



PUBLIC NOTICE

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DOMESTIC SECTION 214 APPLICATION GRANTED FOR THE TRANSFER OF CONTROL OF KINEX TELECOM, INC. TO PLANET NETWORKS, INC.

WC Docket No. 24-120

By this Public Notice, the Wireline Competition Bureau (Bureau) grants the application filed by Kinex Telecom, Inc. (Kinex or Transferor) and Planet Networks, Inc. (Planet or Transferee) (together, Applicants), pursuant to section 214(a) of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules,¹ requesting consent for the transfer of control of Kinex to Planet.²

On July 3, 2023, the Bureau released a public notice seeking comment on the Application.³ The Bureau did not receive comments or petitions in opposition to the Application.

Applicants and Description of Transaction

Kinex, a Virginia corporation, provides voice and broadband service, including interconnected Voice over Internet Protocol (VoIP) service, using fixed wireless and fiber technology to connect homes, businesses, and anchor institutions in Virginia.⁴ Kinex provides these services to approximately 1,600 residential and business customers and focuses on serving rural and remote areas in central Virginia.⁵ Kinex, an Eligible Telecommunications Carrier, receives high-cost universal service support through the Rural Digital Opportunity Fund (RDOF) support mechanism.⁶ Kinex is authorized to receive a total of \$9,975,489.60 in RDOF support to serve 7,595 locations in its designated census

¹ See 47 U.S.C. § 214(a); 47 CFR §§ 63.03-04.

² Application for Consent to Transfer Control of Kinex Telecom, Inc. to Planet Networks, Inc., Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 24-120 (filed Apr. 19, 2024) (Application). Applicants filed a supplement to the Application on June 28, 2024. Supplement to Application for Consent to Transfer Control of Kinex Telecom, Inc. to Planet Networks, Inc., Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 24-120 (filed June 28, 2024) (Supplement). Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

³ *Domestic Section 214 Application Filed for the Transfer of Control of Kinex Telecom, Inc. to Planet Networks, Inc.*, WC Docket No. 24-120, Public Notice, DA 24-640 (WCB 2024).

⁴ Application at 4, 15.

⁵ *Id.* at 4.

⁶ *Id.* at 11-12. Kinex also participates in the Lifeline program and will continue to do so post-consummation of the transaction. *Id.* at 12; Supplement at 3.

blocks in rural Virginia (Transferred Census Blocks).⁷ Kinex is owned by two U.S. citizens, James Garrett (60%) and Scott Chidester (20%), and Planet Capital, LLC (Planet Capital), a Delaware limited liability company wholly owned by Planet (20%).⁸

Planet is a Delaware corporation and holding company that does not provide telecommunications services.⁹ Planet, through Planet Capital, also a holding company, provides voice and broadband service using both fiber and coaxial cable technology to connect homes, businesses, and anchor institutions in rural markets of New York, New Jersey, and Pennsylvania¹⁰ through three wholly-owned competitive local exchange carrier (LEC) subsidiaries: Planet Fiber NY LLC; Planet Fiber NJ LLC; and Planet Fiber PA LLC.¹¹ Each competitive LEC subsidiary provides intraLATA transport, interconnected VoIP, and broadband Internet services.¹² Planet's only 10% or greater owner is Robert Boyle (52%), a United States Citizen.¹³

Pursuant to the terms of the proposed transaction, Planet Capital and Kinex entered into a Stock Purchase Agreement by which Planet Capital acquired a 20 percent equity interest in Kinex, and Kinex and its shareholders agreed to sell all of their equity to Planet Capital.¹⁴ Applicants state that upon approval by the Commission of this Application and by state authorities, Planet Capital will acquire the remaining 80% of Kinex, including Kinex's voice and broadband operations (both within and outside of its RDOF supported area), its RDOF support obligations, and its right to receive corresponding RDOF support.¹⁵ Applicants assert that at closing, Planet Capital will be responsible for Kinex's ongoing operations, customer service, network expansion, and deployment of RDOF facilities and services.¹⁶ Applicants also assert that Planet Capital will also own all of Kinex's existing facilities, including 350 miles of fiber serving RDOF locations, engineering plans, local permits, and other work product that Kinex has created and installed.¹⁷ Applicants explain that after consummation of the transaction, Kinex will continue and accelerate deployment of the RDOF-supported network and integrate such activities and operations into its own ongoing operations.¹⁸ Applicants further explain that no carrier change charges will result from the transaction, and no customer service or billing contact information will change as a result of the transaction.¹⁹ Applicants contend that the transaction will be transparent to the customers of the Applicants, as customers will continue to be served pursuant

⁷ Application at 1, 4; *see also Rural Digital Opportunity Fund Support Authorized for 2,521 Winning Bids*, AU Docket No. 20-34 and WC Docket No. 19-126 et al., Public Notice, 37 FCC Rcd 171, at Attach. A (WCB/OEA 2022) (*RDOF Public Notice*).

⁸ Application at 13-14.

⁹ *Id.* at 4, 13.

