

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

In the Matter of)
)
StarVox Communications, Inc. and) ITC-214-19920520-00115;
Capital Telecommunications, Inc.) ITC-214-20050407-00146
Termination of International Section 214) (Terminated)
Authorizations

ORDER

Adopted: April 2, 2019

Released: April 2, 2019

By the Chief, Telecommunications and Analysis Division, International Bureau:

I. INTRODUCTION

1. By this Order, we declare the international Section 214 authorizations granted to StarVox Communications, Inc. (StarVox) and Capital Telecommunications, Inc. (CTI) terminated because of their inability to comply with an express condition for holding their authorizations. We also conclude that StarVox and CTI failed to comply with those requirements of the Communications Act of 1934, as amended (the Act), and the Commission’s rules that ensure that the Commission can contact and communicate with the authorization holder and verify that StarVox and CTI are still providing service. These failures have prevented any way of addressing StarVox’s and CTI’s inability to comply with the conditions of their international Section 214 authorizations.

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. Under Section 214(c) of the Act, the Commission

1 International Authorizations Granted, Section 214 Applications (47 C.F.R. § 63.18); Section 310(b)(4) Requests, Report No. TEL-01069, Public Notice, 21 FCC Rcd 10675 (IB 2006) (2006 Public Notice); Letter from Jonathan S. Marashlian, Legal Counsel and Authorized Signatory for StarVox Communications, Inc. and Capital Telecommunications, Inc., to Ms. Sigal P. Mandelker, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice, Mr. Stewart A. Baker, Assistant Secretary of Policy, U.S. Department of Homeland Security, and Ms. Elaine N. Lammert, Deputy General Counsel, Federal Bureau of Investigation, File No. ITC-T/C-20060616-00317 (Sept. 15, 2006) (2006 LOA); International Authorizations Granted, Section 214 Applications (47 C.F.R. § 63.18); Section 310(b)(4) Requests, Report No. TEL-01180, Public Notice, 22 FCC Rcd 16035 (IB 2007) (2007 Public Notice); Letter from U.S. Wireless Data, Inc., StarVox Communications, Inc., and Capital Telecommunications, Inc., to Ms. Sigal Mandelker, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice, Mr. Stewart A. Baker, Assistant Secretary of Policy, U.S. Department of Homeland Security, and Ms. Elaine N. Lammert, Deputy General Counsel, Federal Bureau of Investigation, File No. ITC-T/C-20070501-00173 (July 25, 2007) (2007 LOA) (committing to abide by all of the commitments set out in the 2006 LOA).

2 47 U.S.C. § 214(a); 47 CFR § 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 (continued....)

“may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require.”³

3. On July 22, 1992, the Common Carrier Bureau granted CTI an international Section 214 authorization to operate as an international resale carrier.⁴ On May 5, 2005, the International Bureau granted StarVox an international Section 214 authorization to provide international facilities-based and resale service, in accordance with Section 63.18(e)(1) and (2) of the Commission’s rules.⁵ In 2006, StarVox filed applications to transfer control of the domestic and international Section 214 authorizations held by CTI to StarVox.⁶ In September 2006, the International Bureau and Wireline Communications Bureau conditioned grant of the applications on StarVox and CTI abiding by the commitments and undertakings made in their September 15, 2006 LOA to the Executive Branch Agencies.⁷ Subsequently, in 2007, StarVox filed applications to transfer control of the domestic and international Sections 214 authorizations held by StarVox and CTI to U.S. Wireless Data, Inc. (USWI).⁸ On August 16, 2007, the International Bureau and Wireline Communications Bureau conditioned their grant of the transfers of control of the domestic and international Section 214 authorizations on USWI, StarVox, and CTI abiding by the commitments and undertakings contained in their July 25, 2007 LOA to the Executive Branch Agencies.⁹

4. On July 23, 2018, the U.S. Department of Homeland Security (DHS), with the concurrence of the U.S. Department of Justice (DOJ), including the Federal Bureau of Investigation (collectively, the “Executive Branch Agencies”) notified the Commission of StarVox’s and CTI’s non-compliance with the conditions of their authorizations and requested that the Commission terminate, declare null and void, and no longer in effect, and/or revoke, the international Section 214 authorizations issued to StarVox and CTI.¹⁰ The Executive Branch Agencies assess that StarVox and CTI are no longer in business and therefore are unable to comply with the requirements of the LOAs. The Executive Branch

Section 402(b)(2)(A) of the Telecommunications Act of 1996, 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).

