



# PUBLIC NOTICE

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**Federal Communications Commission  
445 12th St., S.W.  
Washington, D.C. 20554**

**DA 02-849  
April 10, 2002**

## **COMMENTS INVITED ON NETWORK PLUS, INC. APPLICATION TO DISCONTINUE DOMESTIC TELECOMMUNICATIONS SERVICES**

**Comp. Pol. File No. 576**

**Comments Due: April 25, 2002**

### **Section 214 Application Applicant: Network Plus, Inc.**

On **April 9, 2002**, **Network Plus, Inc.** (Network Plus or Applicant), located at **41 Pacella Park Drive, Randolph, MA 02368**, filed an application with the Federal Communications Commission (FCC or Commission), requesting authority under section 214(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 214(a), and section 63.71 of the Commission's rules, 47 C.F.R. § 63.71, to discontinue certain of its domestic telecommunications services.

The application indicates that Network Plus seeks authority effective May 10, 2002, to discontinue providing long distance telecommunications service, international telephone service,<sup>1</sup> and toll free service to its business customers located in the states of Alabama, Florida, Georgia, Hawaii, Idaho, Iowa, Louisiana, Mississippi, Nebraska, New Mexico, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Utah and Wyoming. In addition, Applicant seeks authority to discontinue providing local telephone services, high speed services,

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<sup>1</sup> Discontinuance of international service is governed by 47 C.F.R. § 63.19.

ISP services, and web and data hosting services to its business customers in the states of Florida, Georgia, and North Carolina.

Network Plus states that on February 5, 2002, it notified the Commission that it was filing for bankruptcy protection under Chapter 11 of the U.S. Bankruptcy Code.<sup>2</sup> Applicant also states that on March 5, 2002, the United States Bankruptcy Court for the District of Delaware

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<sup>2</sup> See *Notice of First Day Motions, In Re: Network Plus Corp. and Network Plus, Inc.*, Case No. 02-10342 (PJW) (February 5, 2002) (Bank D. Del).

(Court) approved a stipulation<sup>3</sup> that contained, among other things, a provision that Network Plus would make structured payments to certain telecommunications service providers during the post-bankruptcy period. According to this provision, if Network Plus failed to make a payment to one of these telecommunications providers, the non-paid provider may disconnect service to Network Plus after thirty-five (35) days of notice. Subsequently, the Court approved a sale order,<sup>4</sup> which required that before a telecommunications service provider gives disconnect notice to Network Plus for non-payment, it must allow Network Plus three (3) days to pay its bill.

According to the application, on April 1, 2002, BellSouth Telecommunications, Inc. (BellSouth) failed to receive a required payment. Applicant explains that neither it nor its purchaser, Broadview NP Acquisition Corp. (Broadview), corrected the non-payment within the three-day cure period. Applicant states that on April 6, 2002, BellSouth notified Network Plus that it would disconnect services as of May 10, 2002. As a consequence, Network Plus states that it will be unable to provide service in the aforementioned states following BellSouth's disconnection.

Unrelated to the non-payment to BellSouth, Network Plus states it plans to discontinue service in nine (9) other states.<sup>5</sup> Applicant explains that pursuant to the Court-approved sale order,<sup>6</sup> as well as other agreements, it is working with Broadview to achieve a managed, orderly transition, and that as a result of this transition, Broadview has notified Network Plus that it does not intend to acquire the customers and operations in these states.

Network Plus states that on April 8, 2002, it provided written customer notice in accordance with Commission rules.<sup>7</sup> Applicant explains that it sent one letter specifically directed to customers receiving both local and long distance services, and a separate letter to customers receiving only long distance.

In accordance with 47 C.F.R. § 63.71(c), the application will be deemed to be automatically granted on the thirty-first (31<sup>st</sup>) day after the release date of this notice, unless the Commission has notified Applicant that the grant will not be automatically effective. The Commission will

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<sup>3</sup> See *Stipulation and Order Granting Adequate Assurance to Certain Utilities*, Case No. 02-10342 (PJP) (March 5, 2002) (Bank. D. Del).

<sup>4</sup> *Order Authorizing (i) Sale of Certain of the Debtors' Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests, (ii) Authorizing the Assumption and Assignment of Executory Contracts and Leases, (iii) Authorizing the Debtors to Enter into and Approving Management Agreement, (iv) Approving Regulatory Transition Process, (v) Determining that Such Sale is Exempt from Stamp, Transfer, Recording or Similar Taxes, and (vi) Granting Related Relief*, Case No. 02-10341 (PJW) (March 20, 2002) (Bankr. D. Del).

<sup>5</sup> Applicant states that Broadview has notified it that it does not intend to acquire its operations and customers in Hawaii, Idaho, Iowa, Nebraska, New Mexico, North Dakota, South Dakota, Utah and Wyoming.

<sup>6</sup> See n. 4, *supra*.

<sup>7</sup> See 47 C.F.R. § 63.71(a)(5)(i).

normally authorize proposed discontinuances of service unless it is shown that customers or other end users would be unable to receive service or a reasonable substitute from another carrier, or that the public convenience and necessity would be otherwise adversely affected.

This proceeding is considered a “permit but disclose” proceeding for purposes of the Commission's *ex parte* rules.<sup>8</sup> Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before **April 25, 2002**. Such comments should refer to **Comp. Pol. File No. 576**. Comments should include specific information about the impact of this proposed discontinuance on the commenter, including any inability to acquire reasonable substitute service. The original and four (4) copies of the comments should be sent to the Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, Room TW-A325, Washington, DC 20554. Two (2) copies of the comments should also be sent to the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, Room 6-A207, Washington, DC 20554, Attention: Carmell Weathers. In addition, Comments should be served upon Applicant. Commenters are also requested to fax their comments to the FCC at (202) 418-2345, Attention: Jon Minkoff.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes 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 mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The application will be available for review and copying during regular business hours at the FCC Reference Center, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-A257, Washington, DC 20554, (202) 418-0270. A copy of the application may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail at [qualexint@aol.com](mailto:qualexint@aol.com).

For further information, contact Carmell Weathers, (202) 418-2325 (voice), [cweather@fcc.gov](mailto:cweather@fcc.gov), or Jon Minkoff (202) 418-2353 (voice), [jminkoff@fcc.gov](mailto:jminkoff@fcc.gov), of the Competition Policy Division, Wireline Competition Bureau. The TTY number is (202) 418-0484. For further information on procedures regarding Section 214 please visit: [http://www.fcc.gov/wcb/cpd/other\\_adjud/domestic.html](http://www.fcc.gov/wcb/cpd/other_adjud/domestic.html).

**-FEDERAL COMMUNICATIONS COMMISSION-**

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<sup>8</sup> See generally 47 C.F.R. §§ 1.1200 - 1.1216.