

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

**Q Wireless, LLC, Licensee/Transferor, and
Metro Fibernet, LLC, Transferee,**

Petition for Declaratory Ruling Under Section
310(b)(4) of the Communications Act of 1934,
as Amended

To: Chief, International Bureau

File No. IS-PDR-2014- _____

PETITION FOR DECLARATORY RULING

Pursuant to 47 U.S.C. § 310(b)(4) (“Section 310(b)(4)”) of the Communications Act of 1934, as amended, and 47 C.F.R. § 1.990(a)(1), Licensee/Transferor, Q Wireless, LLC (“Q Wireless”) (FRN 0020758140), a Nevada limited liability company, and Transferee, Metro Fibernet, LLC (“MFN”) (FRN 0022480487), a Delaware limited liability company, (together, the “Petitioners”) hereby jointly petition the Commission for a declaratory ruling that it would serve the public interest for Q Wireless to have indirect foreign ownership in excess of the 25 percent benchmark. Q Wireless holds one nationwide Wireless Internet Service Provider (“WISP”) license, WQLN535, which is regulated as a common carrier and subject to the foreign ownership restrictions of Section 310(b)(4). Q Wireless also holds nineteen private microwave licenses. All twenty Q Wireless licenses are included in the associated transfer of control application (FCC File No. 0006217800), in which Q Wireless seeks Commission consent to the *pro forma* transfer of control of Q Wireless to MFN. MFN is a wholly-owned direct subsidiary of MetroNet Holdings, LLC (“MetroNet Holdings”), a Delaware limited liability company. MetroNet Holdings has direct foreign equity ownership in excess of the 25 percent benchmark.

And, as explained below, Q Wireless, MFN, and MetroNet Holdings are under the common control of Albert E. Cinelli and John P. Cinelli.

The direct foreign investment in Q Wireless's ultimate U.S. parent, MetroNet Holdings, and the associated *pro forma* transfer of control application raise no competition issues. Moreover, the transaction will have no impact on customers and raises no national security, law enforcement, foreign policy, or public safety issues. For these reasons and as explained below, Petitioners submit that it will serve the public interest to permit the foreign ownership interests described in this petition in excess of the 25 percent benchmark.

I. DESCRIPTION OF THE PROPOSED TRANSACTION

In December 2013, MetroNet Holdings was formed as part of a plan to bring new investment into the company for business expansion. Prior to January 2, 2014, Q Wireless was a wholly-owned direct subsidiary of MFN. At that time, there was no direct or indirect foreign ownership interest in MFN. On January 2, 2014, prior to closing the Interest Purchase Agreement (discussed below), MFN completed a spin-out of Q Wireless as a distribution to the members of MFN (the "spin-out"). At the time of the spin-out, MFN was under *de jure* and *de facto* control by Albert E. Cinelli and John P. Cinelli. As a result of the spin-out, each member of MFN received a pro-rata share of the Q Wireless membership units based on their ownership percentage in MFN. In particular, Albert E. Cinelli received 63% of the membership units in Q Wireless and John P. Cinelli received 19% of the membership units. No other individual or entity received a 10% or greater ownership interest in Q Wireless. Q Wireless subsequently sought and received Commission consent to the *pro forma* transfer of control of Q Wireless from MFN to Q Wireless that occurred as a result of the spin out. (*See* FCC File no. 006128306).

On January 2, 2014, after consummation of the spin-out, MetroNet Holdings entered into an Interest Purchase Agreement (the "Agreement") with foreign entity Oak Hill Capital Partners

III, L.P. (“Oak Hill”), a Cayman Islands exempted limited partnership, and certain other entities (domestic and foreign), to obtain additional equity investment for the purpose of business expansion. Upon closing that transaction, aggregate foreign investment in MetroNet Holdings exceeded 25 percent – specifically 25.3 percent, with one foreign investor, Oak Hill, holding a 24 percent equity non-controlling interest. There are no other foreign investors in MetroNet Holdings with 10 percent or more equity interest.

