

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

- 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: \_\_\_\_\_

---

---

---

---

---

COPY

FLETCHER, HEALD & HILDRETH, P.L.C.

ATTORNEYS AT LAW

11th FLOOR, 1300 NORTH 17th STREET  
ARLINGTON, VIRGINIA 22209-3801

ANN BAWENDER\*  
ANNE GOODWIN GRUMP  
VINCENT J. CURTIS, JR.  
RICHARD J. ESTEVEZ  
PAUL J. FELDMAN  
ROBERT N. FELGAR\*  
ERIC FISHMAN  
RICHARD HILDRETH  
FRANK R. JAZZO  
ANDREW S. KERSTING  
EUGENE M. LAWSON, JR.  
HARRY C. MARTIN  
GEORGE PETRUTSAS  
LEONARD R. RAISH  
JAMES P. RILEY  
KATHLEEN VICTORY  
HOWARD M. WEISS  
\* NOT ADMITTED IN VIRGINIA

FRANK J. FLETCHER  
(1939-1985)  
ROBERT L. HEALD  
(1956-1983)  
PAUL D.P. SPEARMAN  
(1936-1982)  
FRANK ROBERSON  
(1936-1961)  
RUSSELL ROWELL  
(1948-1977)

(703) 812-0400  
TELECOPIER  
(703) 812-0486  
INTERNET

www.fhh-telecomlaw.com

EDWARD F. KENEHANI  
RETIRED  
CONSULTANT FOR INTERNATIONAL AND  
INTERGOVERNMENTAL AFFAIRS  
SHELDON J. KRYS  
U. S. AMBASSADOR (ret.)  
OF COUNSEL  
EDWARD A. CAINE\*  
MITCHELL LAZARUS\*  
EDWARD S. O'NEILL\*  
JOHN JOSEPH SMITH  
WRITERS DIRECT  
(703) 812-0511

November 12, 1998

**FEDERAL EXPRESS DELIVERY**

Federal Communications Commission  
International Bureau - Telecommunications Division  
P. O. Box 358115  
Pittsburgh, PA 15251-5115

ITC-214-1998113-00797

Re: *Xcel Communications (USA) Corporation*  
Application for Section 214 Global Authority to Operate as a Facilities-Based and  
Resale Carrier of International Telecommunications Services

Dear Madam/Sir:

Submitted herewith are an original and five copies of the above-captioned Application for Section 214 Global Authority to Operate as a Facilities-Based and Resale Carrier of International Telecommunications Services, being filed by Xcel Communications (USA) Corporation. A check in the amount of \$780 to cover the applicable filing fee and the required FCC Form 159 are attached hereto.

The undersigned counsel hereby requests that the enclosed "File Copy" of the above-captioned application be stamped with acknowledgment of receipt and returned to the undersigned in the enclosed self-addressed envelope.

Should any questions arise concerning this matter, please contact the undersigned directly.

Sincerely,  
FLETCHER, HEALD & HILDRETH, PLC

  
Richard Estevez  
Counsel for Xcel Communications (USA) Corporation

Enclosures

© HARLAND Style 2

**XCEL COMMUNICATIONS USA CORP.**  
290 FRANKLIN ST., STE 201  
BUFFALO, NY 14202-1908

1076

10-2/220

DATE Nov 11, 1998

PAY TO THE ORDER OF Federal Communications Commission

Seven Hundred and Eighty Dollar no.

Security features included on back.

**Marine Midland Bank**  
DELAWARE-MOHAWK OFFICE  
135 DELAWARE AVENUE  
BUFFALO, NEW YORK 14202

FOR 214 Application

MP Markell E. Bell  
⑈00 1076⑈ ⑆022000020⑆ 756⑈30420⑈2⑈

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In re Application of )  
)  
Xcel Communications (USA) Corporation ) File No. \_\_\_\_\_  
)  
For Authority under Section 214 of the ) ITC-214-1998113-00 ~~97~~ 97  
Communications Act of 1934, as amended, )  
and Sections 63.18(e)(1) and 63.18(e)(2) )  
of the Commission's Rules to Operate as a )  
Facilities-Based Carrier and as a Resale )  
Carrier, Including Authority to Resell Private )  
Lines Between the United States and Canada, )  
the United Kingdom, The Netherlands, )  
Luxembourg, Norway, Denmark, France, )  
New Zealand, Australia, Germany, Belgium )  
Switzerland, Austria, Japan, Italy and )  
Sweden for the Provision of Switched )  
Services Between the United States and )  
Those Countries )  
\_\_\_\_\_ )

**APPLICATION**

Xcel Communications (USA) Corporation, ("Xcel") hereby requests authority, pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and Section 63.18(e)(1) of the Commission's rules, 47 C.F.R. § 63.18(e)(1), to acquire interests in facilities previously authorized by the Commission in order to provide international basic switched, private line, data, television and business services to all international points, and for authority under Section 63.18(e)(2) of the Commission's rules, 47 C.F.R. § 63.18(e)(2), to resell the international switched services of authorized U.S. common carriers for the provision of international basic switched, private line, data, television and business services to all international points, including authority to resell

international private lines between the United States and Canada, the United Kingdom, New Zealand, Australia, The Netherlands, Luxembourg, Norway, Denmark, France, Germany, Belgium, Switzerland, Austria, Japan, Italy and Sweden for the provision of switched services between the United States and those countries.

