



PUBLIC NOTICE

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Thursday, October 30, 1997
DA 97-2291

OVERSEAS COMMON CARRIER SECTION 214 APPLICATIONS ACTIONS TAKEN

The following applications for international section 214 certification have been granted pursuant to the Commission's streamlined processing procedures set forth in Section 63.12 of the Commission's Rules, 47 C.F.R. § 63.12. Unless otherwise noted, these authorizations grant the referenced applicants (1) global or limited global facilities-based authority; and/or (2) global or limited global resale authority. The general terms and conditions of such global authority are set forth in Section 63.18(e)(1) & (2) of the Commission's rules, 47 C.F.R. § 63.18(e)(1) & (2). These authorizations also are subject to all other applicable Commission rules and policies. This Public Notice serves as each referenced carrier's Section 214 authorization. It contains general and specific conditions which are set forth below.

ITC-97-556 Global Facilities-based/Global Resale Services

TALK IS CHEAP COMMUNICATIONS

effective: 10/29/97

Application for authority to operate as a facilities-based carrier in accordance with the provisions of Section 63.18(e)(1) of the rules and also to provide service in accordance with the provisions of Section 63.18(e)(2) of the rules.

ITC-97-555 Global Facilities-based/Global Resale Services

OGC TELECOMM, LTD. D/B/A OGI TELECOMM, L.P.

effective: 10/29/97

Application for authority to operate as a facilities-based carrier in accordance with the provisions of Section 63.18(e)(1) of the rules and also to provide service in accordance with the provisions of Section 63.18(e)(2) of the rules.

ITC-97-554 Global Facilities-based/Global Resale Services

MICROWAVE SERVICES, INC.

effective: 10/29/97

Application for authority to operate as a facilities-based carrier in accordance with the provisions of Section 63.18(e)(1) of the rules and also to provide service in accordance with the provisions of Section 63.18(e)(2) of the rules.

ITC-97-552 Global Facilities-based/Global Resale Services

JUSTICE LONG DISTANCE CORP.

effective: 10/29/97

Application for authority to operate as a facilities-based carrier in accordance with the provisions of Section 63.18(e)(1) of the rules and also to provide service in accordance with the provisions of Section 63.18(e)(2) of the rules.

ITC-97-551 Global Facilities-based/Global Resale Services

TELEPHONIX CORPORATION

effective: 10/29/97

Application for authority to operate as a facilities-based carrier in accordance with the provisions of Section 63.18(e)(1) of the rules and also to provide service in accordance with the provisions of Section 63.18(e)(2) of the rules.

ITC-97-550 Global Resale Services

PRIME MATRIX TELECOMMUNICATIONS, INC.

effective: 10/29/97

Application for authority to provide service in accordance with the provisions of Section 63.18(e)(2) of the rules.

ITC-97-549 Global Resale Services
EVEREST WORLDWIDE COMMUNICATIONS, INC. effective: 10/29/97
Application for authority to provide service in accordance with the provisions of Section 63.18(e)(2) of the rules.

ITC-97-548 Global Resale Services
S DATA TELECOM INTERNATIONAL effective: 10/29/97
Application for authority to provide service in accordance with the provisions of Section 63.18(e)(2) of the rules.

ITC-97-547 Global Resale Services
NORSK TELEKOM, L.L.C. effective: 10/29/97
Application for authority to provide service in accordance with the provisions of Section 63.18(e)(2) of the rules.

ITC-97-546 Global Resale Services
PNC PRIMENET COMMUNICATIONS, INC. effective: 10/29/97
Application for authority to provide service in accordance with the provisions of Section 63.18(e)(2) of the rules.

ITC-97-545 Global Resale Services
GAINS INTERNATIONAL (C.I.) LIMITED effective: 10/29/97
Application for authority to provide service in accordance with the provisions of Section 63.18(e)(2) of the rules.

ITC-97-543 Global Resale Services
HUTCHINSON TELECOMMUNICATIONS, INC. effective: 10/29/97
Application for authority to provide service in accordance with the provisions of Section 63.18(e)(2) of the rules.