The Agreement also provides that by no later than May 1, 2016, aggregate non-controlling foreign ownership in MetroNet Holdings will increase to 32.35 percent. Accordingly, Q Wireless also requests advance approval for Oak Hill to increase its individual indirect non-controlling investment in Q Wireless to 33 percent to accommodate this specific request to increase foreign ownership. Q Wireless’s request is consistent with the Commission’s recent decision “to allow licensees to request specific approval for any of their named foreign investors to increase its equity and/or voting interest, at some future time, up to and including a non-controlling 49.99 percent equity and/or voting interest held directly in the controlling U.S. parent.”¹

In the associated transfer of control application, Q Wireless seeks Commission consent to the *pro forma* transfer control Q Wireless to MFN. As discussed above, Albert E. Cinelli currently owns 63% of the membership units in Q Wireless and John P. Cinelli owns 19% of the membership units. No other individual or entity owns a 10% or greater ownership interest in Q Wireless. Accordingly, Q Wireless currently is under *de jure* and *de facto* control of Albert E. Cinelli and John P. Cinelli. As discussed above, MFN is a wholly-owned direct subsidiary of

¹ Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended, *Second Report and Order*, 28 FCC Rcd. 5741, 5765 ¶ 42 (2013).

MetroNet Holdings. Albert E. Cinelli has a 42 percent equity ownership interest in MetroNet Holdings. John P. Cinelli has a 13 percent equity ownership interest in MetroNet Holdings. Together, Albert E. Cinelli and John P. Cinelli exercise actual control over MetroNet Holdings, and also over MFN. Thus, MetroNet Holdings, and its subsidiary MFN, currently are under the *de jure* and *de facto* control of Albert E. Cinelli and John P. Cinelli. Upon Commission consent and consummation of the associated transfer of control application, Albert E. Cinelli and John P. Cinelli will exercise *de jure* and *de facto* control over Q Wireless.

II. INFORMATION REQUIRED BY 47 C.F.R. § 1.991

Joint Petitioners provide the following information in accordance with Section 1.991:

§ 1.991 (a) Applicant Information

Name of Licensee/Transferor:	Q Wireless, LLC
FRN:	0020758140
Mailing Address:	3701 Communications Way Evansville, IN 47715
Place of Organization:	Delaware
Telephone Number:	(913) 754-3330
Fax Number:	(913) 375-5979
Email Address:	John.Campbell@qservicesco.com
Type of Business Organization:	Limited Liability Company
Name and Title of Certifying Officer:	John M. Campbell Vice President and General Counsel

Name of Transferee:	Metro Fibernet, LLC
FRN:	0022480487
Mailing Address:	8837 Bond Street Overland Park, KS 66214
Place of Organization:	Nevada
Telephone Number:	(913) 754-3330
Fax Number:	(913) 375-5979
Email Address:	John.Campbell@qservicesco.com
Type of Business Organization:	Limited Liability Company
Name and Title of Certifying Officer:	John M. Campbell Vice President and General Counsel
Type of Radio Service Authorized:	Does not hold Commission licenses

Controlling Parent Information:

Controlling Parent:	MetroNet Holdings, LLC
Mailing Address:	3701 Communications Way Evansville, IN 47715
Place of Organization:	Delaware
Telephone Number:	(913) 754-3330
Fax Number:	(913) 375-5979
Email Address:	John.Campbell@qservicesco.com
Type of Business Organization:	Limited Liability Company
Name and Title of Certifying Officer:	John M. Campbell Vice President and General Counsel
Type of Radio Service Authorized:	Does not hold Commission licenses

§ 1.991 (b) Legal Counsel:

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§ 1.991 (c)(1) Type of Licensee’s Authorized Radio Service (subject to the Petition)

Nationwide Wireless Internet Service Provider (“WISP”) (regulated as a common carrier), (Radio Service Code: NN – 3650-3700 MHz). Licensee also holds 19 non-common carrier microwave licenses which are included in the associated transfer of control application (FCC File No. 0006217800), but are not subject to the foreign ownership restrictions of Section 310(b)(4).

§ 1.991 (d). Petitioners are requesting a declaratory ruling under 47 C.F.R. § 1.990(a)(1).