Xcel is a corporation organized under the laws of the state of Delaware. Its shareholders, directors, and officers are U.S. citizens. The Company currently holds no telecommunications authorizations, and has no interlocking directorates or affiliations with foreign carriers.

Xcel believes that there is significant potential for continued growth in the international voice, data and facsimile markets and that this market expansion will be accelerated by additional competition by new entrants. This position is consistent with Commission findings that increased competition in international markets is beneficial. See, e.g., Teltec Saving Communications Co., Mimeo No. 3548 (released April 4, 1986), and cases cited therein. The Commission also found that the market will support additional carriers and that the added competition will be in the public interest. Accordingly, the Commission has authorized new entrants that propose to resell international services. Id. See also FTC, Inc., 6 FCC Rcd 2237 (1991).

Xcel proposes by this application to provide international switched and private line services from the United States to international points through resale of other carriers' services. The Commission has determined that, as a matter of policy, introduction of additional competition in the provision of international services creates incentives for carriers to offer new and innovative services and to reduce prices, which inures to the

public interest and benefit.<sup>1</sup> Grant of this application would service the Commission's purposes and accord with the Commission's commitment to open entry to the U.S. resale market. Moreover, many carriers provide international services in the U.S., including AT&T, MCI, Sprint, and others.

By the instant application, Xcel seeks authority to resell international private lines between the United States and Canada, the United Kingdom, New Zealand, Australia, The Netherlands, Luxembourg, Norway, Denmark, France, Germany, Belgium, Switzerland, Austria, Japan, Italy and Sweden for the provision of international switched services between the United States and those sixteen countries. In Regulation of International Accounting Rates, 7 FCC Rcd 559 (1992), the Commission found that such resale between the United States and countries affording "equivalent opportunities" for such resale would afford numerous public interest benefits, including increased demand, reduced prices, the virtual elimination of price discriminations, and the exertion of pressure to reduce above-cost international accounting rates. More recently, the Commission has determined that Canada, the United Kingdom, New Zealand, Australia, The Netherlands, Luxembourg, Norway, Denmark, France, Germany, Belgium, Switzerland, Austria, Japan, Italy and Sweden afford such "equivalent opportunities" and granted the applications of companies to provide resold interconnected private line services between the United States and those countries. FONOROLA/EMI Order, 7 FCC Rcd 7312 (1992), recons., 9 FCC Rcd 4066 (1994); ACC Global Corporation, 9 FCC Rcd 6240 (1994); Cable &

---

<sup>1</sup> See, e.g., TDx Systems, Inc., File No. ITC-86-108, released September 2, 1986; Argo Communications International, Inc., 1 FCC Rcd 578 (1986); BT North America, Inc., ITC-95-178, released April 20, 1995.

Wireless Inc., 11 FCC Rcd 1766 (1996). See also Intermedia Communications of Florida, Inc., 9 FCC Rcd 3264 (1994); Communications TeleSystems International, 11 FCC Rcd 17471 (1996); Cable & Wireless, Inc., DA 97-2554, released December 17, 1997; FCC Public Notice, Report No. TEL-00021, released October 22, 1998, page 4.

Xcel believes that the added competition that its entry will bring to the market will benefit United States consumers of overseas data and voice services. These benefits include competitive pricing and increased availability of a variety of service options. The grant of this authorization will therefore further the public interest.

In support of Xcel's request for authorization, the following information is submitted pursuant to Section 63.18 of the Commission's rules, as amended, 47 C.F.R. § 63.18 (1996):

- (a) Name and address of Applicant:  
  
Xcel Communications (USA) Corporation  
290 Franklin Street, #201  
Buffalo, NY 14202  
Attention: Marshall Weinstein, President  
Telephone No. (716)855-0535
- (b) Applicant is a corporation organized under the laws of the state of Delaware.
- (c) Correspondence concerning this Application should be sent to:  
  
Paul J. Feldman, Esq. and Richard J. Estevez, Esq.  
Fletcher, Heald & Hildreth, PLC  
1300 North 17th Street, 11<sup>th</sup> Floor  
Arlington, Virginia 22209  
Telephone No. (703) 812-0400

With a copy to:

Marshall Weinstein, President  
Xcel Communications (USA) Corporation  
290 Franklin Street, #201  
Buffalo, NY 14202  
Telephone No. (716)855-0535