¹⁰ *Id.* at 4-5, 15.

¹¹ Supplement at 1.

¹² *Id.*

¹³ Application at 14.

¹⁴ *Id.* at 2.

¹⁵ *Id.* at 2, 14.

¹⁶ *Id.* at 6.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

to their existing operations.²⁰ Finally, Applicants assert that Kinex’s new ownership plans include upgrades to the Kinex network and the offering of faster speeds to subscribers at lower prices.²¹

Discussion

We find, upon consideration of the record, that a grant of the Application will serve the public interest, convenience, and necessity. To make this determination under Commission precedent, we consider whether the proposed transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.²² We then employ a balancing test weighing any potential public interest harms of the proposed transaction against any potential public interest benefits.²³ The Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, serves the public interest.²⁴

We find that there are no potential public interest harms identified in the record. First, the proposed transaction will not result in a reduction of competition. None of Planet’s subsidiaries offers telecommunications services in Virginia.²⁵ Thus, there will be no physical overlap in service areas or reduction in service providers in any market as a result of the transaction.²⁶ Second, we expect no potential harm to existing customers to result from the transaction. Applicants attest that following consummation of the transaction, Kinex’s customers will continue to receive their services over the same network and under the same rates, terms, and conditions.²⁷ Applicants also attest that the transaction will be transparent to customers as “[n]o carrier change charges will result from the transaction, and no customer service or billing contact information will immediately change as a result

²⁰ *Id.*

²¹ *Id.* at 7.

²² See, e.g., *Application of Verizon Communications Inc. and América Móvil S.A.B. de C.V for Consent to Transfer Control of International Section 214 Authorization*, GN Docket No. 21-112, IBFS File No. ITC-T/C-20200930-00173, Memorandum Opinion and Order, 36 FCC Rcd 16994, 17001, para. 21 (2021) (*Verizon-TracFone Order*) (citing *China Mobile International (USA) Inc., Application for Global Facilities-Based and Global Resale International Telecommunications Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended*, ITC-214-20110901-00289, Memorandum Opinion and Order, 34 FCC Rcd 3361, 3366, para. 9 (2019); *Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelpia Communications Corporation (and Subsidiaries, Debtors-in-Possession), Assignors, to Time Warner Cable Inc. (Subsidiaries), Assignees; Adelpia Communications Corporation, (and Subsidiaries, Debtors-in-Possession), Assignors and Transferors et al.*, MB Docket No. 05-192, Memorandum Opinion and Order, 21 FCC Rcd 8203, 8219-21, paras. 27-28 (2006) (*Adelpia-TWC Order*)).

²³ See *Verizon-TracFone Order*, 36 FCC Rcd at 17001, para. 21 (citing *Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, MB Docket No. 14-90, Memorandum Opinion and Order, 30 FCC Rcd 9131, 9140, para. 18 (2015) (*AT&T-DIRECTV Order*)) (further citations omitted).

²⁴ See *Verizon-TracFone Order*, 36 FCC Rcd at 17001, para. 21 (citing *AT&T-DIRECTV Order*, 30 FCC Rcd at 9140, para. 18; *Adelpia-TWC Order*, 21 FCC Rcd at 8217, para. 23; *Application of EchoStar Communications Corp., General Motors Corp., and Hughes Electronics Corp., Transferors, and EchoStar Communications Corp., Transferee*, CS Docket No. 01-348, Hearing Designation Order, 17 FCC Rcd 20559, 20574, para. 25 (2002)) (further citations omitted).

²⁵ Application at 4.

²⁶ *Id.* at 4, 10.

²⁷ *Id.* at 3, 6.

of the transaction.”²⁸ Applicants aver that the transaction “will not result in any delays in deployment of services consistent with the applicable public interest obligations associated with receipt of RDOF funding.”²⁹ Accordingly, the transaction will not result in any loss or impairment of service for either Applicants’ subscribers.³⁰

Planet commits to meeting all public interest and performance obligations associated with the receipt of Kinex’s RDOF support,³¹ and the record indicates that Planet has the technical, financial, and managerial expertise to do so after consummation of the transaction.³² Indeed, Planet asserts it will “bring additional management capabilities, staff resources, capital resources, and inventory/purchasing power to the combined entity”³³ in order “to meet Kinex’s RDOF buildout milestones and performance obligations in a timely manner.”³⁴ Planet also intends to “retain all Kinex management post-closing.”³⁵ Applicants assert that “Planet does not plan to make material changes to Kinex’s RDOF deployment technologies or network architecture, other than potential upgrades to existing GPON 2.5/1.25G service areas to XGS-PON 10/10G over the coming year.”³⁶ In addition, Planet confirms it has “set aside dedicated capital to fund the costs of deploying Kinex’s network facilities to provide RDOF-compliant service in the Transferred Census Blocks” and “under Planet’s control, Kinex will use future RDOF support for covered services and is not taking on any debt repayment obligations that will impair program compliance or otherwise significantly affect its costs to deploy service.”³⁷ Overall, we conclude that the record in this proceeding does not support a finding of a public interest harm.