§ 1.991 (e)(1) and (g) Direct U.S. or foreign interests of ten percent or more or a controlling interest in the controlling U.S. parent:

The individuals or entities identified in the chart below hold an equity interest of 10 percent or more in MetroNet Holdings, parent of Transferee, Metro Fibernet, and ultimate and controlling parent of Licensee, Q Wireless.

Name/Address	Interest Held	Citizenship/ Place of Organization	Type of Business Organization	Principal Business	Insulated/ Uninsulated
Albert E. Cinelli 1300 Gulf Blvd. South Padre, TX 78597	42% Equity	United States	Individual	Investor	Uninsulated
John P. Cinelli 5405 Winthrop Court Evansville, IN 47715	13% Equity	United States	Individual	Investor	Uninsulated
Oak Hill Capital Partners III, L.P. 201 Main Street Suite 1018 Fort Worth, TX 76102	24% Equity	Cayman Islands	Exempted Limited Partnership	Investment Partnership	Insulated

MetroNet Holdings has a five-member Board of Managers. Albert E. Cinelli and John P. Cinelli control three of the Managers. Oak Hill Capital Partners III, L.P. controls two of the Managers.

The individuals identified in the chart below are non-equity Managers of MetroNet Holdings, who were appointed as Managers by Oak Hill Capital Partners III, L.P.

Name/Address	Interest Held	Citizenship/ Place of Organization	Type of Business Organization	Principal Business	Insulated/ Uninsulated
Benjamin Diesbach Oak Hill Capital Management, LLC 441 Vine Street, Suite 300 Cincinnati, OH 45202	20% voting interest, as one of five- member Board Manager	United States	Individual	Investment Management	Insulated
Scott Baker Oak Hill Capital Management, LLC 2775 Sand Hill Road, Suite 220 Menlo Park, CA 94025	20% voting interest, as one of five- member Board Manager	United States	Individual	Investment Management	Insulated

No other individual or entity holds directly 10 percent or more of the equity interests, or a controlling interest in MetroNet Holdings, the controlling U.S. parent of the petitioning common carrier Licensee, Q Wireless. There are no other uninsured Members of MetroNet Holdings, or non-equity Managers of MetroNet Holdings.

§ 1.991 (f)(1) Indirect U.S. or foreign interests of ten percent or more or a controlling interest in the controlling U.S. parent:

No U.S. or foreign individual or entity holds indirectly 10 percent or more of the equity interests and/or voting interests, or a controlling interest, in MetroNet Holdings, the U.S. parent of the petitioning common carrier Licensee, Q Wireless.

§ 1.991(h)(1) **Estimate of aggregate foreign ownership:** See Exhibit A

§ 1.991(h)(2) **Ownership and control structure:** See Exhibit B

§ 1.991(i) **Requests for specific approval:**

Oak Hill Capital Partners III, L.P., a Cayman Islands exempted limited partnership currently holds 24 percent non-controlling equity interest in the controlling U.S. parent, MetroNet Holdings, LLC. (No entity or individual holds, directly or indirectly, more than 5 percent of the equity or voting interest, or a controlling interest in Oak Hill Capital Partners III, L.P.). As explained in the response to § 1.991(k) below, Oak Hill Capital Partners III, L.P., will increase its holdings in MetroNet Holdings, LLC, by no later than May 1, 2016, to no more than 33 percent.

Name/Address	Interest Held	Citizenship/ Place of Organization	Type of Business Organization	Principal Business	Insulated/ Uninsulated
Oak Hill Capital Partners III, L.P. 201 Main Street Suite 1018 Fort Worth, TX 76102	31.05 % Equity	Cayman Islands	Exempted Limited Partnership	Investment Partnership	Insulated

No individual or entity holds, or will hold, directly or indirectly, through one or more intervening entities, 10 percent of more of the equity interests and/or voting interests, or a controlling interest, in Oak Hill Capital Partners III, L.P.

§ 1.991(k) **Requests for advance approval:**

The Agreement provides that by no later than May 1, 2016, aggregate non-controlling foreign ownership in MetroNet Holdings by Oak Hill Capital Partners III, L.P. and all other foreign investors will increase to 32.35 percent. Accordingly, Q Wireless requests advance approval for Oak Hill to increase its individual indirect non-controlling investment in Q Wireless to no more than 33 percent to accommodate this specific increase in foreign ownership.