- (d) Applicant has not previously received authority under Section 214 of the Communications Act of 1934, as amended. By grant of this application Xcel would become a nondominant international common carrier for the provision of interexchange service, subject to Section 214 of the Act.
- (e) Xcel hereby requests Section 214 authority to operate as a global facilities-based carrier pursuant to the terms and conditions of Section 63.18(e)(1) of the rules, and as an international resale carrier pursuant to the terms and conditions of Section 63.18(e)(2) of the rules. The authorization sought in this application will be used to extend Xcel's telecommunications services from the United States to international points which Xcel seeks to serve. Applicant proposes to resell international private lines between the United States and Canada, the United Kingdom, New Zealand, Australia, The Netherlands, Luxembourg, Norway, Denmark, France, Germany, Belgium, Switzerland, Austria, Japan, Italy and Sweden for the provision of international switched services between the United States and those sixteen countries. As noted elsewhere in this Application, the Commission has previously determined that equivalent resale opportunities exist between these countries and the United States.
- (f) Xcel is not requesting authorization to construct any international facilities



between the points for which it is applying to provide resold services.

- (g) Does not apply (Applicant is not seeking facilities-based authority pursuant to Section 63.18(e)(6)).
- (h) See attached certification.
- (l) See attached certification.
- (j) See attached certification.
- (k) See attached list of 10% or greater shareholders.


#### Conclusion

As demonstrated in this Application, Xcel is legally qualified to provide the service for which it requests authority. For the reasons stated above, Xcel submits that the public interest, convenience and necessity would be furthered by a grant of this Section 214 application. The requested authorization should therefore be issued to Xcel to enable it to provide international basic switched, private line, data, television and business services to all international points pursuant to Section 63.18(e)(1) of the Commission's rules, and pursuant to Section 63.18(e)(2) of the Commission's rules, to resell the international switched services of authorized U.S. common carriers for the provision of international basic switched, private line, data, television and business services to all international points, including authority to resell international private lines between the United States and Canada, the United Kingdom, New Zealand, Australia, The Netherlands, Luxembourg, Norway, Denmark, France, Germany, Belgium, Switzerland, Austria, Japan, Italy and Sweden for the provision of switched services between the United States and those countries.

## CERTIFICATION

Applicant hereby certifies that it has no affiliation, as defined by Section 63.18 of the Commission's rules, with any foreign carriers, and that it has no interlocking directorates with other Section 214 certificated telecommunications carriers. The shareholders, officers and directors of Applicant are all U.S. citizens. Applicant certifies that it and its respective affiliates have not agreed to accept special concessions directly or indirectly from any foreign carrier or administration with respect to traffic or revenue flows between the United States and any foreign country which the Applicant may serve under the authority granted under this part and will not enter into such agreements in the future.

By:

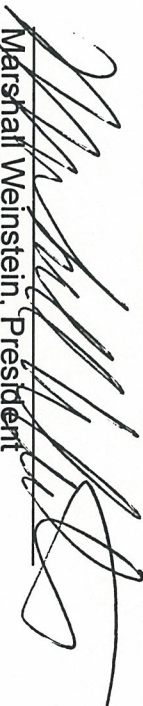


Marshall Weinstein, President  
Xcel Communications (USA) Corporation  
290 Franklin Street, #201  
Buffalo, NY 14202

CERTIFICATION

Pursuant to Section 1.2002 of the Commission's Rules, Xcel Communications (USA) Corporation, hereby certifies that it is not subject to a denial of Federal benefits, including FCC benefits, by Federal and/or state courts under authority granted in Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 853a. See 6 FCC Rcd 7551 (1991).

By:



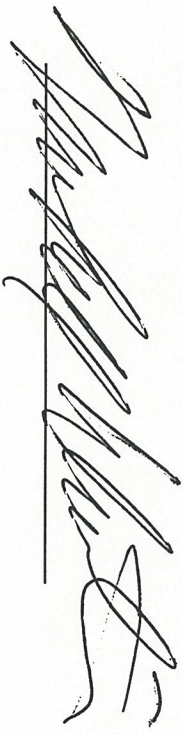
Marshall Weinstein, President

Xcel Communications (USA) Corporation  
290 Franklin Street, #201  
Buffalo, NY 14202

DECLARATION

I, Marshall Weinstein, am President of Xcel Communications (USA) Corporation.

I have read the foregoing Section 214 Application and hereby declare, under penalty of perjury, that all statements contained therein are true and correct.

A handwritten signature in black ink, appearing to read "Marshall Weinstein". The signature is written in a cursive style with a horizontal line underneath.

Date: Nov 11, 2008

**Section 214 Application**  
**Ten Percent or Greater Shareholders of Xcel Communications (USA) Corporation**

1. **Domino USA, Inc. \***  
Citizenship: New York Corporation  
100% Equity Interest in Xcel Communications (USA) Corporation  
Principal Business: Financing company

\* Domino USA, Inc. is wholly owned by Rino Group, Inc., a New York corporation, which is wholly owned by Mr. Marshall Weinstein, a U.S. citizen.