

JUSTIFICATION OF REQUEST FOR
SPECIAL TEMPORARY AUTHORITY

Introduction

Endstream Communications, LLC (“Endstream” or “Company”), pursuant to Section 63.25 of the Commission’s Rules and Regulations, 47 C.F.R. § 63.25, hereby respectfully requests Special Temporary Authority (“STA”) to continue providing service to customers pursuant to its existing Section 214 Authorization (File No. ITC-214-20070904-00355), pending consideration of and final Commission action on a concurrently filed transfer of control application. That application was filed to remedy a recently-discovered regulatory lapse, namely, the failure to notify the Commission of or seek prior approval for a December 31, 2011 transaction that resulted in a transfer of control of Endstream. Accordingly, the STA is sought to authorize continued operation pursuant to the authorization while the application is being processed and considered.

Response to Subsections (d), (e)(3), and (g) of Section 63.18 of the FCC Regulations

On September 21, 2007, Endstream was granted Section 214 Authority to “Global or Limited Global Resale Service.” File No. ITC-214-20070904-0355, Public Notice – International Authorizations Granted, Report No. TEL-01191 (DA No. 07-4074; rel. September 27, 2007). No party to this application has previously received any other Section 214 authority. No additional or other authority is sought pursuant to this STA request or the accompanying transfer of control application. This STA is sought for the sole purpose of continuing the operations already authorized under the existing Section 214 Authorization.

Background

Endstream was founded in 2007 by Mr. Erik Levitt and Mr. Dov Schwartz, each of whom owned an equal 50% of the Company. Endstream operates as a wholesale provider of Telecommunications services that are purchased by other carriers to provide interconnected VoIP, toll free, calling card and other communications services. Mr. Levitt serves as CEO and, from Endstream’s inception, has managed the day-to-day operations of Endstream. Mr. Schwartz was primarily an investor, who did not participate substantially in running the Company.

On December 31, 2011, Transferor, who at the time owned 50% of the Endstream stock, left the partnership. His share of the Company was distributed among Mr. Levitt and two new investors, resulting in the following ownership of Endstream:

Erik Levitt, 41%

Dan Pulver: 41%

Avinash Kenkare: 18%

Subsequently, October 8, 2016, Brian Stone acquired 8% of the Company's stock, which resulted in the following ownership shares, which exists today:

Erik Levitt, 37.5%

Dan Pulver: 37.5%

Avinash Kenkare: 17%

Brian Stone: 8%

Because Mr. Levitt had exercised *de facto* control of Endstream since its inception, he did not view the transaction that occurred in 2011 as having conferred on him any greater control of the Company than he had already continuously exercised for the preceding four years. It never occurred to him at that time or subsequently that FCC approval might be required. The subsequent transfer of 8% of the stock to Mr. Stone that occurred on October 8, 2016 did not involve a transfer of control that would have required approval.

On September 11, 2018, Endstream entered into a stock purchase agreement with Hammer Fiber Optic Holdings Corp, whereby Hammer will purchase 100% of the stock of Endstream. In the process of preparing a Section 214 Transfer of Control Application for this transaction, Endstream's regulatory consultant, Inteserra Consulting Group ("Inteserra"), questioned whether Mr. Schwartz remained an owner of Endstream and, when they determined that he did not, investigated the requirement for Endstream to have filed a Transfer of Control application for approval of the ownership change that occurred when Mr. Schwartz departed from the Company in 2011. Inteserra determined and advised Mr. Levitt that a Transfer of Control Application should have been filed for that transaction. Accordingly, Endstream is now submitting this Section 2014 STA in conjunction with an application for approval of the transfer of control that took place in 2011. It is also filing a transfer of control application with respect to the purchase of Endstream by Hammer Fiber Optic Holdings Corp.

STA Request for Continued Service to Customers

An STA to authorize continued operations under the Section 214 Authorization would be in the public interest in that it will avoid disruption of service to the carrier's public subscribers. In these circumstances, moreover, the failure to seek and obtain the required approval at the time of the transaction, while not excused, is certainly understandable. This was not an intentional violation; rather, the principals simply did not perceive the transaction as a major change in control. Moreover, once the problem was discovered, Endstream took prompt action to notify the Commission and correct matters.

Length of STA Request

The STA is requested for a period of 180 days, or until such time as the Commission has taken dispositive action on the underlying transfer of control application.

Remedial Measures

Endstream is taking steps to avoid such regulatory compliance failures in the future. They have conferred with their regulatory consultant and been briefed on the types of transactions that require FCC notification and/or approval. Inteserra will be consulted in the future regarding any significant changes in company equity ownership and/or voting control.

Acknowledgements

The parties acknowledge that a grant of this STA will not prejudice any action the Commission may take on the underlying application seeking Commission consent to the transfer of control. The parties further acknowledge that this STA can be revoked by the Commission upon its own motion without a hearing.