATIONS, LLC, AND XTENSION SERVICES, INC.
TO FIRST COMMUNICATIONS, INC.**

STREAMLINED PLEADING CYCLE ESTABLISHED

06-00291

WC Docket No. 06-228

Comments Due: January 5, 2007
Reply Comments Due: January 12, 2007

On December 06, 2006, First Communications, Inc. ("FCI"), a newly formed holding company, Lightyear Network Solutions, LLC ("Lightyear"), First Communications, LLC ("First Communications"), and Xtension Services, Inc. ("Xtension") (collectively, the "Applicants"), filed an application, pursuant to section 63.04 of the Commission's rules,¹ requesting authority to transfer control of Lightyear, First Communications, and Xtension to FCI.²

Applicants assert that this transaction is entitled to presumptive streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules because the proposed transaction will result in: (1) FCI, as the Transferee, holding less than a 10% share of the interstate, interexchange market; (2) FCI, as the Transferee, providing competitive telephone exchange services or exchange access services (if at all) exclusively in geographic areas served by dominant local exchange carriers (none of which is a party to the proposed transactions); and (3) none of the Applicants or their affiliates are dominant with respect to any service.³

Lightyear, a Kentucky limited liability company, is authorized to provide local exchange telecommunications services in 44 states and long distance telecommunications services in 49

¹ 47 C.F.R. § 63.04; *see* 47 U.S.C. § 214.

² Applicants filed a supplement to the application on December 22, 2006. Applicants are also filing applications for transfer of control associated with authorization for international services. Any action on this domestic 214 application is without prejudice to Commission action on other related, pending applications.

³ *See* 47 C.F.R. § 63.03(b)(2)(i).

states.⁴ Lightyear is a wholly owned subsidiary of LY Holdings, LLC,⁵ a Kentucky limited liability company, which, in turn, is owned by a series of investors including LANJK, LLC, SullivanLY, LLC, and Rice-LY Ventures, LLC.

First Communications, an Ohio limited liability company, provides telecommunications services to customers located primarily in Ohio, Michigan, Indiana, Illinois, North Carolina, Texas, Pennsylvania and Florida.⁶ First Communications' services include traditional local and long distance services, toll-free services, conference calling packages, calling cards, prepaid calling cards, Internet access and dedicated and private line services. First Communications' telecommunications services are provided primarily on a resale basis using the facilities and switches that are owned and operated by other telecommunications carriers. The following companies own a 10% or greater interest in First Communications: McKinley Communications, LLC (51%); First Energy Corp. (32%); and Boich Investment Group, Ltd. (17%). No other entity holds a 10% or greater ownership interest in First Communications.⁷

Xtension, a Delaware corporation, is authorized to provide long distance telecommunications services in 13 states and local exchange telecommunications services in New Jersey.⁸ Jamie J. O'Steen and David H. Amis, both U.S. citizens, each own 50% of Xtension.

⁴ Lightyear is authorized to provide telecommunications services in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

⁵ As part of the proposed Transaction, LY Holdings, LLC will be merged into Lightyear and therefore will cease to exist as an intermediate holding company following the transfer of control to FCI.

⁶ First Communications is authorized to provide telecommunications services in Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

⁷ On November 30, 2006, First Communications, LLC, Acceris Management and Acquisition LLC ("Acceris"), New Access Communications LLC ("New Access"), and Choicetel LLC ("Choicetel") filed a domestic section 214 application to transfer local and long distance customers and assets in multiple states of Acceris, New Access, and Choicetel to First Communications, LLC. That application is pending. *Domestic Section 214 Application Filed for the Acquisition of Assets of Acceris Management and Acquisition LLC, New Access Communications LLC and Choicetel LLC by First Communications, LLC*, WC Docket No. 06-217, Public Notice, DA 06-2509 (rel. Dec. 14, 2006).

⁸ Xtension is authorized to provide telecommunications services in California, Colorado, Florida, Illinois, Kansas, Michigan, Nevada, New Jersey, New York, North Carolina, Pennsylvania, Texas, and Washington.

