

DA 93-403

April 12, 1993

In re Application of

Litel Telecommunications
Corp.

File No. I-T-C-90-028

Application for Authority to
Operate as an International
Private Line Carrier to Canada,
Japan, Australia, Germany,
Singapore, France, Switzerland,
Hong Kong, Brazil, Italy, Spain,
Mexico, Ireland, Belgium, the
Netherlands, and the United
Kingdom

ORDER AND CERTIFICATION

Adopted: March 31, 1993;

Released: April 12, 1993

By the Chief, International Facilities Division:

1. The above-captioned application tiled by Litel Communications Corp. (LCI)/1 requests authority to resell international private lines for the provision of switched services between the United States and Canada and to resell international private lines for the provision of private line services between the United States and Canada, Japan, Australia, Germany, Singapore, France, Switzerland, Hong Kong, Brazil, Italy, Spain, Mexico, Ireland, Belgium, the Netherlands and the United Kingdom.

/1 Litel Telecommunications Corp. is now doing business as LCI International (LCI). See Amendment to Application, dated May 29, 1992. LCI is both a domestic and nondominant international service provider (see W-P-C-5389 and I-T-C-86-154).

/2 LCI had previously amended its Application on April 20, June 6, July 18, August 21, 1990 and February 1, 1991.

/3 See FONOROLA/EMI Order, 7 FCC Rcd 7312 (1992), petition for recon. pending.

/4 The Commission has concluded that the public interest in cost-based international telecommunications services would be served by the encouragement of international resale, provided that steps were taken to ensure that such resale did not result in the unilateral diversion of U.S. inbound switched traffic to private lines, and thus, exacerbate the settlements deficit. The Commission, therefore, conditioned its resale policy by requiring U.S. carriers to permit resale of their international private lines only to those countries which afford equivalent resale opportunities. (See Regulation of International Accounting Rates, CC Docket 90-337, Phase II, First Report and Order, 7 FCC Rcd 559 (1992)). Subsequently, the Commission stated that the resale international private lines for the provision of international private line services, as opposed to switched services, does not implicate the settlements process to the extent such lines are used only to carry non-switched traffic that is not subject to the international settlements process, and thus clarified that the equivalency requirement does not apply to the resale of inten-

2. We placed the original application on public notice and received no comments. On May 29, 1992, LCI amended its application to request authority to resell international private lines for the provision of switched services to Canada.' AT&T then filed a Petition to Deny. In response, LCI filed an Opposition to which AT&T replied.

3. AT&T's Petition addresses only the issue of whether Canada affords resale opportunities equivalent to those available under U.S. law. Subsequent to the filing of this petition, the Commission addressed the issue of Canadian equivalency in the FONOROLA Corporation and EMI Communications Corporation (FONOROLA/EMI Order)/3 In that order, the Commission found that Canada affords equivalent resale opportunities thus rendering AT&T's Petition moot. As a result, resale of international private lines for switched services and of interconnected international private lines for private line services between the United States and Canada is permitted subject to appropriate authorization./4 However, AT&T has filed a petition for reconsideration of the Commission's Canadian equivalency finding in the FONOROLA/EMI Order./5 We therefore grant this authorization subject to possible modification or revocation based on the outcome of that pending petition for reconsideration.

4. Accordingly, IT IS ORDERED that application File I-T-C-90-028 IS GRANTED and LCI is authorized to resell international private lines not interconnected to the public switched network for the provision of international private line services between the United States and each of the fifteen (15) international points, as specified in Appendix A, and to resell international private lines for the provision of switched and private line services between the United States and Canada.6

5. IT IS FURTHER ORDERED that LCI is authorized to lease and operate one-half interest in up to 210 DS-1 circuits for the provision of private line services to the various international points specified in Appendix A,/7 and 200 DS-1 circuits for the provision of switched and private line services to Canada, as specified in Appendix A, Pursuant to the tariffs of authorized U.S. common carriers.

 tional private lines for private line services. Nonetheless, the Commission confirmed the right of an end user to interconnect its international private line to the PSN through, for example, its own PBX. (See Regulation of International Accounting Rates, CC Docket 90-337, Phase II. Order on Reconsideration and Third Further Notice of Proposed Rulemaking (Phase II Third Further, Notice), 7 FCC Rcd 7927 (1992)).