⁴ *L.D.C. Consultants, Application for Authority to Operate as an International Resale Carrier et al.*, Order, Authorization and Certificate, 7 FCC Rcd 5012 (Common Carrier Bur. 1992) (granting CTI authority to provide international resale service under File Number ITC-92-169 (new File No. ITC-214-19920520-00115)).

⁵ *International Authorizations Granted, Section 214 Applications (47 C.F.R. § 63.18); Cable Landing License Applications (47 C.F.R. § 1.767); Requests to Authorize Switched Services over Private Lines (47 C.F.R. § 63.16); Section 310(b)(4) Requests*, Report No. TEL-00907, Public Notice, 20 FCC Rcd 8781 (IB 2005) (granting StarVox authority to provide international global or limited global facilities-based and resale service under File No. ITC-214-20050407-00146).

⁶ Joint International and Domestic Application of StarVox Communications, Inc. and Capital Telecommunications, Inc. for Consent to Transfer Control, File No. ITC-T/C-20060616-00317 (June 16, 2006), <https://go.usa.gov/xEJfv>.

⁷ *Domestic Authorization Granted, Application filed for the Transfer of Control of Capital Telecommunications, Inc. to StarVox Communications Inc.*, WC Docket No. 06-127, Public Notice, 21 FCC Rcd 10695 (WCB 2006); 2006 Public Notice; 2006 LOA.

⁸ Joint International and Domestic Application of StarVox Communications, Inc. and U.S. Wireless Data, Inc. for Consent to Transfer Control, File No. ITC-T/C-20070501-00175 (May 1, 2007), <https://go.usa.gov/xEJft>.

⁹ *Domestic Section 214 Authorization Granted, Applications for the Transfer of Control of StarVox Communications Inc. and Capital Telecommunications, Inc. to U.S. Wireless Data, Inc.*, WC Docket No. 07-115, Public Notice, 22 FCC Rcd 15276 (WCB 2007); 2007 Public Notice; 2007 LOA.

¹⁰ Letter from Phil Ludvigson, Director, Foreign Investment Risk Management, Office of Policy, U.S. Department of Homeland Security, to Marlene H. Dortch, Secretary, FCC (July 23, 2018) (DHS Letter).

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Agencies made several attempts to contact StarVox and CTI.¹¹ On November 24, 2015, in an effort to reach out to StarVox for compliance with the LOAs, DHS emailed the counsel listed on StarVox's 2007 transfer of control applications. Counsel informed DHS staff that he no longer represents StarVox and believes that it is no longer in business.¹² Research conducted by DHS staff also indicate that StarVox filed for bankruptcy and is no longer in operation.¹³ The Executive Branch Agencies further noted, that on March 19, 2008, StarVox and CTI filed an application with the FCC to discontinue service, and information on the FCC's Form 499 Telecommunications Company Filer Database indicates that StarVox and CTI are no longer active as of March 26, 2008.¹⁴ For these reasons, the Executive Branch Agencies conclude that StarVox and CTI are no longer providing services pursuant to their Section 214 authorizations.¹⁵

5. As an initial matter, on April 2, 2008, pursuant to Section 63.71(c) of the Commission's rules, the Wireline Competition Bureau approved StarVox's and CTI's request to discontinue domestic service on or after May 3, 2008.¹⁶ Accordingly, we do not address the Executive Branch Agencies' request to terminate the domestic Section 214 authorizations of StarVox and CTI.

6. The Commission has made significant efforts to communicate with StarVox and CTI but has also been unable to do so. On December 14, 2018, the International Bureau's Telecommunications and Analysis Division sent StarVox and CTI a letter requesting that StarVox and CTI respond to the July 23, 2018 DHS Letter by January 14, 2019.¹⁷ StarVox and CTI did not respond. Since that time, the

¹¹ DHS Letter at 2-3.

