

Categories of Services for 214 Applications  
(Streamline/Non-streamline)

ITC-214

Streamlined ITC-214-19980904-00622  
LEVEL 3 (BERMUDA) LIMITED

- ASSIGNMENT OF LICENSE
- GLOBAL FACILITIES-BASED SERVICE
- GLOBAL FACILITIES-BASED/GLOBAL RESALE SERVICE
- GLOBAL RESALE SERVICE
- INDIVIDUAL FACILITIES-BASED SERVICE
- INTERCONNECTED PRIVATE LINE RESALE SERVICE
- LIMITED GLOBAL FACILITIES-BASED SERVICE/LIMITED GLOBAL RESALE SERVICE
- LIMITED GLOBAL FACILITIES-BASED SERVICE
- LIMITED GLOBAL RESALE SERVICE
- INMARSAT AND MOBILE SATELLITE SERVICE
- SWITCHED RESALE SERVICE
- TRANSFER OF CONTROL
- SUBMARINE CABLE LANDING LICENSE
- INTERNATIONAL SPECIAL PROJECT

Description of Application: \_\_\_\_\_

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**Level(3)**  
COMMUNICATIONS

COPY

FCC/MELLON

SEP 04 1998

September 4, 1998

VIA HAND DELIVERY

Magalie Roman Salas, Esq.

Secretary

Federal Communications Commission

International Bureau - Telecommunications Division

P.O. Box 358115

Pittsburgh, PA 15251-5115

Re: Application of Ultraline (Bermuda) Limited for Section 214  
International Global Facilities-Based Authority and Global Resale  
Authority

Dear Ms. Salas:

Enclosed for filing with the Commission are an original and six (6) copies of the application of Ultraline (Bermuda) Limited ("Ultraline") for authority pursuant to Section 214 of the Communications Act. Ultraline is requesting global facilities-based authority and global resale authority. Ultraline respectfully requests that its application be handled on a streamlined basis.

As required by the Commission's Rules, enclosed is a check in the amount of \$745.00, payable to the Federal Communications Commission. Please date-stamp the extra copy of this application and return it in the enclosed self-addressed, stamped envelope. If you have any questions concerning this application, please do not hesitate to contact the undersigned.

Respectfully submitted,

  
Jami delOrmirer

Ultraline (Bermuda) Limited

Enclosure





## I. The Proposed International Services

Ultraline requests four types of authority in this application, all of which are eligible for streamlined processing.<sup>1/</sup> Specifically, Ultraline requests (1) global facilities-based authority pursuant to Section 63.18(e)(1) of the Commission's Rules, 47 C.F.R. § 63.18(e)(1), to acquire ownership interests in U.S.-authorized international facilities and connecting facilities not listed on the Commission's Exclusion List to provide international telecommunications services between the United States and all international points not listed on the Exclusion List;<sup>2/</sup> (2) global authority pursuant to Section 63.18(e)(2) of the Commission's Rules, 47 C.F.R. § 63.18(e)(2), to resell international switched services of all unaffiliated U.S.-authorized carriers to provide international switched services between the United States and all international points served by those carriers; (3) global authority pursuant to Section 63.18(e)(2)(A) of the Commission's Rules, 47 C.F.R. § 63.18(e)(2)(A), to resell international non-interconnected private lines to provide international private line services between the United States and all international points, other than those countries listed on the Exclusion List; (4) authority pursuant to Section 63.18(e)(2)(B) of the Commission's Rules, 47 C.F.R. § 63.18(e)(2)(B), to resell international private lines interconnected to the public switched network ("PSN") at one or both ends to provide international switched services between the

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<sup>1/</sup> See *Streamlining the International 214 Authorization Process and Tariff Requirements*, IB Docket No. 95-118, FCC 96-79 (released March 13, 1996) (adopting streamlined 35-day processing procedures for certain international resale applications) ("*Streamlining Order*"; 47 C.F.R. § 63.12 (1996)).

<sup>2/</sup> Pursuant to the *Streamlining Order*, the FCC permits applicants who obtain global facilities-based authority to thereafter acquire additional capacity in any U.S.-owned facilities without requesting further authority under Section 214. *Streamlining Order* at ¶ 16.