Carriers should review carefully the general terms and conditions of their authorizations. These are set forth in detail below and in Section 63.18(e)(1) & (2) of the rules. Failure to comply with general or specific terms and conditions of the referenced authorizations, or with other relevant Commission rules and policies, could result in fines and forfeitures.

GENERAL CONDITIONS OF AUTHORIZATION

(1) These authorizations are subject to the International Bureau's Exclusion List that identifies restrictions on providing service to particular countries or using particular facilities. The most recent Exclusion List is attached to this Public Notice. The list applies to all U.S. international carriers, including those that have previously received global or limited global Section 214 authority, whether by streamlined grant or specific written order. Carriers are advised that the attached Exclusion List is subject to amendment at any time pursuant to the procedures set forth in Streamlining the International Section 214 Authorization Process and Tariff Requirements, IB Docket No. 95-118, FCC 96-79, released March 13, 1996, para. 18. A copy of the most current Exclusion List will be maintained in the International Bureau's Reference Center and will be available as a WordPerfect document at <http://www.fcc.gov/Bureaus/International/Orders/index.da961205.wp>. It also will be attached to each Public Notice that grants international Section 214 authority.

(2) The export of telecommunications services and related payments to countries that are subject to economic sanctions may be restricted. For information concerning current restrictions, call the Office of Foreign Assets Control, U.S. Department of the Treasury, (202) 622-2520.

(3) In circumstances where the authorized carrier becomes affiliated with a foreign carrier within the meaning of Section 63.18(h)(1)(i)(A) of the rules, the authorized carrier must notify the Commission of such affiliation within thirty (30) days of the acquisition of the affiliation, in accordance with Section 63.11(a) of the rules. The carrier will be subject to possible reclassification as a dominant carrier on an affiliated route pursuant to the provisions of Section 63.10 of the rules.

(4) Section 63.11(b) of the rules requires that authorized carriers that know of a planned investment by a foreign carrier of a ten (10) percent or greater interest, whether direct or indirect, in the capital stock of the authorized carrier shall notify the Commission sixty (60) days prior to the acquisition of such interest. Carriers shall report a ten percent or greater planned investment in the capital stock of the carrier by a foreign carrier, or by any entity that directly or indirectly controls or is controlled by a foreign carrier, or that is under direct or indirect common control with a foreign carrier. Carriers shall maintain the accuracy of their notifications by informing the Commission of additional investments by the foreign carrier or an affiliated company.

(5) Carriers shall file with the Commission a copy of all operating agreements entered into with their foreign correspondents and all amendments within thirty (30) days of their execution, and shall otherwise comply with the filing requirements contained in Section 43.51 of the Commission's Rules, 47 C.F.R. §43.51 (1994). In addition, any carrier interconnecting private lines to the U.S. public switched network at its switch, including any switch in which the carrier obtains capacity either through lease or otherwise, shall file annually with the Chief, International Bureau, a certified statement containing, on a country-specific basis, the number and type (e.g., 64 kbps circuits) of private lines interconnected in such manner. The Commission will treat the country of origin information as confidential. Carriers need not file their contracts for interconnection unless the Commission specifically requests. Carriers shall file their annual report on February 1 (covering international private lines interconnected during the preceding January 1 to December 31 period) of each year. International private lines to countries which we find to satisfy the equivalency standard at any time during a particular reporting period are exempt from this requirement. See 47 C.F.R. § 43.51(d), as added in Regulation of International Accounting Rates, Phase II, Third Report and Order and Order on Reconsideration, 11 FCC Rcd 12498 (1996).

(6) Carriers authorized to provide private line service either on a facilities or resale basis are limited to the provision of such private line service only between the United States and those foreign points covered by their referenced applications for Section 214 authority. In addition, the carriers may not -- and their tariffs must state that their customers may not -- connect private lines to the public switched network at either the U.S. or foreign end, or both, for the provision of international switched basic services, unless authorized to do so upon a finding by the Commission that the foreign administration affords resale opportunities equivalent to those available under U.S. law. See 47 C.F.R. §63.18(e)(2)(ii)(B) & (e)(3)-(4). This restriction on interconnection is subject to an exception for facilities-based private lines as set forth in 47 C.F.R. § 63.18 (e)(4)(ii). See generally Market Entry and Regulation of Foreign-Affiliated Entities, 11 FCC Rcd. 3873 (1995), paras. 136-138; 157-161. See also Regulation of International Accounting Rates, Phase II, First Report and Order, 7 FCC Rcd 559 (1991), Order on Reconsideration and Third Further Notice of Proposed Rulemaking, 7 FCC Rcd 7927 (1992), Third Report and Order and Order on Reconsideration, FCC 96-160, released May 20, 1996.

