

1989 WL 513125 (F.C.C.), 4 F.C.C.R. 4534, 4 FCC Rcd. 4534

DA 89-569

*ASG
He:
ITC-214-19890217-00003*

***1** In the Matter of
HOUSTON NETWORK, INC., Assignor
and

ACCESS TELECOMMUNICATIONS, INC., Assignee
Application for assignment

File No. I-T-C-89-068-AL

MEMORANDUM OPINION AND ORDER

Adopted: May 19, 1989; Released: May 26, 1989

****4534** By the Chief, International Facilities Division:

1. On February 27, 1989, Houston Network Inc. (HNI) filed the above-captioned application for consent to assign its Section 214 international authorization (File No. **I-T-C-88-077**) to Access Telecommunications, Inc. (Access), pursuant to Section 214 of the Communications Act of 1934, and Section 63 of the Commission's Rules. [FN1] The application was placed on public notice on March 1, 1989. No comments were received. [FN2]
2. HNI, a Texas Corporation, currently provides both domestic and international resale services. HNI's customers include the consulate of a foreign government, the Houston branch of a Canadian bank, and various energy and chemical companies among its 2000 subscribers. Access is a newly formed, wholly-owned subsidiary of Williams Telecommunications Group, Inc. (WTG). WTG, through its subsidiaries, WTG-Central Inc. and WTG-West, Inc., provides long haul telecommunications services to most of the Fortune 1000, and to most of the largest providers of switched interstate service. WTG's current nationwide fiber optic network, with an additional 800 miles of digital microwave system, extends approximately 6,400 miles.
3. HNI and Access contend that the proposed assignment serves the public interest. They state that authorization of the assignment will enable Access to provide services from the United States to international points its parent WTG does not presently served. By stepping into HNI's shoes, Access proposes to offer resold international switched voice service to Canada, Mexico, and the points listed in its applicable tariffs.

DISCUSSION

4. We find that proposed assignment will not substantially impact HNI's management or service. Although Access is a newly formed corporation, its parent WTG, through its subsidiaries WTG-Central, Inc. and WTG-West, Inc., holds 40 authorizations in the Domestic Public Fixed Radio Service. Access, as a subsidiary of WTG, will be able to expand its services as a result of the proposed transaction, with no lessening of service, thus benefiting its present subscribers.
5. We must also address the issue of whether the proposed transaction will inhibit competition and thereby be detrimental to the public interest. Section 7 of the Clayton Act proscribes the acquisition of the stock, other share capital, or the assets of a company by another company "where in any line of commerce in any section of the country" the effect of such acquisition may be "substantially to lessen competition, or to tend to create a monopoly." [FN3] Under Section 11 of that statute, this Commission is empowered to enforce Section 7 in the case of "common carriers engaged in wire or radio communications or radio transmissions of energy." [FN4] The courts have construed this to mean that the requirements of Section 11 of the Clayton Act and the applicable provisions of the Communications Act" are satisfied when the Commission seriously considers the anti-trust consequences of a proposal and weighs those consequences with other public interest factors." [FN5] Our independent review of the material filed does not reveal, nor do we foresee, any significant threat to competition as a result of the proposed transaction. HNI is a non-dominant carrier in the international market, while Access's parent's subsidiaries, WTG-Central, Inc. and WTG-West, Inc., are also non-dominant carriers in the domestic market. While the instant transaction will further expand WTG's markets from the domestic to the international sector, it hardly presents a situation whereby WTG's subsidiaries emerge as dominant carriers in either the domestic or international market places.

- *2 6. In view of the foregoing, we find that the public convenience and necessity will be served by approving the above-captioned application for consent to assignment of HNI to Access.
7. Accordingly, IT IS ORDERED that application File No. I-T-C-89-068-AL for consent to assignment of Houston Network Inc. to Access Telecommunications, Inc. IS GRANTED.
8. IT IS FURTHER ORDERED that Temporary Authority (TAO-1505) Is Hereby Terminated.
9. This order is issued under Section 0.291 of the Commission's rules and is effective upon adoption. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's rules may be filed within 30 days of public notice of this order (see Section 1.4(b)(2)).
- FEDERAL COMMUNICATIONS COMMISSION
George S. Li
Chief, International Facilities Division
Common Carrier Bureau
- FN1 On March 29, 1989, HNI Acquisition Corporation changed its name to Access Telecommunications, Inc.
- FN2 On February 24, 1989, the Chief, International Facilities Division granted temporary authority (TAO-1505) to assign HNI's Section 214 authorization to HNI Acquisition without prejudice to the Commission's ultimate decision in this matter.
- FN3 15 U.S.C. § 18.
- FN4 15 U.S.C. § 21.
- FN5 United States v. FCC, 652 F.2d, 72, 88 (D.C.Cir.1980).
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