¹² *Id.* at 2.

¹³ *Id.*

¹⁴ *Id.* at 2-3. On March 19, 2008, StarVox and CTI filed an application to discontinue certain domestic service in California, Connecticut, Delaware, D.C., Florida, Georgia, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, Utah, Virginia and Washington. Section 63.71 Application of Capital Telecommunications, Inc. and StarVox Communications, Inc. (filed Mar. 19, 2008) (Domestic Discontinuance Application).

¹⁵ *Id.*

¹⁶ *Comments Invited on Application of Capital Telecommunications, Inc. and StarVox Communications, Inc. to Discontinue Domestic Telecommunications Services*, WC Docket No. 08-48, Public Notice, 23 FCC Rcd 5619 (WCB 2008). Applicants filed for Chapter 7 bankruptcy protection before the U.S. Bankruptcy Court for the Northern District of California, San Jose Division. *Id.* at 1. In their Domestic Discontinuance Application, StarVox and CTI stated they also were discontinuing international services pursuant to Section 63.19 of the Commission's rules and serving a copy of the domestic application and customer notification on the International Bureau. Domestic Discontinuance Application at 1, n.1. However, the International Bureau did not receive a copy of the domestic application or a Section 63.19 filing.

¹⁷ Letter from Denise Coca, Division Chief, Telecommunications and Analysis Division, International Bureau, FCC to Mr. Kyle L. Dickson, Esq., General Counsel, StarVox Communications, Inc., Capital Telecommunications, Inc., and U.S. Wireless Data, Inc. at 1 (Dec. 14, 2018) (*StarVox and CTI Letter*). The Bureau staff mailed the *StarVox and CTI Letter* via certified mail, return receipt to the addresses of record: (1) Kyle L. Dickson, Esq., General Counsel for StarVox Communications, Inc., Capital Telecommunications, Inc., and U.S. Wireless Data, Inc. – 8275 El Rio, Suite # 110, Houston, Texas 77054 and 2728 Orchard Parkway, San Jose, California 95134; (2) Capital Telecommunications, Inc. – 200 West Market Street, York, Pennsylvania 17401; (3) Thomas E. Rowley, Chief Executive Officer and Director, U.S. Wireless Data, Inc. – 2728 Orchard Parkway, San Jose, California 95134; and (4) Jackie Sorman, StarVox Communications Inc.'s Washington, D.C. Agent, Premier Corporate Services, Inc., National Registered Agents, Inc. – 1090 Vermont Avenue, NW, Suite 190, Washington, DC 20005. The letters were all undeliverable and returned to the Bureau staff. The Bureau staff also emailed the letter to the contact emails of record: Kyle L. Dickson at kdickson@starvox.com; Thomas Rowley at tomrowley@starvox.com; and Jackie Sorman at jackie@premiercorp.com. We received no answer in response to our emails except an email stating that delivery to recipients was complete, but no delivery notification was sent by the destination server.

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International Bureau has provided StarVox and CTI with an additional opportunity to respond to these allegations.¹⁸ The International Bureau stated that failure to respond would result in termination of StarVox's and CTI's international Section 214 authorizations for failure to comply with the conditions of their authorizations.¹⁹ To date, StarVox and CTI have not responded to any of the International Bureau's or the Executive Branch Agencies' multiple requests to resolve this matter.

III. DISCUSSION

7. We determine that StarVox's and CTI's international Section 214 authorizations to provide services issued under File Nos. ITC-214-19920520-00115 and ITC-214-20050407-00146 have terminated due to StarVox's and CTI's inability to comply with express conditions for holding their international Section 214 authorizations. The International Bureau provided StarVox and CTI with notice and opportunity to respond to the allegations in the July 23, 2018 DHS Letter concerning StarVox's and CTI's non-compliance with the conditions of their grant. StarVox and CTI have not responded to any of our multiple requests or requests from the Executive Branch Agencies. We find that StarVox's and CTI's failure to respond to our requests demonstrates that they are unable to satisfy the LOA commitments, which the Executive Branch Agencies relied upon in providing their non-objection to the grant of their applications, and compliance with which is a condition of the grant of StarVox's and CTI's international Section 214 authorizations to provide international facilities-based and resale service.

