

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

In the Matter of)	
)	
Wypoint Telecom, Inc., Termination of)	ITC-214-20070601-00211
International Section 214 Authorization)	

ORDER

Adopted: November 20, 2015

Released: November 20, 2015

By the Chief, Policy Division, International Bureau:

I. INTRODUCTION

1. By this Order, we declare the international section 214 authorization granted to Wypoint Telecom, Inc. (formerly known as Sage VOIP Solutions, Inc., and hereafter referred to as Wypoint) terminated given Wypoint’s inability to comply with an express condition for holding the authorization. We also conclude that Wypoint failed to comply with those requirements of the Communications Act of 1934 (the Act) and the Commission’s rules that ensure that the Commission can contact and communicate with the authorization holder, which failures have prevented any way of addressing Wypoint’s inability to comply with the condition of its authorization.¹

II. BACKGROUND

2. Section 214(a) of the Act prohibits any carrier from constructing, extending, acquiring, or operating any line, and from engaging in transmission through any such line, without first obtaining a certificate of authorization from the Commission.² Under section 214(c) of the Act, the Commission “may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require.”³ On July 27, 2007, the International Bureau granted Wypoint an international section 214 authorization to provide global or limited global facilities-based service and global or limited global resale service in accordance with sections 63.18(e)(1) and 63.18(e)(2) of the

¹ The International Bureau granted Wypoint’s authorization under File No. ITC-214-20070601-00211. *International Authorizations Granted*, Report No. TEL-01174, Public Notice, 22 FCC Rcd 14026, 14027 (IB 2007) (*Wypoint International Section 214 Authorization*); *International Authorizations Granted*, Report No. TEL-01206, Public Notice, 22 FCC Rcd 19825, 19827 (IB 2007) (providing notice of the name change from Sage VOIP Solutions, Inc. to Wypoint).

² 47 U.S.C. § 214(a); 47 C.F.R. § 63.18 (stating any carrier seeking section 214 authority “for the provision of common carrier communications services between the United States, its territories or possessions, and a foreign point shall request such authority by formal application”). The Commission granted “blanket” section 214 authority to carriers providing domestic service but did not extend this authority to international services. *Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996; Petition for Forbearance of the Independent Telephone & Telecommunications Alliance*, CC Docket No. 97-11, AAD File No. 98-43, Report and Order, Second Memorandum Opinion and Order, 14 FCC Rcd 11364, 11365-66, para. 2 & n.8 (1999).

³ 47 U.S.C. § 214(c).

Commission's rules.⁴ The International Bureau granted the application on the express condition that Wypoint abide by the commitments and undertakings contained in its Letter of Assurance (LOA) to the U.S. Department of Justice, U.S. Department of Homeland Security, and Federal Bureau of Investigation (collectively, the Agencies) dated July 11, 2007.⁵ Those included an agreement by Wypoint, with respect to "customer billing records, subscriber information, and any other related information used, processed, or maintained in the ordinary course of business relating to communications services offered in the United States," to "make such U.S. Records available in the United States in response to lawful U.S. process."⁶

3. On May 9, 2014, the Agencies filed a letter with the Commission stating that they "have reason to believe that Wypoint is no longer in existence" as they "have been unable to communicate with Wypoint in over a year."⁷ According to the Agencies, Wypoint's counsel "has neither been able to locate his former client (as of September 2012) nor been in contact with [it] (as of October 31, 2013)."⁸ The Agencies stated "Wypoint is consequently unable to comply with the terms of the LOA, and thus cannot satisfy the terms upon which the Agencies gave their non-objection to the granting of authorities to Wypoint."⁹ The Agencies request that the Commission terminate, and declare null and void and no longer in effect, the international section 214 authorization issued to Wypoint.¹⁰

4. The Commission has since made significant efforts to locate Wypoint, but has also been unable to do so. On May 14, 2014, the International Bureau sent Wypoint a letter, directed to the Livermore, California address listed in Wypoint's 2007 application, requesting that Wypoint respond by June 13, 2014 to the allegations set out in the *May 9, 2014 Executive Branch Letter*.¹¹ Wypoint did not respond. Since that time, the International Bureau has provided Wypoint with additional opportunities to respond to these allegations.¹² The International Bureau stated that failure to respond would result in

⁴ *Wypoint International Section 214 Authorization*, 22 FCC Rcd at 14027; 47 C.F.R. § 63.18(e).