Name/Address	Interest Held	Citizenship/ Place of Organization	Type of Business Organization	Principal Business	Insulated/ Uninsulated
Oak Hill Capital Partners III, L.P. 201 Main Street Suite 1018 Fort Worth, TX 76102	31.05 % Equity	Cayman Islands	Exempted Limited Partnership	Investment Partnership	Insulated

No individual or entity holds, or will hold, directly or indirectly, through one or more intervening entities, 5 percent or more of the equity interests and/or voting interests, or a controlling interest, in Oak Hill Capital Partners III, L.P.

III. CONCLUSION

For the foregoing reasons, the Commission should promptly grant the requested declaratory ruling.

Respectfully submitted,



March 28, 2014

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Metro Fibernet, LLC and Q Wireless, LLC

EXHIBIT A

ESTIMATE OF FOREIGN OWNERSHIP PURSUANT TO 47 C.F.R. § 1.991(h)(1)

Direct Foreign Investment in Controlling Parent, MetroNet Holdings, LLC

MetroNet Holdings, LLC, a Delaware limited liability company, is the ultimate controlling parent of Licensee, Q Wireless, LLC.

Aggregate direct foreign investment in MetroNet Holdings, LLC is currently 25.3 percent equity and voting interests.

Method Used to Determine Direct Foreign Investment Percentages

Pursuant to Section 1.992(b)(1) equity interests held by an individual or entity indirectly through one or more intervening entities in the licensee are calculated by successive multiplication of the equity percentages for each link in the vertical ownership chain. Given the ownership chain as depicted on the chart in Exhibit B, and that all foreign investors are insulated members of MetroNet Holdings, LLC, the aggregate indirect foreign ownership in Licensee, Q Wireless, is 25.3 percent equity interest.

Actual membership interests were obtained from the books and records of MetroNet Holdings, LLC and from records obtained from Oak Hill Capital Partners III, L.P.

Circumstances Prompting the Filing of the Petition

MetroNet Holdings sought additional investment so the company, including Licensee, Q Wireless, can expand its business. Part of the additional investment came from foreign investors. Because the Petitioners desire to transfer control of Licensee, Q Wireless, to MFN, and foreign investment in the controlling parent, MetroNet Holdings, exceeds the 25 percent benchmark in Section 310(b)(4), this Petition for Declaratory Ruling is being filed contemporaneously with associated transfer of control application.

Public Interest Statement

The Proposed Transaction will serve the public interest because the new investment in controlling parent, MetroNet Holdings, will permit Q Wireless to further expand its regional broadband network, which benefits existing and future customers. These benefits are expected to strengthen the company's ability to expand its offerings and provide more advanced services to a broader customer base. The Proposed Transaction raises no competition issues. Moreover, the Proposed Transaction will have no impact on customers and raises no national security, law enforcement, foreign policy, or public safety issues. For these reasons and as explained below, Petitioners submits that it will serve the public interest to permit the foreign ownership interests described in this petition in excess of the 25 percent benchmark.

Exhibit B

Diagram of Ownership and Control Structure of Licensee, Post Approval, 47 C.F.R. § 1.991 (h)(2)

