

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

ASC Telecom, Inc. d/b/a AlternaTel
Application to Discontinue Domestic
Telecommunications Services

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Comp. Pol. File No. 653

ORDER

Adopted: July 31, 2003

Released: July 31, 2003

By the Chief, Competition Policy Division:

1. In this Order, we grant the application of ASC Telecom, Inc. d/b/a AlternaTel (AlternaTel) to discontinue providing resold interexchange and related operator services in the state of Tennessee, pursuant to section 214(a) of the Communications Act of 1934, as amended,¹ and section 63.71 of the Federal Communications Commission's (Commission) rules.²

I. BACKGROUND

2. On June 11, 2003, AlternaTel submitted an application requesting authority under section 214(a) of the Act and section 63.71 of the Commission's rules, to discontinue its provision of resold interexchange and related operator services in the state of Tennessee. By an amendment dated June 17, 2003, AlternaTel corrected deficiencies in its initial application.

3. By Public Notice dated June 30, 2003, the Commission notified the public that, in accordance with section 63.71(c), the application would be deemed to be automatically granted thirty-one (31) days after the release date of the notice, unless the Commission notified AlternaTel that the grant would not be automatically effective.³ Accordingly, absent our action, the automatic grant date for this application would be July 31, 2003. On July 14, 2003, AT&T Corp. (AT&T) filed a comment opposing the application, requesting that the Commission remove the application from automatic approval and condition its response on the full resolution of an

¹ 47 U.S.C. § 214(a).

² 47 C.F.R. § 63.71.

³ *Comments Invited on ASC Telecom, Inc. d/b/a AlternaTel Application to Discontinue Domestic Telecommunications Services*, Public Notice, Comp. Pol. File No. 653, DA 03-2129 (rel. June 30, 2003).

enforcement proceeding currently pending against AlternaTel.⁴ On July 22, 2003, AlternaTel filed reply comments in which it argued, *inter alia*, that the application should be granted because there are readily available alternatives to the services that AlternaTel seeks to discontinue, and none of AlternaTel's customers have filed comments to the contrary.

II. DISCUSSION

4. Section 214(a) of the Communications Act, as amended, states that "[n]o carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby."⁵ The primary purpose of this requirement is to reduce the harm to consumers caused by discontinuances of service, which is an important aspect of the Commission's general obligation under the Communications Act to protect and promote the public interest.⁶ The Commission has considerable discretion in making a finding under section 214.⁷ In this case, we believe that alternatives to resold long distance and related operator services are readily available, and note that none of AlternaTel's customers in Tennessee have commented to the contrary. We also note that any decision we make regarding AlternaTel's discontinuance application would have no affect upon and is without prejudice to the enforcement proceeding currently pending against AlternaTel. Accordingly, we grant AlternaTel's application.

III. ORDERING CLAUSE

5. Accordingly, pursuant to sections 1, 4(1), and 214 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(1), 214, and sections 0.91, 0.291, and 63.71 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 63.71, IT IS ORDERED that the application of ASC Telecom, Inc. d/b/a AlternaTel to discontinue domestic telecommunications IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Michelle M. Carey
Chief, Competition Policy Division

⁴ See *Notice of Apparent Liability for Forfeiture in the Matter of ASC Telecom, Inc., d/b/a AlternaTel*, File No. EB-02-TC-136, NAL/Acct. No. 200232170006, FRN: 0004372835 (rel. Sept. 23, 2002) (NAL).

⁵ 47 U.S.C. § 214(a).

⁶ See 47 U.S.C. § 201.

⁷ See *FCC v. RCA Communications, Inc.*, 73 S.Ct. 998, 1002 (1953).