/5 See n.3, supra.

/6 See FONORO/EMI Order at n.3 supra.

/7 See Appendix A for list of authorized international points and circuits, derived from March 31, 1993 Supplement to Application. We note that should LCI obtain any interest in facilities beyond the authorized sixteen international points for the purpose of providing common carrier services, including private line service, between the United States and other international

points. such action would constitute an extension of line under Section 211 of the Act. Therefore, under the provisions of the Commission's International Competitive Carrier Policies, 102 FCC 2d 812 (1985), recon. denied 60 R.R. 2d 1135 (1986), it would be necessary for LCI to file additional applications for a certificate of public convenience and necessity under Section 211 to begin service to each additional country and for authority to acquire any facilities needed to provide service to such additional points.

/8 LCI intends to resell the services of, inter alia, AT&T, MCI, and U.S. Sprint. See Application and amendments.

6. IT IS FURTHER ORDERED that neither LCI nor any persons or companies directly or indirectly controlling it or controlled by it, or under direct or indirect common control with it, shall acquire or enjoy any right, for the purposes of handling or interchanging traffic to or from the United States, its territories or possessions which is denied to any other United States carrier by reason of any concession contract, understanding, or working arrangement to which LCI or any such persons or companies controlling or controlled by LCI are parties.

7. IT IS FURTHER ORDERED that LCI shall file tariff provisions pursuant to Section 203 of the Communications Act, 47 U.S.C. 203, and Part 61 of the Commission's Rules, 47 C.F.R. Part 61, for the services authorized in this Order.

8. IT IS FURTHER ORDERED that the authority granted herein to resell international private lines between the United States and Canada is limited to the provision of the authorized services between the United States and Canada only -- that is, private lines which carry traffic that originates in the United States and terminates in Canada or traffic that originates in Canada and terminates in the United States.

9. IT IS FURTHER ORDERED that LCI shall file the annual reports of overseas telecommunications traffic required by Section 43.61 of the Commission's Rules, 47 C.F.R. 43.61.

10. IT IS FURTHER ORDERED that LCI shall file semi-annual reports of circuit additions, pursuant to Section 63.10(b) of the Commission's Rules, 47 C.F.R. 63.10(b).

11. IT IS FURTHER ORDERED that LCI shall file a copy of any operating agreements entered into with foreign correspondents with the Commission within 30 days of their execution.

12. IT IS FURTHER ORDERED that LCI shall file all arrangements for private line interconnection to the U.S. public switched network, pursuant to Section 43.51(a) of our Rules, 47 C.F.R. 43.51(a).

13. IT IS FURTHER ORDERED that this Order may be subject to future modification pursuant to the outcome of the Phase II Third Further Notice, FONOROLA/EMI Order, and any related proceedings.

14. IT IS FURTHER ORDERED that grant of the authorization to resell international private lines for the provision of switched services and interconnected private lines for the provision of private line services to Canada is conditioned upon Canada's continuing to afford resale opportunities equivalent to those afforded under U.S. law.

15. IT IS FURTHER ORDERED that nothing in this authorization should be construed to include authorization for the transmission of money in connection with the services LCI seeks authority to provide. The transmission of money is not considered to be a common carrier service. Therefore, nothing in this Order should be construed as containing authority for the transmission of money.

16. 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 tiled within 30 days of the public notice of this Order (see Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

George S. Li
Chief, International Facilities Division
Common Carrier Bureau

APPENDIX A

| Country | DS-1 Circuit Requirements |
|---------|------------------------------|
|---------|------------------------------|

Non-interconnected Private Line for Private Line Service

| | |
|----------------|----|
| Japan | 20 |
| Australia | 10 |
| Germany | 15 |
| Singapore | 15 |
| France | 20 |
| Switzerland | 15 |
| Hong Kong | 15 |
| Brazil | 10 |
| Italy | 10 |
| Spain | 10 |
| Mexico | 15 |
| Ireland | 10 |
| Belgium | 10 |
| Netherlands | 15 |
| United Kingdom | 20 |

Interconnected Private Lines for Switched and Private Line Services

| | |
|--------|------------------|
| Canada | 100 Private Line |
| Canada | 100 Switched |