FCI, a newly formed Delaware corporation, does not hold any domestic section 214 authorizations. Prior to the closing of these three transactions, FCI will undertake an initial public offering on the Alternative Investment Market of the London Stock Exchange (“AIM”) in March 2007 after which approximately 72% of its shares will be held by new investors, and the remaining shares will be held by existing owners and founders/management of Lightyear, First Communications, and Xtension. Applicants do not expect that any individual will hold an attributable interest in more than 10 percent of the shares of FCI, or that any individual or entity will hold any controlling interest. Applicants also state that founding management will hold a combined interest of 15 percent, but no individual among the founding management group will hold more than 10 percent of the stock of FCI. Further, Applicants state that none of the current shareholders of Lightyear, First Communications or Xtension will hold more than 10% of the stock of FCI,⁹ and Applicants do not expect that any individual or entity will acquire more than 10% of the publicly offered shares.

Applicants propose to complete a transaction through which FCI will acquire 100% control of Lightyear, First Communications, and Xtension following the initial public offering of shares by FCI on the AIM.¹⁰ The transaction will not result in any assignment or transfer of authorizations, assets or customers of Lightyear, First Communications, and Xtension. All three operating companies will continue to provide service to their existing customers pursuant to their existing authorizations.

Applicants state that the proposed transaction will serve the public interest because, immediately following the consummation of the proposed transaction, Lightyear, First Communications, and Xtension will continue to offer service to existing customers with no change in their rates or terms and conditions of service. Therefore, transfer of control of Lightyear, First Communications, and Xtension will be seamless and virtually transparent to consumers. Applicants further assert that operation as an integrated entity will allow the merged companies to be more technically, operationally, and financially able to compete in the telecommunications marketplace.

⁹ Applicants state that, following the AIM admission and as of the closing of the transaction and the resulting transfer of control, the existing First Communications shareholders will hold an aggregate of approximately 7.5 percent in FCI; the current shareholders in LY Holdings, LLC (the parent of Lightyear) will hold an aggregate of approximately 3.5 percent in FCI; and the current shareholders in Xtension will hold an aggregate of approximately 3 percent in FCI.

¹⁰ Applicants state that, at the time of closing, another parent holding company may be added to the corporate structure as the publicly-traded parent company, and the publicly-traded company will be the ultimate parent of Lightyear, First Communications, and Xtension. Applicants further state that the insertion of such an additional holding company would not in any way alter the ownership information provided in this Application and would merely result in there being an intermediate holding company between Lightyear, First Communications, and Xtension and the ultimate publicly-traded parent. Because a decision as to whether to add an additional holding company may not be made until immediately prior to the public offering, Applications request that the Commission’s grant of this Application include approval of this possible alternative structure so as not to impede or delay the orderly process of the offering.

GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file **comments on or before January 5, 2007 and reply comments on or before January 12, 2007.**¹¹ Unless otherwise notified by the Commission, Applicants are permitted to transfer the assets and related control on the 31st day after the date of this notice.¹² Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- **For ECFS filers,** if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110,

¹¹ See 47 C.F.R. § 63.03(a).

¹² Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington D.C. 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

You may submit comments, identified by the above noted docket number, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web Site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

In addition, one copy of each pleading must be sent to each of the following:

- (1) The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, www.bcpweb.com; phone: (202) 488-5300 fax: (202) 488-5563;
- (2) Myrva Charles, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C330, Washington, D.C. 20554; email: myrva.charles@fcc.gov;
- (3) Adam Kirschenbaum, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C211, Washington, D.C. 20554; e-mail: adam.kirschenbaum@fcc.gov;
- (4) Susan O'Connell, Policy Division, International Bureau, 445 12th Street, S.W., Room 7-B544, Washington, D.C. 20554; email: susan.o'connell@fcc.gov; and
- (5) James Bird, Office of General Counsel, 445 12th Street, S.W., Room 8-C824, Washington, D.C. 20554; e-mail: james.bird@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room

CYB402, Washington, D.C. 20554, telephone: (202) 488-5300, fax: (202) 488-5563, or via e-mail www.bcpweb.com.

For further information, please contact Myrva Charles at (202) 418-1506, or Adam Kirschenbaum at (202) 418-7280.

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