

\*\*\*\*\*

NOTICE

\*\*\*\*\*

This document was converted from WordPerfect to ASCII Text format.

Content from the original version of the document such as headers, footers, footnotes, endnotes, graphics, and page numbers will not show up in this text version.

All text attributes such as bold, italic, underlining, etc. from the original document will not show up in this text version.

Features of the original document layout such as columns, tables, line and letter spacing, pagination, and margins will not be preserved in the text version.

If you need the complete document, download the WordPerfect version or Adobe Acrobat version, if available.

\*\*\*\*\*

DA 98-1339

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

In the Matter of )  
)  
U S WEST Communications, Inc. )  
)  
Application for Authorization Pursuant to ) ITC-97-448  
Section 214 of the Communications Act of )  
1934, as Amended, to Resell Switched )  
International Communications Services to )  
Lithuania and Russia )

ORDER, AUTHORIZATION AND CERTIFICATE

Adopted: June 30, 1998

Released: July 2, 1998

By the Chief, Telecommunications Division

I. Introduction

1. U S WEST Communications, Inc. (USWC or Applicant) requests authority pursuant to Section 214 of the Communications Act of 1934, as amended (Act), to resell international switched telecommunications services originating from the Applicant's broadband PCS Basic Trading Area (BTA) markets and terminating in Russia and Lithuania. The Applicant seeks classification as a non-dominant reseller of international switched services on the requested routes. No party opposed the Applicant's Section 214 application.

2. We find that a grant of this application will serve the public interest under Section 214 of the Act. We also find that the Applicant's provision of resold switched services on the U.S.-Lithuania and U.S.-Russia routes as part of its broadband PCS BTA market services should be subject to non-dominant carrier regulation.

II. Background

3. USWC, a Colorado corporation, is a Bell Operating Company (BOC). USWC also holds broadband PCS licenses in 53 BTA markets and one Major Trading Area (MTA) market. As a BOC, USWC is subject to certain restrictions regarding its provision of interLATA services. Consistent with the Act, the International Bureau previously granted USWC Section

214 authority to provide resold switched services to all international points except Lithuania and Russia as part of its broadband PCS BTA market services.

4. The present application was not subject to streamlined processing at the time it was filed because USWC was seeking to provide service to Lithuania and Russia, markets in which the Applicant was affiliated with foreign carriers, and the Commission had not yet made a determination as to whether USWC's foreign affiliates possessed market power in the destination markets. On June 12, 1998, however, USWC's former parent corporation, U S WEST, Inc., consummated a transfer of control which resulted in the creation of two wholly independent corporations, USW-C, Inc. and MediaOne Group, Inc. (MediaOne). As a result of the transfer of control, USWC became a wholly-owned subsidiary of USW-C, Inc., and no longer holds any foreign carrier affiliations within the meaning of Section 63.18(h)(1) of the Commission's rules. MediaOne currently holds all of the ownership interests in the foreign carriers formerly held by USWC's parent corporation.

### III. Discussion

5. The Applicant maintains that a grant of the present application will allow its subscribers to use their wireless telephones to complete calls to Lithuania and Russia, thereby "increas[ing] competition on these routes and benefit[ing] consumers by reducing prices, increasing the availability of a wider variety of service options, and promoting the more efficient use of existing international facilities." Because the Applicant is a BOC, we initially determine whether service restrictions imposed on BOCs prevent the Applicant from providing the requested service. Next, we consider whether the Applicant should be subject to non-dominant carrier regulation in the provision of resold switched services along the U.S.-Lithuania and U.S.-Russia routes.

#### A. Provision of Incidental InterLATA Services under Section 271(b)(3)

6. The Act permits a BOC to "provide incidental interLATA [i.e., local access and transport area] services . . . originating in any State[.]" The Act defines "incidental interLATA services" to include "the interLATA provision by a Bell operating company or its affiliate . . . of commercial mobile services in accordance with section 332(c) of th[e] Act[.]"

7. The Applicant states that, "[a]s a broadband PCS licensee, . . . [it] provides commercial mobile services in accordance with Section 332(c) of the [Act.]" The Applicant certifies, therefore, that the "authority it seeks in the instant application is associated solely with its provision of incidental interLATA services, as that term is defined in Section 271(g) of the Act." We find that the resale of international switched services on the U.S.-Lithuania and U.S.-Russia routes by the Applicant as part of its broadband PCS BTA market services is permitted under Section 271(b)(3) of the Act. We also find that a grant of the instant application will serve the public interest under Section 214 of the Act by facilitating the efficient and rapid provision of international services.

## B. Regulatory Classification

8. At the time of its initial application, USWC certified that it was affiliated with foreign carriers in the destination countries under Section 63.18(h)(1) of the Commission's rules. Subsequently, the Applicant filed two amendments certifying that it no longer is affiliated with any foreign carriers.

9. The Commission regulates U.S. international carriers as dominant on routes where an affiliated foreign carrier has sufficient market power on the foreign end to affect competition adversely in the U.S. market. Under this framework, a U.S. international carrier that has no affiliation with a foreign carrier, and itself is not a foreign carrier in a destination country, "shall presumptively be considered non-dominant for that route." No party filed an opposition to the Applicant's Section 214 application or requests that the Applicant be classified as a dominant carrier. We find no basis at this time to overcome the presumption in favor of non-dominant treatment. We therefore classify USWC as a non-dominant international reseller on the U.S.-Lithuania and U.S.-Russia routes as part of its broadband PCS BTA market services.

10. As a non-dominant reseller of international switched services, the Applicant will be allowed to file tariffs on no less than one days' notice, without economic or cost support, and the tariffs will be presumed lawful. It also will be subject to the Section 214 requirements of non-dominant U.S. international carriers.

11. As a non-dominant carrier, the Applicant will be subject to regulation under Title II of the Act. Specifically, Title II requires carriers to offer international services under rates, terms, and conditions that are just, reasonable, and not unduly discriminatory (Sections 201 and 202), and Title II carriers are subject to the Commission's complaint process (Sections 206-209). Title II carriers also are required to file tariffs pursuant to our streamlined tariffing procedures (Sections 203 and 205). Non-dominant U.S. international switched resellers also are subject to the requirements of Sections 43.51, 43.61, 63.14 and 63.19 of the Commission's rules.

## III. Ordering Clauses

12. Upon consideration of the application and in view of the foregoing, IT IS HEREBY CERTIFIED that the present and future public convenience and necessity require the resale of international switched services on the U.S.-Lithuania and U.S.-Russia routes by U S WEST Communications, Inc. (USWC) as part of its broadband PCS BTA market services.

13. Accordingly, IT IS HEREBY ORDERED that application File No. ITC-97-448 filed by USWC IS GRANTED and USWC is authorized to resell on a non-dominant carrier basis international switched services of unaffiliated U.S. international carriers for the provision of international switched services between USWC's broadband PCS BTA markets and Lithuania and Russia.

14. IT IS FURTHER ORDERED that USWC shall comply with the requirements specified in Section 63.21 of the Commission's rules, 47 C.F.R. 63.21.

15. This order is issued under Section 0.261 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 date of the public notice of this order (see Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

Diane J. Cornell  
Chief, Telecommunications Division  
International Bureau