(7) In addition, carriers authorized to provide switched services via facilities-based or resold international private lines between the United States and Sweden, Canada, New Zealand or the United Kingdom are limited to the provision of such services between the United States and Sweden, Canada, New Zealand or the United Kingdom -- that is, private lines which carry traffic that originates in the United States and terminates in Sweden, Canada, New Zealand or the United Kingdom, or traffic that originates in Sweden, Canada, New Zealand or the United Kingdom and terminates in the United States. This restriction is subject to the following exceptions: (a) the carriers may engage in "switched hubbing" consistent with Section 63.17(b) of the rules, adopted in Market Entry and Regulation of Foreign-affiliated Entities, 11 FCC Rcd 3873 (1995), paras. 169-70, and (b) carriers may provide U.S. inbound or outbound switched basic service via their authorized private lines extending between the United States, Sweden, New Zealand and the United Kingdom.

(8) Authorization to provide switched services via facilities-based or resold international private lines between the United States and Sweden, Canada, New Zealand and/or the United Kingdom is conditioned upon Sweden, Canada, New Zealand and/or the United Kingdom continuing to afford resale opportunities equivalent to those available under U.S. law. In addition, all non-dominant resellers providing switched services over resold international private lines, including traffic routed through an equivalent country via "switched hubbing," are required to file with the Commission on a semi-annual basis the information contained in the annual traffic reports required by Section 43.61 of the Commission's Rules. This reporting requirement applies to traffic carried through December 1995 for Canada; December 1997 for the United Kingdom; December 1998 for Sweden; and December 1999 for New Zealand. See FONOROLA/EMI, Order on Reconsideration, 9 FCC Rcd 4066, 4070 (1994); ACC Global Corp., 9 FCC Rcd 6240 (1994); Cable & Wireless, Inc. et al., 11 FCC Rcd 1766 (1996), and Communications TeleSystems International, DA 96-2183, Released December 31, 1996. See also Foreign Carrier Entry Order at para. 170. These semi-annual reports shall be filed with the Commission not later than September 30 for the first six-month calendar period, and March 31 for the second six-month reporting period. This policy does not affect the requirement that carriers regulated as dominant pursuant to Sec. 63.10 of the rules are required to file with the Commission quarterly traffic reports.

(9) Further, carriers shall be prohibited from agreeing to accept special concessions directly or indirectly from any foreign carrier or administration with respect to traffic or revenue flows between the United States and any foreign country and from agreeing to enter into such agreements in the future. A special concession is defined as any arrangement that affects traffic or revenue flows to or from the U.S. that is offered exclusively by a foreign carrier or administration to a particular U.S. international carrier and not also to similarly situated U.S. international carriers authorized to serve a particular route.

(10) All of the applicants listed in this public notice shall file a tariff pursuant to Section 203 of the Communications Act of 1934, as amended, 47 U.S.C. Section 203, and Part 61 of the Commission's Rules, 47 C.F.R. Part 61, for the services requested in their application.

(11) The carriers shall file the annual reports of overseas telecommunications traffic required by Section 43.61.

(12) Carriers shall file annual reports of circuit status and/or circuit additions in accordance with the requirements set forth in Rules for Filing of International Circuit Status Reports, CC Docket No. 93-157, Report and Order, 10 FCC Rcd 8605 (1995). See 47 C.F.R. §§ 43.82 & 63.15(b). These requirements apply to facilities-based carriers and private line resellers, respectively.

(13) Carriers should consult Sec. 63.19 of the rules when contemplating a discontinuance, reduction or impairment of service. Further, the grant of these applications shall not be construed to include authorization for the transmission of money in connection with the services the applicants have been given authority to provide. The transmission of money is not considered to be a common carrier service.