We next consider whether the proposed transaction is likely to generate verifiable, transaction-specific public interest benefits.³⁸ Applicants must provide evidence of a claimed benefit to allow the Commission to verify its likelihood and magnitude.³⁹ Where potential harms appear unlikely, as is the case with the Application before us here, the Commission accepts a lesser degree of magnitude and likelihood than when harms are present.⁴⁰

Applicants state that the proposed transaction is consistent with the public interest.⁴¹ Specifically, Applicants assert that “Planet will bring a number of positive operational contributions to the delivery of service to these RDOF areas that will benefit consumers,” including “a larger labor force, substantial financial resources, substantial managerial experience, goodwill in rural Virginia, and

²⁸ *Id.*

²⁹ *Id.* at 9.

³⁰ *Id.* at 3.

³¹ Application at 6-7; Supplement at 2.

³² Application at 3, 7-10; Supplement at 2-3.

³³ Supplement at 2,

³⁴ Application at 8; *see also id.* at 5, 15.

³⁵ Supplement at 2.

³⁶ Application at 9.

³⁷ *Id.* at 8, 10.

³⁸ *See AT&T/DIRECTV Order*, 30 FCC Rcd at 9237, paras. 273-74.

³⁹ *See id.* at 9237-38, paras. 275-76.

⁴⁰ *See id.*

⁴¹ Application at 7-10, 16.

access to infrastructure in and near the RDOF areas it will be assuming.”⁴² Applicants further assert that “this experience and know-how will result in expeditious deployment of RDOF-supported facilities and services.”⁴³ Moreover, Applicants state that Planet has detailed plans to complete the RDOF deployment that Kinex initiated and having “conducted extensive due diligence of Kinex and the market and as 20 percent shareholder in Kinex, Planet is already familiar with Kinex’s plans and deployment activities and is already assisting Kinex with its ongoing buildout of the RDOF project.”⁴⁴ As such, we anticipate that the transition will be smooth, transparent, and existing customers of Kinex will benefit from the transaction given that Planet plans to expeditiously “upgrade the Kinex network and offer faster speeds to subscribers at lower prices.”⁴⁵

The Commission has specified that ensuring consumers receive new or additional services is an important public interest factor,⁴⁶ and accelerating private sector deployment of advanced services is one of the aims of the Act.⁴⁷ In light of Planet’s commitments to meet all of Kinex’s federal high-cost support obligations⁴⁸ and the fact that Planet is prepared to devote additional capital to accelerate the deployment of fiber to all additional locations in the Transferred Census Blocks and upgrade the network to offer customers “faster speeds . . . at lower prices,”⁴⁹ we find it likely that the proposed transaction would result in some public interest benefits. Absent any potential harms and considering that the proposed transaction is likely to yield some benefits, we find, on balance, that the proposed transaction serves the public interest.

Therefore, pursuant to section 214(a) of the Act, 47 U.S.C. § 214(a), and sections 0.91, 0.291, 63.03, and 63.04 of the Commission’s rules, 47 CFR §§ 0.91, 0.291, 63.03, and 63.04, we grant the Application, subject to Applicants’ compliance with all applicable obligations.⁵⁰

Pursuant to section 1.103 of the Commission’s rules, 47 CFR § 1.103, the consent granted herein is effective upon the release of this Public Notice.⁵¹ Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission’s rules, 47 CFR §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice.

⁴² *Id.* at 14-15.

⁴³ *Id.*; Supplement at 3 (explaining that the transaction will result in accelerated deployment of RDOF-supported facilities due to “their good supply chain and relationships with vendors, and thus access to materials needed to complete the deployment”).

⁴⁴ Application at 9.

⁴⁵ *Id.* at 7, 9.

⁴⁶ *See, e.g., AT&T-DIRECTV Order*, 30 FCC Rcd at 9140, para. 19.

⁴⁷ *See Verizon-TracFone Order*, 36 FCC Rcd at 17002, para. 22 (citing 47 U.S.C. §§ 254, 332(c)(7), 1302; Telecommunications Act of 1996, Pub. L. No. 104-104, Preamble, 110 Stat. 56 (1996) (one purpose of the Act is to “accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services”).

⁴⁸ Application at 6-11; Supplement at 2.

⁴⁹ Application at 3, 7, 11; Supplement at 3.

⁵⁰ *See RDOF Public Notice*, 37 FCC Rcd at 171-79 (listing obligations of authorized support recipients).

⁵¹ We direct Applicants to transmit a copy of this Public Notice to the Universal Service Administrative Company. We further direct Applicants to submit, within 30 days of closing the proposed transaction, a notice in WC Docket No. 24-120 that the proposed transaction has closed, with the consummation date, and also provide a courtesy copy of the notice to hcinfo@usac.org.

For further information regarding the grant of the Application, please contact Megan Danner, Wireline Competition Bureau, Competition Policy Division, at megan.danner@fcc.gov.

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