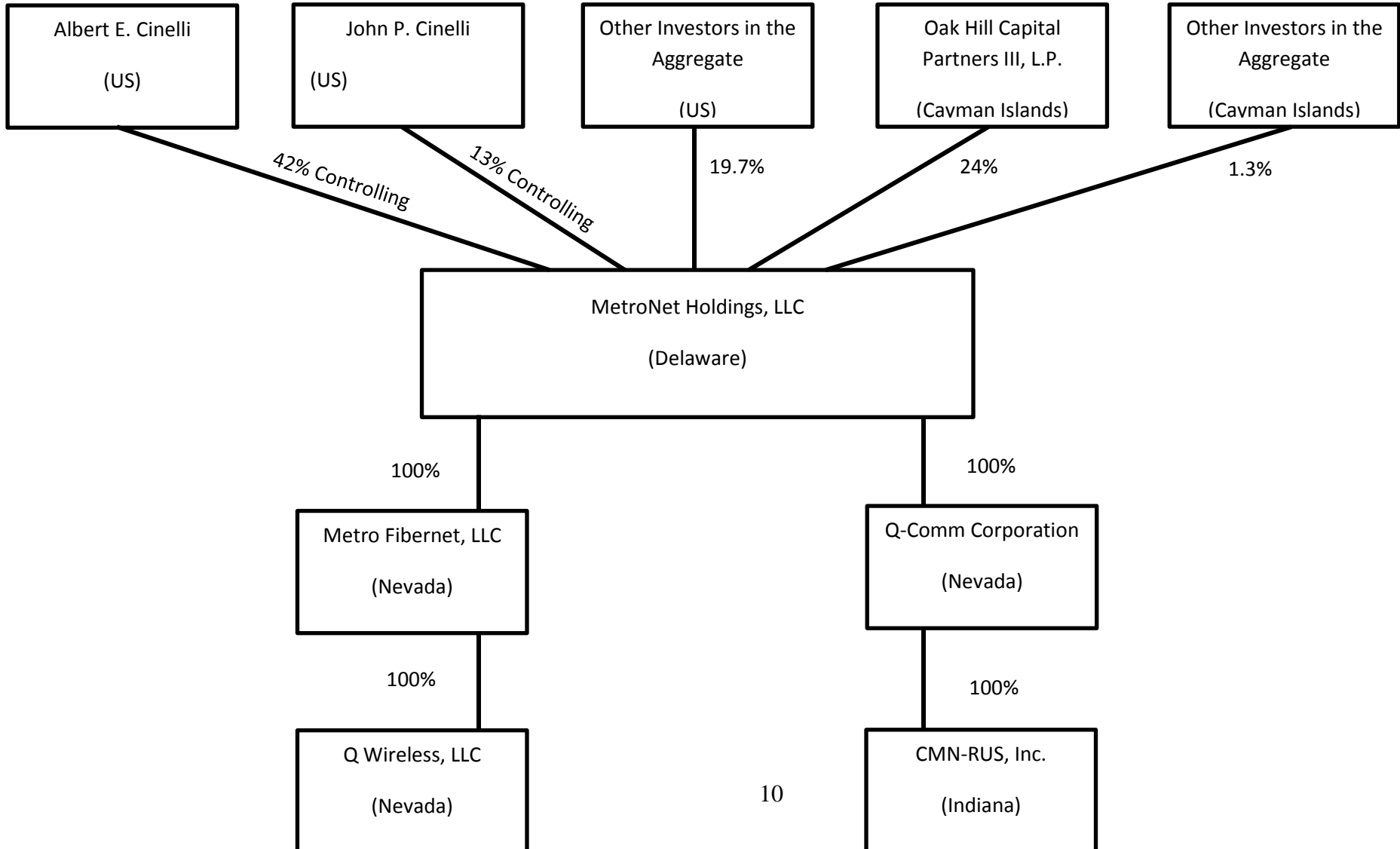


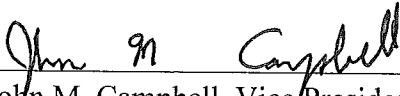
EXHIBIT C

Declaration and Certification of John M. Campbell
Pursuant to 47 C.F.R. §§ 1.990(c)(1), 1.990(c)(2)(i), and 1.991(h)(1)

1. My name is John Campbell. I am Vice President and General Counsel of MetroNet Holdings, LLC; Metro Fibernet, LLC; and Q Wireless, LLC. I have prepared this declaration and certification in connection with the attached Q Wireless, LLC and Metro Fibernet, LLC Petition for Declaratory Ruling (the "Petition") under Section 310(b)(4) of the Communications Act of 1934, as amended, filed with the Federal Communications Commission.
2. I was responsible for identifying the ownership interests of MetroNet Holdings, LLC for purposes of this Petition.
3. The ownership interests disclosed in the Petition were calculated based upon my review of the Commission's rules. The interests disclosed satisfy each of the pertinent standards and criteria set forth in the rules.
4. I have reviewed the Petition and certify to the information contained therein.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on March 26, 2014



John M. Campbell, Vice President and
General Counsel