



# PUBLIC NOTICE

Federal Communications Commission  
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**DA 03-2956**  
**Released: September 25, 2003**

## **DOMESTIC SECTION 214 APPLICATION FILED FOR TRANSFER OF CONTROL OF WITEL COMMUNICATIONS, LLC FROM WITEL COMMUNICATIONS GROUP, INC., TO LEUCADIA NATIONAL CORPORATION**

### **STREAMLINED PLEADING CYCLE ESTABLISHED**

**WC Docket No. 03-205**

On September 3, 2003, WilTel Communications Group, Inc. (WilTel), WilTel Communications, LLC (WCL), a holder of domestic section 214 authority, and Leucadia National Corporation (Leucadia) (together, Applicants) filed an application, pursuant to sections 63.03 and 63.04 of the Commission's rules,<sup>1</sup> to transfer control of WCL from WilTel to Leucadia.<sup>2</sup>

Applicants assert that the proposed transaction is eligible for presumptive streamlined treatment under section 63.03(b)(2)(i) because Leucadia will have a market share in the interstate, interexchange market of less than 10 percent and will provide competitive exchange services and exchange access services exclusively in geographic areas served by a dominant local exchange carrier that is not a party to the transaction, and no party to this application is dominant with respect to any service.<sup>3</sup>

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<sup>1</sup> 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

<sup>2</sup> Applicants have also filed a transfer of control application related to international services. Also, WCL holds international Section 214 authority, satellite earth station licenses, microwave licenses, and cable landing licenses. The Applicants are filing appropriate applications for consent to transfer control of those licenses. Any action on this domestic section 214 application is without prejudice to Commission action on other related pending applications.

<sup>3</sup> *See* Letter from Mark Schneider, Counsel for Leucadia, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-205 (filed Sept. 23, 2003).

Through its wholly-owned operating subsidiary, WCL, WilTel operates or manages a fully operational, next generation fiber-optic broadband network that spans over 30,000 route-miles connecting 125 cities in the United States and extends to Asia, Europe, Mexico and the Pacific Rim. WCL provides domestic common carrier services pursuant to the blanket section 214 granted in section 63.01(a) of the Commission's rules. Leucadia made its initial investment in WilTel in 2002 as part of the plan of reorganization (POR) approved by the United States Bankruptcy Court for the Southern District of New York (Case No. 02-119577) and the Commission.<sup>4</sup> In the POR, WilTel was formed as a new corporation for which new publicly-traded common stock was issued to Leucadia and the unsecured creditors of the predecessor to WilTel.

Leucadia is an investment company that currently owns approximately 47.4 percent of WilTel's stock. Ian M. Cumming is Chairman of the Board of Leucadia and Joseph S. Steinberg is President of Leucadia. Each is a citizen of the United States. As of August 25, 2003, Ian Cumming beneficially owned approximately 15.3 percent of the outstanding shares of Leucadia and Mr. Steinberg beneficially owned approximately 16.8 percent of the outstanding shares of Leucadia (in each case including shares owned by trust). Messrs. Cumming and Steinberg have an oral agreement pursuant to which they will consult with each other as to the election of a mutually acceptable Board of Directors of Leucadia.

The Applicants state that grant of this proposed transfer of control will permit consummation of an exchange offer of stock that has been approved by the Boards of Directors of WilTel and Leucadia (the Offer) that will increase Leucadia's ownership of WilTel to more than fifty percent.<sup>5</sup> By the terms of the Offer, Leucadia will not acquire any shares of WilTel common stock in the offer unless WilTel stockholders (other than Leucadia and its affiliates) have validly tendered into the Offer a majority of the shares of WilTel common stock not owned by Leucadia and its affiliates. As part of the Offer, Leucadia may have a wholly-owned subsidiary, Wrangler Acquisition Corp. (Wrangler), temporarily hold its shares of WilTel, pending the merger of Wrangler into WilTel. The temporary role of Wrangler will be determined by the number of public shareholders of WilTel that subscribe to the Offer. Consummation of the Offer will have the effect of diluting the ownership levels of Mr. Cumming and Mr. Steinberg in Leucadia because shares of Leucadia will be exchanged for shares of WilTel as part of the Offer.

The Applicants assert that granting this proposed transfer of control will serve public interest, convenience, and necessity by allowing WilTel to recover from bankruptcy, stabilize the management and operations of WCL, and compete in the provision of telecommunications services.

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<sup>4</sup> *Notice of Streamlined Domestic 214 Applications Granted*, WC Docket No. 02-320, Public Notice, 17 FCC Rcd 22973 (WCB 2002).

<sup>5</sup> If the Offer is successful, Leucadia intends to acquire up to 100% of the stock of WilTel.

## GENERAL INFORMATION

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments within 14 days** and **reply comments within 21 days** of this notice.<sup>6</sup> Unless otherwise notified by the Commission, Applicants are permitted to transfer assets on the 31<sup>st</sup> day after the date of this notice.<sup>7</sup> Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the subject line "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters 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 (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.

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<sup>6</sup> *See* 47 C.F.R. § 63.03(a).

<sup>7</sup> Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

**In addition, one copy of each pleading must be sent to each of the following:**

- (1) the Commission's duplicating contractor, Qualex International, 445 12<sup>th</sup> Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: [qualexint@aol.com](mailto:qualexint@aol.com); facsimile: (202) 863-2898; phone: (202) 863-2893;
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: [twilson@fcc.gov](mailto:twilson@fcc.gov);
- (3) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, S.W., Room 6-A461, Washington, D.C. 20554; e-mail: [dennis.johnson@fcc.gov](mailto:dennis.johnson@fcc.gov);
- (4) Jeremy Miller, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, S.W., Room 5-C211, Washington, D.C. 20554; e-mail: [jeremy.miller@fcc.gov](mailto:jeremy.miller@fcc.gov);
- (5) Imani Ellis-Cheek, Telecommunications Division, International Bureau, 445 12<sup>th</sup> Street, S.W., Room 6-A739, Washington, D.C. 20554; email: [iellis@fcc.gov](mailto:iellis@fcc.gov);
- (6) Christopher Killion, Office of General Counsel, 445 12<sup>th</sup> Street, S.W., Room 8-C740, Washington, D.C. 20554; e-mail: [ckillion@fcc.gov](mailto:ckillion@fcc.gov).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

For further information, please contact Tracey Wilson, at (202) 418-1394, or Dennis Johnson at (202) 418-0809.

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