United States and all countries approved by the FCC for such services,<sup>3/</sup> Accordingly, Ultraline's application for authority pursuant to Section 214 is eligible for streamlined processing.<sup>4/</sup>

Ultraline believes that the added competition its expanded entry will bring to the market will benefit the consumers of United States-overseas services. These benefits include competitive pricing and increased availability of a variety of service options. A grant of this application will therefore further the public interest.

## II. The Applicant

Ultraline, a privately-owned Bermuda corporation, is wholly-owned by Level 3 Communications, Inc. ("Level 3"). Other subsidiaries of Level 3 Communications, Inc. have been granted 214 authorization by the Commission, and these are noted in the Applicant's response to Section 63.18(d) below and in Attachment A to this application. Ultraline is not affiliated, within the meaning of Section 63.18(h)(1)(i), of the Commission's rules, 47 C.F.R. §

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<sup>3/</sup> See *Streamlining Order* ¶ 17. The *Foreign Participation Order* recently released by the Commission eliminates the equivalent resale opportunities test for World Trade Organization ("WTO") member country routes. *Foreign Participation in the U.S. Telecommunications Market*, IB Docket No. 96-111, Report and Order, FCC 97-298 (rel. Nov. 26, 1997) ("*Foreign Participation Order*"). Pursuant to the *Streamlining Order*, the FCC has stated it will automatically amend all Section 214 authorizations to resell international private lines and to provide international switched services between the United States and countries that afford U.S. carriers equivalent resale opportunities to add all countries found to meet the equivalent resale opportunities standard. *Streamlining Order* ¶ 34. Ultraline presumes that such international private line resale authority will be extended to all routes between the U.S. and a WTO member country upon the effective date of the Commission's *Foreign Participation Order*.

<sup>4/</sup> See *Streamlining Order*; 47 C.F.R. § 63.12.



63.18(h)(1)(i), with any foreign carriers with greater than 50% share of any relevant market in a destination country.<sup>5/</sup>

### III. Public Interest Considerations

In the *Foreign Carrier Entry Order*,<sup>6/</sup> the Commission set forth the following policy goals for its regulation of the U.S. international telecommunications market: to promote effective competition in the U.S. telecommunications market, particularly the market for international telecommunications services; to prevent anticompetitive conduct in the provision of international services or facilities; and to encourage foreign governments to open their communications markets.<sup>7/</sup> The Commission also stated that "establishing an effectively competitive global communications market could result in reduced rates, increased quality, and new services."<sup>8/</sup> In addition, the Commission found that "effective competition directly advances the public interest and the Commission's paramount goal of making available a rapid, efficient, worldwide wire and radio communication service with adequate facilities at reasonable charges."<sup>9/</sup>

Grant of Ultraline's request for resale and facilities-based authority to provide international services will directly further the Commission's policies of bringing increased

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<sup>5/</sup> See *Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket No. 95-22, *Report & Order*, 11 FCC Rcd 3873 (1995) ("*Foreign Carrier Entry Order*").

<sup>6/</sup> 11 FCC Rcd 3873 (1995).

<sup>7/</sup> *Id.* ¶ 6.

<sup>8/</sup> *Id.*

<sup>9/</sup> *Id.* ¶ 10.

competition to the U.S. international telecommunications services market and, therefore, is in the public interest.

**IV. Information Required Under Section 63.18**

As required by Section 63.18 of the Commission's Rules, Ultraline submits the following information:

- (a) Name, address and telephone number of the applicant:  

Ultraline (Bermuda) Limited  
3555 Farnam Street  
Omaha, NE 68131  
Telephone: 402/536-3624  
Facsimile: 402/536-3645
- (b) Ultraline is a privately-owned corporation organized under the laws of Bermuda.
- (c) Correspondence concerning this application should be sent to:  

