



PUBLIC NOTICE

Federal Communications Commission
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DA 17-201

Released: February 28, 2017

**APPLICATIONS FILED FOR THE TRANSFER OF CONTROL OF
TELEGUAM HOLDINGS, LLC TO
FORAGER HOLDINGS CORP.**

PLEADING CYCLE ESTABLISHED

WC Docket No. 17-46

Comments/Petitions to Deny Due: March 30, 2017

Reply Comments/Oppositions to Petitions to Deny Due: April 14, 2017

By this Public Notice, the Wireline Competition Bureau, International Bureau, and Wireless Telecommunications Bureau seek comment from interested parties on a series of applications filed by TeleGuam Holdings, LLC (TeleGuam), AP TeleGuam Holdings, Inc. (AP TG), and Forager Holdings Corp. (Forager) (collectively, Applicants) pursuant to sections 214 and 310(d) of the Communications Act of 1934, as amended (Act),¹ and the Cable Landing License Act of 1921,² seeking approval of the transfer of control of TeleGuam to Forager.³

TeleGuam, a Delaware limited liability company, is an incumbent local exchange carrier (LEC) providing long distance (domestic and international), video, Internet access, and wireless services in Guam, and is a co-licensee of the Southeast Asia-US submarine cable system. TeleGuam is a wholly owned subsidiary of AP TG, a Delaware holding company that, in turn, is owned in majority part by three private investment funds: AP Cayman Partners II, L.P. (a Cayman Islands entity, 24.73 percent), Advantage Partners IV, ILP (a Japan entity, 42.08 percent), and Japan Ireland Investment Partners, LTD (an Ireland entity, 25.52 percent).

¹ 47 U.S.C. §§ 214, 310(d).

² 47 U.S.C. §§ 34-39; *see also* Exec. Ord. No. 10530, Sec. 5(a), reprinted as amended at 3 U.S.C. § 301 (delegating the President's authority under the Cable Landing License Act to the Commission).

³ Joint Application of TeleGuam Holdings, LLC, Licensee, AP TeleGuam Holdings, Inc., Transferor, and Forager Holdings Corp., Transferee, for Grant of Authority to Complete a Transfer of Control of the Licensee Pursuant to Section 214 of the Communications Act of 1934, as Amended, and Sections 63.04 and 63.24 of the Commission's Rules, WC Docket No. 17-46 (filed Feb. 9, 2017) (Lead Application). On February 23, 2017, Applicants filed a supplement to the Lead Application. Letter from James H. Baker, Counsel to Forager Holdings Corp., to Marlene H. Dortch, Secretary, FCC (Feb. 23, 2017) (Forager Supplement). The file numbers for the other applications are listed *infra* at 3-4.

Forager, a Delaware corporation, is a U.S. holding company that wholly owns Forager Acquisition Corp., also a Delaware corporation, formed to effectuate the proposed transaction. Applicants state that, upon consummation, all of the voting equity interests of Forager will be owned by B88 Financial Group LLC (B88), a Delaware limited liability company, and the majority of the non-voting equity interests will be owned by Mariana Holdings, LLC (Mariana Holdings), a Delaware limited liability company.⁴ B88 is owned and controlled by Benjamin Wu, a U.S. citizen. Mariana Holdings is owned by Huntsman Family Investments, LLC (HFI) (a Delaware limited liability company, 20 percent) and The Huntsman Foundation (a Utah non-profit corporation, 80 percent). Applicants state that HFI is owned and controlled by Jon M. Huntsman Sr. and Paul Huntsman, both U.S. citizens.⁵ Applicants further state that no other person or entity, directly or indirectly, will control or own a ten percent or greater equity interest in Forager upon closing of the proposed transaction.⁶

Pursuant to the terms of the proposed transaction, Forager will acquire all of the ownership interests in AP TG, thereby acquiring indirect ownership of TeleGuam. Specifically, Forager Acquisition Corp. will merge with and into AP TG, with AP TG being the surviving entity. As a result, AP TG (which will be renamed TeleGuam Holdings, Inc. upon the consummation of the merger) will become a direct wholly owned subsidiary of Forager, and TeleGuam (the authorization holder) will become an indirect wholly owned subsidiary of Forager.⁷