⁵ *Wypoint International Section 214 Authorization*, 22 FCC Rcd at 14027. On July 11, 2007, Wypoint submitted the LOA to the Agencies. Letter from Jaime De Vera, Sage VOIP Solutions, Inc. to Sigal Mandelker, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice, Stewart A. Baker, Assistant Secretary of Policy, U.S. Department of Homeland Security, Elaine N. Lammert, Deputy General Counsel, Federal Bureau of Investigation (filed July 11, 2007); Petition to Adopt Conditions to Authorizations and Licenses, File No. ITC-214-20070601-00211 (filed July 27, 2007) (Agencies' non-objection to grant provided grant conditioned on applicant compliance with commitments and undertakings set out in July 11, 2007 letter). These filings may be viewed on the FCC International Bureau Filing System (IBFS) by searching for File No. ITC-214-20070601-00211 and accessing the "Other filings related to this application," http://licensing.fcc.gov/cgi-bin/ws.exe/prod/ib/forms/reports/related_filing.hts?f_key=-130452&f_number=ITC2142007060100211.

⁶ LOA at 1-2.

⁷ Letter from Richard Sofield, Director, Foreign Investment Review Staff, National Security Division, U.S. Department of Justice to Marlene H. Dortch, Secretary, Federal Communications Commission at 2 (filed May 9, 2014) (*May 9, 2014 Executive Branch Letter*). The letter may be viewed on the IBFS by searching for File No. ITC-214-20070601-00211 and accessing the "Other filings related to this application," http://licensing.fcc.gov/cgi-bin/ws.exe/prod/ib/forms/reports/related_filing.hts?f_key=-130452&f_number=ITC2142007060100211.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 3.

¹¹ Letter from James L. Ball, Chief, Policy Division, International Bureau, FCC to Jaime N de Vera, Wypoint Telecom, Inc. (IB May 14, 2014). The letter may be viewed on the IBFS by searching for File No. ITC-214-20070601-00211 and accessing "Other filings related to this application," http://licensing.fcc.gov/cgi-bin/ws.exe/prod/ib/forms/reports/related_filing.hts?f_key=-130452&f_number=ITC2142007060100211.

¹² First, on June 27, 2014, the International Bureau issued a public notice providing Wypoint with a further opportunity to respond to the allegations in the *May 9, 2014 Executive Branch Letter* and describe any steps it was

termination of Wypoint's international section 214 authorization for failure to comply with conditions of its authorization.¹³ To date, Wypoint has not responded to any of the International Bureau or the Agencies' multiple requests to resolve this matter. On October 8, 2015, the International Bureau sent copies of the foregoing Commission notices to Wypoint at the Livermore, California address listed in its 2007 application, by registered, return receipt mail. On October 13, 2015, the U.S. Postal Service indicated that the mailing was undeliverable. In Wypoint's 2007 application, Wypoint stated that it was incorporated in California,¹⁴ and according to the California Secretary of State, the corporation has been "dissolved."¹⁵

III. DISCUSSION

5. We determine that Wypoint's section 214 authorization to provide international services issued under File No. ITC-214-20070601-00211 has terminated for Wypoint's inability to comply with an express condition for holding the section 214 international authorization. The International Bureau has afforded Wypoint with notice and opportunity to respond to the allegations in the *Executive Branch May 9, 2014 Letter* concerning Wypoint's non-compliance with the condition of its grant. Wypoint has not responded to any of our requests or requests from the Agencies. We find that Wypoint's failure to respond to our multiple requests demonstrates that it is unable to satisfy the LOA conditions concerning the availability of U.S. customer records, upon which the Agencies gave their non-objection to the grant of the authorization to Wypoint, and which were a condition of its section 214 authorization.

6. Furthermore, after having received an international 214 authorization, a carrier "is responsible for the continuing accuracy of the certifications made in its application" and must promptly correct information no longer accurate, "and in any event, within thirty (30) days."¹⁶ Wypoint's address is no longer valid and thus Wypoint has failed to inform the Commission of any changes in the continuing

taking or would take to resolve the Agencies' concerns. *Wypoint Telecom, Inc. Required to Respond to Request to Terminate its International Section 214 Authorization*, File No. ITC-214-20070601-00211, Public Notice, 29 FCC Rcd 7807, 7807 (IB 2014) (*2014 Wypoint Public Notice*). Second, on January 14, 2015, the International Bureau issued a Public Notice stating that it was providing Wypoint "final notice and opportunity to respond" and that Wypoint must do so no later than 15 days after publication of notice in the Federal Register, i.e., by February 11, 2015. *Notice of Intent to Declare the International Section 214 Authorization of Wypoint Telecom, Inc. Terminated*, File No. ITC-214-20070601-00211, Public Notice, 30 FCC Rcd 172, 172-73 (IB 2015) (*2015 Wypoint Public Notice*); Notice of Intent To Terminate 214 Authorization, 80 Fed. Reg. 4264 (January 27, 2015). The International Bureau also mailed this *2015 Wypoint Public Notice* to Wypoint at the same address listed in its 2007 application, as well as to an address in Altamonte Springs, Florida, used in an April 2007 filing of FCC Form 499 on behalf of Wypoint. Letter from Howard Griboff, Acting Chief, Policy Division, International Bureau, FCC to Jaime N de Vera, Wypoint Telecom, Inc. and Robert V. Staats (IB Jan. 14, 2015).

