

1994 WL 70159 (F.C.C.), 9 F.C.C.R. 1287, 9 FCC Rcd. 1287

ITC-214-1993 0723-60134

DA 94-193

*1 IN THE MATTER OF
WITTEL INTERNATIONAL, INC.
APPLICATION FOR AUTHORITY PURSUANT TO SECTION 214 OF THE COMMUNICATIONS ACT OF
1934, AS AMENDED, TO PROVIDE INTERNATIONAL COMMON CARRIER SERVICES AS A
RESELLER

File No. **I-T-C-93-281**

Adopted: February 25, 1994; Released: March 8, 1994

****1287 ORDER AND CERTIFICATION**

By the Chief, International Facilities Division:

1. Upon consideration of the above-captioned uncontested application, [FN1] filed pursuant to Section 214 of the Communications Act of 1934, as amended, IT IS HEREBY CERTIFIED that the present and future public convenience and necessity require the resale of international private lines for the provision of international private line services to the general public by WITTEL International, Inc. (WITTEL). [FN2]
 2. Accordingly, IT IS ORDERED that application File **I-T-C-93-281** IS GRANTED and WITTEL is authorized to resell international private lines not interconnected to the public switched network for the provision of international private line services [FN3] between the United States and each of the forty-eight (48) international points specified in Appendix A. [FN4]
 3. IT IS FURTHER ORDERED that WITTEL is authorized to lease and operate one-half interest in up to 717 DS-0 circuits from authorized U.S. common carriers [FN5] for the provision of its authorized resale of international private lines for private line services, as specified in Appendix A.
 4. IT IS FURTHER ORDERED that our authorization of WITTEL to resell international private lines for the provision of non-interconnected private line service is limited to the provision of such private line service only between the United States and each of the international points listed in Appendix A--that is, private lines which carry traffic that originates in the United States and terminates in one of the international points listed in Appendix A and terminates in the United States. In addition, WITTEL may not-- and WITTEL's tariffs must state that WITTEL's customers may not--connect private lines provided over these facilities to the public switched network at either the U.S. or the foreign end, or both, for the provision of international basic telecommunications services, including switched voice services, unless authorized to do so by the Commission upon a finding that the foreign country affords resale opportunities equivalent to those available under U.S. law, in accordance with Regulation of International Accounting Rates, Phase II, First Report and Order, 7 FCCRcd 559 (1991), Order on Reconsideration and Third Further Notice **1288 of Proposed Rulemaking (Third Further Notice), 7 FCCRcd 7927 (1992), FONOROLA/EMI Order, 7 FCCRcd 7312 (1992), petition for reconsideration pending.
 5. IT IS FURTHER ORDERED that neither WITTEL 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 WITTEL or any such persons or companies controlling or controlled by WITTEL are parties.
- *2 6. IT IS FURTHER ORDERED that
- (a) WITTEL shall file publicly any contracts entered into with other carriers or a contract summary in accordance with Section 203 of the Communications Act, 47 U.S.C. § 203, and the Interexchange Order, [FN6]
 - (b) the services obtained by WITTEL shall be made generally available to similarly situated customers at the same terms and conditions and rates; and
 - (c) WITTEL 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.

7. IT IS FURTHER ORDERED that WiITel 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.
 8. IT IS FURTHER ORDERED that WiITel shall file semi-annual reports of circuit additions, pursuant to Section 63.15(b) of the Commission's Rules, 47 C.F.R. § 63.15(b).
 9. IT IS FURTHER ORDERED that WiITel shall file with the Commission a copy any operating agreement it enters into with its foreign correspondents within thirty (30) days of 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.
 10. IT IS FURTHER ORDERED that this Order may be subject to future modification pursuant to the outcome of the Phase II Third Further Notice and any related proceedings.
 11. 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 WiITel seeks authority to provide. The transmission of money is not considered to be a common carrier service.
 12. 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 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

FN1. WiITel intends to provide point-to-point and multi-point private line and virtual private line services for the transmission of voice, data, facsimile and video communications. It does not intend to interconnect any of these private line services to the public switched network. See Application at 2. See also Letter, dated February 15, 1994 from John C. Gammie, Attorney, WiITel International, Inc. to Jennifer Warren, International Facilities Division, Common Carrier Bureau.

FN2. WiITel International, Inc. is wholly-owned by Williams Telecommunications Group, Inc. (WTGI), which is in turn wholly-owned by The Williams Companies, Inc., a publicly held corporation. WTGI also owns WiITel, Inc. which currently provides domestic and international services. WiITel International, Inc. also operates facilities formerly owned by Vvwx Telecom, Inc., WTG-East, Inc. and WTG-West, Inc.

FN3. 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 FCCRcd 559 (1992)). Subsequently, the Commission stated that the resale of 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 international 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 FCCRcd 7927 (1992).)

FN4. We note that should WiITel obtain any interest in facilities beyond the authorized forty-eight international points for the purpose of providing common carrier services, including private line service, between the U.S. and other international points, such action would constitute an extension of line under Section 214 of the Act. Therefore, under the provisions of the Commission's International Competitive Carrier Policies, 102 FCC2d 812 (1985), recon. denied 60 R.R.2d 1435 (1986), it would be necessary for WiITel to file additional applications for a certificate of public convenience and necessity under Section 214 to begin service to each additional country and for authority to acquire

any facilities needed to provide service to such additional points.

FN5. WITel will either lease the private lines pursuant to the identified tariffs or contract with the following carriers: AT & T Tariff FCC No. 9, IDB/WorldCom FCC Tariff No. 1, MCI/WUI FCC Tariff No. 27, Pacific Gateway Exchange FCC Tariff No. 2, U.S. Sprint Communications Co. FCC Tariff No. 7. See Letter, dated February 23, 1994, from John Gammie, Attorney, Witel International, Inc. to Jennifer Warren, International Facilities Division, Common Carrier Bureau.

FN6. See Competition in the Interstate Interexchange Marketplace, 6 FCCRcd 5880, 5902 (1991) (Interexchange Order).

****1289 APPENDIX A**

Country	DS-0 Circuits
Argentina	5
Australia	30
Bahamas	3
Belgium	4
Brazil	8
Canada	192
Chile	2
China	2
Columbia	6
Costa Rica	2
Denmark	2
Dominican Republic	6
Ecuador	2
Egypt	2
El Salvador	3
France	30
Germany	60
Greece	4
Guatemala	3
Haiti	1
Hong Kong	7
India	5
Indonesia	2
Ireland	4
Israel	6
Italy	11
Jamaica	3
Japan	30
Korea	12
Mexico	76
Netherlands	6
New Zealand	6
Pakistan	3
Panama	3
Peru	3
Philippines	9
Poland	3
Saudi Arabia	13
Singapore	3
Spain	6
Sweden	8
Switzerland	6
Taiwan	10
Thailand	3

Trinidad	3
Turkey	2
United Kingdom	101
Venezuela	5

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