(14) If any carrier is reselling service obtained pursuant to a contract with another carrier, that contract or a contract summary shall be filed publicly by the underlying carrier in accordance with Section 203 of the Communications Act, 47 U.S.C. § 203, and Competition in the Interstate Interexchange Marketplace, 6 FCC Rcd 5880, 5902 (1991). In addition, the services obtained by contract shall be made generally available by the underlying carrier to similarly situated customers at the same terms, conditions and rates.

(15) To the extent that any of the above-listed applicants intends to provide international call-back services through the use of uncompleted call signaling, its authorization to resell international switched voice and/or data services to provide these services is expressly subject to the conditions listed in VIA USA Ltd., et al., 9 FCC Rcd 2288 (1994), on recon., 10 FCC Rcd 9540 (1995).

(16) To the extent the applicant is, or is affiliated with, an incumbent independent local exchange carrier, as those terms are defined in Section 64.1902 of the rules, it shall provide the authorized services in compliance with the requirements of Section 64.1903. See Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area and Policy and Rules Concerning the Interstate Interexchange Marketplace, Second Report and Order in CC Docket No. 960149 and Third Report and Order in CC Docket No. 96-61, FCC 97-142 (released April 18, 1997), recon., FCC 97-229 (released June 27, 1997).

Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's Rules in regard to the grant of any of these applications may be filed within thirty (30) days of this public notice (see Section 1.4 (b) (2)).

For additional information concerning this matter, please contact the International Bureau Public Reference Center at (202) 418-1492 or (202) 418-1493.

International Section 214 Authorizations

-- Exclusion List as of October 22, 1996 --

The following is a list of countries and facilities not covered by grant of global Section 214 authority under Section 63.18(e)(1) of the Commission's Rules. 47 C.F.R. 63.18(e)(1). In addition, the facilities listed shall not be used by U.S. carriers authorized under Section 63.01 of the Commission's Rules, unless the carrier's Section 214 authorization specifically lists the facility. Carriers desiring to serve countries or use facilities listed as excluded hereon shall file a separate Section 214 application pursuant to Section 63.18(e)(6) of the Commission's Rules.

Countries

Cuba (applications for service to this country shall comply with the separate filing requirements of the Commission's Public Notice Report No. I-6831, dated July 27, 1993, "FCC to Accept Applications for Service to Cuba.")

Facilities

All non-U.S. licensed Cable and Satellite Systems Except:

Foreign Cable Systems

Aden-Djibouti

APC
APCN
APHRODITE 2
ARIANNE 2
ASEAN
B-M-P
Brunei-Singapore
CADMOS
CANTAT-3
CARAC
CELTIC
China-Japan
CIOS
Denmark-Russia 1
ECFS
EMOS-1
EURAFRICA
Germany-Denmark 1
Germany-Sweden No. 4
Germany-Sweden No. 5
H-J-K
HONTAI-2
ITUR
KATTEGAT-1
Kuantan-Kota Kinabalu
LATVIA-SWEDEN
Malaysia-Thailand
Marseille/Palermo Link
MAT-2
ODIN
PENCAN-5
R-J-K
RIOJA
SAT-2
SEA-ME-WE 2
SEA-ME-WE 3
T-V-H
TAGIDE 2
TASMAN 2
UGARIT
UK-BEL 6
UK-Denmark 4
UK-Germany 5
UK-Netherlands 12
UK-Netherlands 14
UK-Spain 4
UNISUR

This list is subject to change by the Commission when the public interest requires. Before amending the list, the Commission will first issue a public notice giving affected parties the opportunity for comment and hearing on the proposed changes. The Commission will then release an order amending the exclusion list. This list also is subject to change upon issuance of an Executive Order. See Streamlining the Section 214 Authorization Process and Tariff Requirements, IB Docket No. 95-118 FCC 96-79, released March 13, 1996.

For additional information, contact the International Bureau's Telecommunications Division, Policy & Facilities Branch, (202) 418-1460.

Change of Company Name

INCOMEX, L.P. d/b/a International Operator has changes its name to INCOMEX, Inc. (Letter of October 21, 1997, Re: ITC-96-554).