Ultraline (Bermuda) Limited  
3555 Farnam Street  
Omaha, NE 68131  
Telephone: 402/536-3624  
Facsimile: 402/536-3645
- (d) Ultraline has not previously received authority under Section 214 of the Act. Upon grant of this application, Ultraline will become an authorized non-dominant facilities-based carrier and reseller with global authority, subject to Section 214 of the Communications Act of 1934, as amended, and the Commission's Rules. Ultraline lacks the market power that would allow it to control prices to the detriment of market competition.<sup>10/</sup>
- (e) Ultraline requests Section 214 authority to operate as a facilities-based carrier pursuant to the terms and conditions of Section 63.18(e)(1) and to operate as a

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<sup>10/</sup> Ultraline is affiliated, through its parent corporation, Kiewit Diversified Group, with other entities that have received, or have pending requests for, 214 authority. Attached as Attachment A is a list of affiliated entities with 214 (or pending 214) authority.



- resale carrier pursuant to the terms and conditions of Section 63.18(e)(2). Specifically, Ultraline seeks to (1) obtain global facilities-based authority to acquire interests in whole and half-circuits in submarine cables, establish channels of communication with satellite systems, and utilize necessary connecting facilities, other than facilities listed on the Exclusion List, to provide international telecommunications services between the United States and all international points except those points excluded by the Exclusion List; (2) obtain global authority to resell international switched services of all unaffiliated U.S.-authorized carriers to provide international switched services between the United States and all international points served by those carriers; (3) obtain global authority to resell international non-interconnected private lines to provide international private line services between the United States and all international points except those points listed on the Exclusion List; (4) obtain global authority to resell international private lines interconnected to the PSN at one or both ends to provide international switched services between the United States and all countries approved by the FCC for such services.
- (f) At this time, Ultraline does not seek authority to provide services not referenced under paragraph (e) of Section 63.18 of the Commission's Rules.
- (g) The authority requested in this application is categorically excluded from environmental processing as defined by Section 1.1306 of the Commission's Rules, 47 C.F.R. § 1.1306. As such, an environmental assessment is not required for purposes of this application and, therefore, is not attached.
- (h) Ultraline certifies that it is not affiliated with any U.S. carriers with market power whose facilities-based services it proposes to resell. Under Section 63.18(h)(1)(i) of the Commission's Rules, 47 C.F.R. § 63.18(h)(1)(i), Ultraline is not affiliated with any foreign carriers that have 50% or greater share of any relevant market in a destination country.<sup>14</sup>

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<sup>14</sup> Attached as Attachment B is a list of corporate affiliations.



The following entity holds a ten percent (10%) or greater ownership or management interest in Ultraline:

<u>Name/Address</u>	<u>Citizenship</u>	<u>%</u>	<u>Principal Business</u>
Level 3 Communications, Inc. 3555 Farnam Street Omaha, NE 68131	U.S.	100%	Telecommunications
Telephone: 402/536-3624			
Facsimile: 402/536-3645			

The following entity holds a ten percent (10%) or greater ownership or management interest in Level 3 Communications, Inc.:

<u>Name/Address</u>	<u>Citizenship</u>	<u>%</u>	<u>Principal Business</u>
Walter Scott 1000 Kiewit Plaza Omaha, NE 68131	U.S.	12%	Investment
Telephone: 402/342-2052			

- (i) As required by Section 63.18 (i) of the Commission's Rules, 47 C.F.R. § 63.18(i), Ultraline certifies that it has not agreed to accept nor shall it accept in the future any special concessions, as defined by the Commission's Rules, directly or indirectly, from any foreign carrier or administration with respect to traffic or revenue flows on any U.S. international route where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. Market.

- (j) Ultraline is not subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. Ultraline's certification pursuant to Section 1.2002 of the Commission's Rules (implementing the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 3301) is attached.

- (k) Ultraline requests streamlined processing of this application.

**CONCLUSION**

For the reasons stated above, Ultralime respectfully submits that the public interest, convenience and necessity would be furthered by a grant of this Section 214 application.

Respectfully submitted,

ULTRALINE (BERMUDA) LIMITED

By:   
Jamie del Ormier

Dated: September 4, 1998

250647.1



**CERTIFICATION OF APPLICANT**

On behalf of Ultraline (Bermuda) Limited ("Ultraline") and in accordance with Section 1.2001-1.2003 of the Commission's Rules, 47 C.F.R. §§ 1.2001-1.2003, I hereby certify that no party to this application is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. See 21 U.S.C. § 853a. I also hereby certify that the statements in the foregoing application are true, complete, and correct to the best of my knowledge and are made in good faith.