Applicants argue that the proposed transaction is in the public interest. They assert that Forager has the financial, managerial, operational, and technical qualifications to become the new owner of TeleGuam.⁸ Applicants state that Forager and its affiliates do not currently operate in Guam or elsewhere, and that there will be no competitive harm as a result of the proposed transaction.⁹ Applicants claim that Forager will maintain and improve the quality of service in Guam and that it will continue to operate pursuant to existing service arrangements, thereby making the transaction transparent to customers.¹⁰

⁴ Applicants state that B88 will hold 100 percent of the voting stock and is expected to hold less than 10 percent of the total equity of Forager, and that Mariana Holdings is expected to hold a majority of the non-voting stock of Forager. Lead Application at 9.

⁵ Applicants state that the principal business of B88, Mariana Holdings, and HFI is investments. *Id.* at 9-10. Applicants further state that none of these entities holds any other telecommunications interests. Forager Supplement at 1.

⁶ Applicants state that while B88 and Mariana Holdings will together hold at least 50 percent of the total non-voting equity interest post-consummation, Applicants anticipate that additional non-voting equity stock of Forager may be issued to additional investors. Applicants will notify the Commission in the event additional investors are added before closing. Lead Application at 10, n. 8.

⁷ Applicants provide, as Exhibit C attached to the Lead Application, the proposed corporate structure of Forager, AG TeleGuam, and TeleGuam post-transaction.

⁸ *Id.* at 6.

⁹ *Id.*

¹⁰ *Id.*

SECTION 214 AUTHORIZATIONS

A. International

The application for consent to the transfer of control of the international section 214 authorizations held by TeleGuam to Forager have been assigned the file number listed below.

<u>File Number</u>	<u>Authorization Holder</u>	<u>Authorization Number</u>
ITC-T/C-20170210-00015	TeleGuam Holdings, LLC	ITC-214-20041117-00453 ITC-214-20060202-00082

B. Domestic

The Applicants filed an application to transfer control of domestic section 214 authority in connection with the proposed transaction.

CABLE LANDING LICENSE

The application for consent to the transfer of control of the interest in the Southeast-Asia US cable system (SEA-US) held by TeleGuam to Forager has been assigned the file number listed below.

<u>File Number</u>	<u>Licensee</u>	<u>License Number</u>
SCL-T/C-20170210-00003	TeleGuam Holdings, LLC	SCL-LIC-20150626-00016

SECTION 310(d) APPLICATION

The application for consent to the transfer of control of licenses under section 310(d) has been assigned the file number listed below.

<u>File Number</u>	<u>Licensee</u>	<u>Lead Call Sign</u>
0007648181	TeleGuam Holding, LLC	KNKQ317

GENERAL INFORMATION

The applications referenced herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Although the Applicants request streamlined processing of certain of the applications under various sections of the Commission's rules,¹¹ in light of the multiple applications that are pending before the Commission with respect to this transaction and the public interest review associated with them, the applications are not subject to streamlined processing. Interested parties may file comments/petitions to deny **on or before March 30, 2017**, and reply comments/oppositions to petitions to deny **on or before April 14, 2017**.

¹¹ See 47 CFR §§ 63.03, 63.12.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *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://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy 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. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes 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 must be addressed to 445 12th Street, SW, Washington DC 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), 1-888-835-5322 (tty).

In addition, provide one copy of each pleading to each of the following:

- 1) Jim Bird, Office of General Counsel, TransactionTeam@fcc.gov;
- 2) Gregory Kwan, Competition Policy Division, Wireline Competition Bureau, gregory.kwan@fcc.gov;
- 3) Sumita Mukhoty, Policy Division, International Bureau, Sumita.Mukhoty@fcc.gov;
- 4) Linda Ray, Broadband Division, Wireless Telecommunications Bureau, linda.ray@fcc.gov.

The proceeding in this Notice shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹² Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments

¹² 47 CFR §§ 1.1200 *et seq.*

already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the Applications in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.¹³ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

For further information, please contact Gregory Kwan, Wireline Competition Bureau, (202) 418-1191; Sumita Mukhoty, International Bureau, (202) 418-7165; Linda Ray, Broadband Division, Wireless Telecommunications Bureau (202) 418-0257.

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¹³ See 47 CFR §1.45(c).