

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

In the Matter of	)	
	)	
AT&T CORP.	)	
	)	
Application for Authorization Pursuant to	)	File No. I-T-C-96-422
Section 214 of the Communications Act of	)	
1934, as Amended, to Provide Switched	)	
Services Via International Private Lines	)	
Interconnected to the Public Switched	)	
Network Between the United States	)	
and Canada	)	

**ORDER AND AUTHORIZATION**

**Adopted: September 25, 1996**

**Released: September 27, 1996**

By the Chief, Telecommunications Division:

1. In this Order, we grant the application of AT&T Corp. ("AT&T") for authorization pursuant to Section 214 of the Communications Act of 1934, as amended, to provide switched services between the United States and Canada via international private lines interconnected with the public switched network at one and/or both ends. We find that the public interest, convenience, and necessity would be served by granting AT&T's application.

**Filings**

2. On July 25, 1996, AT&T filed its application pursuant to Section 63.18 of the Commission's rules, 47 C.F.R. § 63.18. On August 2, the application was placed on public notice, which stated that the application would be subject to streamlined processing pursuant to Section 63.12. Petitions to deny were originally due August 23. We granted a joint motion by Teleglobe USA and AT&T to extend the filing deadline until August 27, but Teleglobe USA did not file a petition to deny. On August 28, Graphnet, Inc., ("Graphnet") filed a Motion for Acceptance of Late-Filed Petition and a Petition to Deny, as a result of which we withdrew the application from streamlined processing by Public Notice (Report No. TEL-38-A) on September 6.

3. In its Petition to Deny, Graphnet asserts that AT&T has been intentionally misrouting telex calls destined to Graphnet subscribers via Unitel, AT&T's affiliate in Canada, causing degradation of service and direct financial harm to Graphnet. Graphnet alleges that this practice violates the Commission's general policy of encouraging use of direct routes, its policy against

discriminatory conduct in collusion with a foreign affiliate, its international settlements policy (by diverting revenues from the U.S. economy to Canada), and Section 203 of the Act, 47 U.S.C. § 203, by intentionally evading Graphnet's effective interconnection tariff. Consequently, Graphnet argues, because of the Commission's broad responsibilities to protect the public interest in adjudicating licensing applications and the International Bureau's expertise in the policies allegedly violated, we should not grant AT&T's application here.

4. AT&T filed a Motion to Dismiss Graphnet's Motion for Acceptance of Late-Filed Petition and filed an Opposition to Petition to Deny. In its Opposition, AT&T argues that Graphnet's claims are unsubstantiated and in any event are irrelevant to any determinations we must make in acting on this application. AT&T argues further that Graphnet's interjection of these claims, which are currently pending in a complaint proceeding before the Commission, is an attempt to circumvent the Commission's complaint process.

#### Discussion

5. Graphnet's Petition to Deny was filed after the deadline for petitions to deny, even after the deadline had been extended. We therefore deny Graphnet's Motion for Acceptance of Late-Filed Petition and deny the petition as untimely. See 47 C.F.R. § 1.46(a) ("It is the policy of the Commission that extensions of time shall not be routinely granted.").

6. Even if the petition had been filed on time, it would be denied. Its claims are irrelevant to AT&T's Section 214 application to provide international switched services via international private lines interconnected with the public switched network. Graphnet's dispute with AT&T is already being considered in the context of a complaint proceeding initiated by Graphnet on February 4, 1994.<sup>1</sup> The complaint proceeding, not this proceeding, is the proper forum for resolution of those issues. We cannot countenance the filing of irrelevant petitions to deny for the sole purpose of delaying the grant of an application by having it removed from streamlined processing. We therefore deny Graphnet's petition without addressing its allegations.

7. Therefore, the only remaining issue we need address is AT&T's affiliation with Unitel. Unitel is a facilities-based carrier that provides domestic long-distance and international service in Canada. It is also a reseller of Teleglobe's international overseas service. Stentor, the only other facilities-based carrier in Canada, has 100 percent of the local services market and over 90 percent of the domestic facilities-based long-distance market. Teleglobe has 100 percent of the facilities-based overseas market. Unitel carries less than 6 percent of the Canada-United States traffic. We therefore conclude, as we have before,<sup>2</sup> that Unitel lacks market power in Canada.

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<sup>1</sup> *Graphnet, Inc. v. AT&T*, File No. E-94-41.

<sup>2</sup> See *Motion of AT&T Corp. to be Declared Non-Dominant for International Service*, Order, FCC 96-209 (rel. May 14, 1996), ¶ 89. Pursuant to the Section 214 Streamlining Order, the present application need not have been filed, because AT&T seeks authority to resell international services with an affiliated facilities-based foreign carrier in Canada whom the Commission has previously determined to lack market

8. We find that AT&T's application is complete pursuant to Section 63.18. Based on the above findings, we conclude that a grant of this application will add competition on the United States-Canada route. Therefore, we find that the public interest, convenience, and necessity would be served by granting the application.

#### Ordering Clauses


9. Accordingly, IT IS ORDERED that AT&T's application File No. I-T-C-96-422 is GRANTED, and AT&T is authorized to provide switched services between the United States and Canada via international private lines interconnected with the public switched network at one and/or both ends.

10. IT IS FURTHER ORDERED that this authorization is subject to the general terms and conditions set forth in Sections 63.18(e)(1) and (2), 63.15, and 63.21 of the Commission's rules, 47 C.F.R. §§ 63.18(e)(1)-(2), 63.15, 63.21, and to all other applicable Commission rules and policies.

11. IT IS FURTHER ORDERED that this authorization is limited to the provision of such services between the United States and Canada only, that is, private lines that carry switched traffic that originates in the United States and terminates in Canada or vice-versa. This restriction is subject to the following exception: AT&T may engage in "switched hubbing" through Canada consistent with the rules adopted in the Foreign Carrier Entry Order, 11 FCC Rcd 3873, 3938-39 (1995); *see also* 47 C.F.R. § 63.17(b).

12. This Order is issued under Section 0.261 of the Commission's rules, 47 C.F.R. § 0.261, and is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 may be filed within 30 days of the date of public notice of this Order (see Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

  
for Diane Cornell  
Chief, Telecommunications Division  
International Bureau

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power in Canada. *See* 47 C.F.R. § 63.12(c)(1). Nevertheless, having accepted the application for filing, we find its grant to be in the public interest.