

Jean L. Kiddoo
Brett P. Ferenchak
Phone: 202.373.6034
Fax: 202.373.6001
jean.kiddoo@bingham.com
brett.ferenchak@bingham.com

September 6, 2013

BY ECFS & IBFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Request for Special Temporary Authority
WC Docket No. 13-194
IB File No. ITC-ASG-20130725-00201

Dear Ms. Dortch:

On July 25 and 26, 2013, TNCI Operating Company LLC (“TNCI”) and Pac-West Telecomm, Inc. (“Pac-West”), Tex-Link Communications, Inc. (“Tex-Link”) and nWire, LLC (“nWire”), each a Debtor-In-Possession (“Assignors” or “Licensees,” and collectively with TNCI, “Applicants”), filed the above-referenced Applications requesting Commission approval for a transaction whereby TNCI will acquire certain of the assets (including domestic and international telecommunications assets and customers, but not the Section 214 authorizations) of Assignors through a sale pursuant to Section 363 of the United States Bankruptcy Code (the “Transaction”).¹ As stated in the Applications, Applicants had planned for an initial closing on or before September 5, 2013. As a result of a delay in clearing the Licensees’ ‘green light’ status in the Commission’s records, the grant of the Domestic Section 214 Application will not occur until September 20, 2013 (*see* DA 13-1779, issued on August 20, 2013) and the public notice of the International Section 214 Application has not yet been issued by the Commission. Applicants understand that September 13, 2013 is the next possible date for the Commission to issue public notice accepting the International 214 Application for

Beijing
Boston
Frankfurt
Hartford
Hong Kong
Lexington (GSC)
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Washington

Bingham McCutchen LLP
2020 K Street NW
Washington, DC
20006-1806

T +1.202.373.6000
F +1.202.373.6001
bingham.com

¹ *In re Pac-West Telecomm, Inc.*, Chapter 11, Case No. 13-10571, U.S. Bankr. Court (W.D. Texas); *In re Tex-Link Communications, Inc.*, Chapter 11, Case No. 13-10572, U.S. Bankr. Court (W.D. Texas); *In re nWire, LLC*, Chapter 11, Case No. 13-10571, U.S. Bankr. Court (W.D. Texas). These Cases along with the Chapter 11 cases of Assignors’ parent companies and affiliates are Jointly Administered under *In re UPH Holdings, Inc.*, Chapter 11, Case No. 13-10571, U.S. Bankr. Court (W.D. Texas).

Marlene H. Dortch, Secretary
September 6, 2013
Page 2

filing. Assuming a public notice is issued on September 13, 2013 and given a 14-day comment period, automatic approval is expected for the International 214 Application until at least September 27, 2013. Accordingly, absent approval of the request herein, the Initial Closing cannot occur until September 27, 2013.

In order to avoid undue further delay in the closing schedule envisioned in the bankruptcy process, the Applicants respectfully request that the Commission grant Special Temporary Authority ("STA") with respect to the Domestic and International 214 Applications pursuant to Section 214 of the Communications Act, as amended, 47 U.S.C. § 214, and Sections 63.04 and 63.24 of the Commission's Rules, 47 C.F.R. §§ 63.04 & 63.24 so that the Applicants may proceed with the Initial Closing on or after September 12, 2013. Such STAs will allow TNCI to acquire Assignors' interstate and international assets and customers, as well as such intrastate assets and customers for which applicable state approvals have been obtained as of the Initial Closing. Licensees' customers have been notified by letter that the transfer of their service will occur on or after September 5, 2013, subject to the receipt of necessary Commission and state government approvals.

Assignors filed voluntary petitions for relief on March 28, 2013, under Chapter 11 of Title 11, U.S.C. §§ 101 et seq., as amended, in United States Bankruptcy Court for the Western District of Texas, Austin Division (the "Bankruptcy Court") (Case Nos. 13-10571, 13-10572, and 13-10576; Jointly Administered under 13-10570-TMD). On July 22, 2013, the Bankruptcy Court approved the Transaction and issued a Sale Order approving the sale of the customers and certain assets of Assignors, including Assignors' telecommunications equipment and business, to TNCI. The Agreement and Sale Order provide for an Initial Closing following receipt of required FCC approvals.

Until their various assets have been assigned to TNCI, Assignors will continue to operate their business and provide telecommunications services to their customers as Debtors-in-Possession in bankruptcy. As the Commission is aware from consideration of other cases involving telecommunications carrier restructurings, Assignors' financial position and their bankruptcy have created uncertainties among their customers and vendors that Applicants want to remedy as soon as possible so that the business can return to operating in the normal course and without any threat of interruption of service. Grant of STAs for the Domestic and International 214 Applications to enable the parties to complete the assignment of Assignors' interstate and international services to TNCI will allow the transfer of interstate and international services (and intrastate services in those states where applicable approvals have been obtained) from the bankrupt Licensees to TNCI, and is consistent with the notice provided to customers as to the anticipated transfer date. If the Commission does not grant the STAs, the initial closing will have to be further delayed, which would unnecessarily extend the uncertainties currently experienced by Licensees' customers and vendors.

Accordingly, Applicants respectfully request grant of this request for STAs as soon as possible so that Applicants can plan for and complete the Initial Closing of the

Marlene H. Dortch, Secretary
September 6, 2013
Page 3

Transaction on or after September 12 and thereby allow TNCI to begin to providing services to Assignors' customers as of the Initial Closing. Applicants do not expect that there will be any comments or protests filed with respect to the Transaction approved by the Bankruptcy Court, and note that the comment period with respect to the Domestic 214 Application has already ended without any comments filed. Moreover, Applicants expressly acknowledge that grant of this request will not prejudice action by the Commission on the underlying Domestic and International 214 Applications and that any authority granted pursuant to this request is subject to cancellation or modification upon notice but without a hearing. We request that the STA be granted for a period of sixty (60) days to permit the Commission to complete its processing of the pending Domestic and International 214 Applications in due course.

Should you have any questions or require further information, please do not hesitate to contact us.

Respectfully submitted,

/s/ Jean L. Kiddoo

Jean L. Kiddoo
Brett P. Ferencak

Counsel for TNCI

cc (by email): Jodie May, WCB
Dennis Johnson, WCB
David Krech, IB
Sumita Mukhoty, IB
Jeff Compton, TNCI
Michael Holloway, UPH Holdings