¹³ *2015 Wypoint Public Notice*, 30 FCC Rcd at 172.

¹⁴ The Application may be viewed on the IBFS by searching for File No. ITC-214-20070601-00211 and accessing the "PDF Version of the Application," http://licensing.fcc.gov/cgi-bin/ws.exe/prod/ib/forms/reports/swr031b.hts?q_set=V_SITE_ANTENNA_FREQ.file_numberC/File+Number/%3D/ITC2142007060100211&prepare=&column=V_SITE_ANTENNA_FREQ.file_numberC/File+Number.

¹⁵ *California Secretary of State*, <https://businessfilings.sos.ca.gov/> (last visited Nov. 17, 2015) (search "Wypoint" or corporate number "C2967385"). Although Wypoint's is apparently dissolved, on October 8, 2015, the International Bureau also sent copies of the foregoing notices by registered, return receipt mail to the foregoing Florida address, but on October 23, 2015, the mailing was returned as undeliverable to the Commission. The International Bureau also sent copies to an attorney who had been identified in Wypoint's section 214 application, as well as to another attorney who had made a name change filing on its behalf in October 2007. Both were delivered on October 13, 2015. As noted above, the Commission has received no response.

¹⁶ 47 C.F.R. § 63.21(a).

accuracy of its prior certifications, referencing the FCC file number of the original certification.¹⁷ Nor is there any record of Wypoint's having complied with section 413 of the Act and the Commission's rules requiring it to designate an agent for service after receiving its authorization on July 27, 2007.¹⁸ Finally, as part of its authorization, Wypoint "must file annual international telecommunications traffic and revenue as required by § 43.62."¹⁹ Section 43.62(b) states that "[n]ot later than July 31 of each year, each person or entity that holds an authorization pursuant to section 214 to provide international telecommunications service shall report *whether* it provided international telecommunications services during the preceding calendar year."²⁰ Our records indicate that Wypoint failed to file an annual international telecommunications traffic and revenue report indicating whether or not Wypoint provided services in 2014, as required by section 43.62(b) of the Commission's rules. In these circumstances, and in light of Wypoint's failure to respond to the Commission's repeated inquiries, we conclude that this failure to comply with the basic requirements of the Commission's rules designed to ensure its ability to communicate with the holder of the authorization also warrants termination, wholly apart from demonstrating Wypoint's inability to satisfy the LOA conditions of its authorization.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 214, and 413 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 214, 413, and sections 1.47(h), 43.62, 63.18, 63.21, 63.22(h), 63.23(e), and 64.1195 of the Commission's rules, 47 C.F.R. §§ 1.47(h), 43.62, 63.18, 63.21, 63.22(h), 63.23(e), 64.1195, that the international 214 authorization issued under File No. ITC-214-20070601-00211 IS HEREBY TERMINATED AND DECLARED NULL AND VOID.

8. IT IS FURTHER ORDERED that the request of the U.S. Department of Justice, including the Federal Bureau of Investigation, concurred in by the U.S. Department of Homeland Security, IS HEREBY GRANTED, to the extent set forth in this Order.

9. IT IS FURTHER ORDERED that a copy of this Order shall be sent by return receipt requested, to Wypoint Telecom, Inc. at its last known addresses.

10. IT IS FURTHER ORDERED that a copy of this Order, or a summary thereof, shall be published in the Federal Register.

¹⁷ *Id.* In addition, there is no indication that Wypoint is currently providing service pursuant to its section 214 authorization. If Wypoint has discontinued service, it is also in violation of the Commission's rules requiring prior notification for such a discontinuance. 47 C.F.R. § 63.19.

¹⁸ 47 U.S.C. § 413; 47 C.F.R. §§ 1.47(h), 64.1195.

¹⁹ 47 C.F.R. § 63.21(d).

²⁰ 47 C.F.R. § 43.62(b) (emphasis added). In 2013, the Commission adopted section 43.62(b) of its rules, which went into effect on February 11, 2015. *Reporting Requirements for U.S. Providers of International Telecommunications Services; Amendment of Part 43 of the Commission's Rules*, IB Docket No. 04-112, Second Report and Order, 28 FCC Rcd 575 (2013); *Reporting Requirements for U.S. Providers of International Telecommunications Services*, 80 Fed. Reg. 7547 (Feb. 11, 2015).

11. This Order is issued on delegated authority under 47 C.F.R. §§ 0.51, 0.261, and is effective upon release. Petitions for reconsideration under section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, or applications for review under section 1.115 of the Commission's rules, 47 C.F.R. § 1.115, may be filed within 30 days of the date of the release of this Order.

FEDERAL COMMUNICATIONS COMMISSION

Denise Coca
Chief, Policy Division, International Bureau