Ultraline has not agreed to accept nor shall it accept in the future any special concessions as defined by the Commission's Rules, directly or indirectly from any foreign carrier or administration with respect to traffic or revenue flows on any U.S. international route where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market

**ULTRALINE (BERMUDA) LIMITED**



By: \_\_\_\_\_

Name: COLIN V. LE WILLIAMS

Title: PRESIDENT & CEO

Date: 4<sup>th</sup> SEPTEMBER 1998

ATTACHMENT A  
 Response to § 63.18(d)  
*Ultraline LLC -- Affiliates with 214 (or pending 214) Authority*

COMPANY NAME	SERVICE
Commonwealth Long Distance Company	Section 214 (global) ITC-97-424
Commonwealth Telecom Services, Inc.	Section 214 (global) ITC-97-690-AL
RCN-BecoCom, L.L.C.	Section 214 (global) ITC-97-661
RCN Telecom Services, Inc.	Section 214 (global) ITC-97-425
RCN Telecom Services of Delaware, Inc.	Section 214 (global) ITC-97-425
RCN Telecom Services of Maryland, Inc. d/b/a RCN of Maryland	Section 214 (global) ITC-97-425
RCN Telecom Services of New Jersey, Inc. d/b/a RCN of New Jersey	Section 214 (global) ITC-97-425
RCN Telecom Services of Washington, D.C., Inc.	Section 214 (global) ITC-97-425
RCN Telecom Services of Pennsylvania, Inc. d/b/a RCN of Pennsylvania	Section 214 (global) ITC-97-368
RCN Telecom Services of Philadelphia, Inc. d/b/a/ RCN of Philadelphia	Section 214 (global) ITC-97-367
RCN Telecom Services of New York, Inc. d/b/a RCN of New York	Section 214 (global) ITC-96-546; Section 214 (switched and private line resale) ITC-94-418
RCN Telecom Services of Massachusetts, Inc. d/b/a RCN of New England	Section 214 (global) ITC-96-547
RCN Telecom Services of Virginia, Inc.	Section 214 (global) ITC-97-425
RCN Long Distance Company (formerly Commonwealth Long Distance Company)	Section 214 (resale of public switched service) ITC-93-265
Level 3 Communications, LLC	Section 214 (global) ITC-98-016
Starpower Communications, LLC	Section 214 (global) ITC-98-065



**ATTACHMENT B**  
***Foreign Affiliations***

- Belgium:** Level 3 Communications S.A. is authorized or is applying for authorization to provide telecommunications services.
- France:** Level 3 Communications S.A. is authorized or is applying for authorization to provide telecommunications services.
- Germany:** Level 3 Communications GmbH is authorized or is applying for authorization to provide telecommunications services.
- Ireland:** Level 3 Communications Limited is authorized or is applying for authorization to provide telecommunications services.
- Mexico:** Level 3's affiliate, RCN BecoCom is affiliated with Megacable, S.A. de C.V. ("Megacable"), a corporation in Mexico that provides cable television in twenty-two Mexican cities. Megacable is partly owned by RCN International Holdings, Inc. (formerly C-TEC International, Inc.), a wholly-owned subsidiary of C-TEC Corporation, an indirect parent of RCN BecoCom. On August 18, 1997, Megacable received authorization from the Mexican authorities to provide local telephone service in Mexico City, Guadalajara, and Monterey. Megacable is a non-dominant carrier that does not control bottleneck services or facilities in Mexico. Accordingly, Megacable does not have the ability to discriminate against unaffiliated U.S. international carriers through control of bottleneck services or facilities in Mexico.
- Netherlands:** Level 3 Communications B. V. is authorized or is applying for authorization to provide telecommunications services.
- Switzerland:** Level 3 Communications AG is authorized or is applying for authorization to provide telecommunications services.
- United Kingdom:** Level 3 Communications Limited (UK) is authorized to provide telecommunications services.