8. Furthermore, after having received an international Section 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."²⁰ StarVox and CTI have failed to inform the Commission of any changes in their business status of providing international telecommunications services, as required by the rules.²¹ Finally, as part of their authorizations, StarVox and CTI were required to file annual international telecommunications traffic and revenue reports, as required by Section 43.62 of the Commission's rules, which was in effect until April 2018.²² Section 43.62(b) stated that "[n]ot later than July 31 of each year, each person or entity that holds

¹⁸ *Final Notice of Intent to Declare the International Section 214 Authorizations of StarVox Communications, Inc. and Capital Telecommunications, Inc. Terminated*, File Nos. ITC-214-19920520-00115 and ITC-214-20050407-0146, Public Notice, DA 19-124 (IB Feb. 26, 2019) (*StarVox and CTI Public Notice*). Because the mailings for the *StarVox and CTI Letter* were undeliverable, the Bureau staff did not mail the *StarVox and CTI Public Notice* to the same addresses of record but did send the *StarVox and CTI Public Notice* to the contact emails on record: Kyle L. Dickson at kdickson@starvox.com; Thomas Rowley at tomrowley@starvox.com; and Jackie Sorman at jackie@premiercorp.com. We received no answer in response to our emails except an email stating that delivery to recipients was complete, but no delivery notification was sent by the destination server. The *StarVox and CTI Public Notice* was posted in the FCC's Office of the Secretary in accordance with Section 1.47(h) of the Commission's rules. 47 CFR § 1.47(h).

¹⁹ *StarVox and CTI Public Notice*.

²⁰ 47 CFR § 63.21(a).

²¹ *Id.* In addition, there is no indication that StarVox and CTI are currently providing service to customers pursuant to their international Section 214 authorizations. If StarVox and CTI have discontinued service, they may also be in violation of the Commission's rules requiring prior notification for such a discontinuance. 47 CFR § 63.19.

²² 47 CFR § 43.62(b). 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). On October 24, 2017, the Commission eliminated the annual traffic and revenue reporting requirement. *Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations*, IB Docket Nos. 17-55 and 16-131, Report and Order, 32 FCC Rcd 8115, 8119, paras. 8-23 (2017); *Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations*, 83 Fed. Reg. 17931 (Apr. 25, 2018).

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an authorization pursuant to section 214 to provide international telecommunications service shall report *whether* it provided international telecommunications services during the preceding calendar year.”²³ Our records indicate that StarVox and CTI failed to file annual international telecommunications traffic and revenue reports indicating whether or not StarVox and CTI provided services in 2014 and 2015, as required by Section 43.62(b) of the Commission’s rules.²⁴ StarVox’s and CTI’s failure to adhere to the Commission’s rules designed to ensure its ability to communicate with the holder of the authorizations and to verify if the holder is still providing service also warrants termination, wholly apart from StarVox’s and CTI’s non-compliance with the conditions of their international Section 214 authorizations.

IV. ORDERING CLAUSES

9. 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 CFR §§ 1.47(h), 43.62, 63.18, 63.21, 63.22(h), 63.23(e), 64.1195, that the international Section 214 authorizations issued under File Nos. ITC-214-19920520-00115 and ITC-214-20050407-00146 ARE HEREBY TERMINATED AND DECLARED NULL AND VOID.

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

11. IT IS FURTHER ORDERED that this Order shall be posted in the Commission’s Office of the Secretary.²⁵

12. This Order is issued on delegated authority under 47 CFR §§ 0.51, 0.261, and is effective upon release. Petitions for reconsideration under Section 1.106 of the Commission’s rules, 47 CFR § 1.106, or applications for review under Section 1.115 of the Commission’s rules, 47 CFR § 1.115, may be filed within 30 days of the date of the release of this Order.

FEDERAL COMMUNICATIONS COMMISSION

Denise Coca
Chief, Telecommunications and Analysis Division
International Bureau

²³ 47 CFR § 43.62(b) (emphasis added).

²⁴ *Id.*

²⁵ 47 CFR § 1.47(h).