

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

In the Matter of)
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)
SINGAPORE TELECOM USA, INC.)
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)
Application for Authority Pursuant to) File No. ITC-214-19981118-00807
Section 214 of the Communications Act)
of 1934, as Amended, to Provide)
Facilities-Based Switched Service between)
the United States and Singapore)

ORDER, AUTHORIZATION, AND CERTIFICATE

Adopted: March 26, 1999 Released: March 26, 1999

By the Chief, Telecommunications Division:

I. Introduction

1. In this Order, we grant Singapore Telecom USA, Inc. (SingTel USA) authority to provide switched and private line international telecommunications services on a facilities basis between the United States and Singapore. We classify SingTel USA as a dominant carrier in its provision of service to Singapore. SingTel USA will be prohibited from using its facilities-based authority on the U.S.-Singapore route until Singapore Telecommunications Limited's (SingTel) settlement rate with all U.S. carriers is at or below the settlement rate benchmark of \$0.15.

II. Background

2. SingTel USA is a common carrier that already has authority under Section 214 of the Communications Act of 1934, as amended,¹ to provide facilities-based switched and private line services between the United States and international points throughout the world, except Singapore.² SingTel USA is a wholly owned subsidiary of SingTel.

3. SingTel USA requests authority 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 Singapore.³ SingTel USA certifies that it has an affiliation with a foreign carrier

¹ 47 U.S.C. § 214.

² See Public Notice, Report No. TEL-00034 (November 25, 1998).

³ Singapore Telecom USA, Inc., Application File No. ITC-214-19981118-00807 (filed November 18, 1998) (SingTel USA Application).

in Singapore and agrees to be regulated as a dominant carrier under Section 63.10 of the Commission's rules⁴ on the Singapore route. We placed SingTel USA's application on public notice⁵ and received a petition to deny from MCI WorldCom, Inc.⁶

III. Discussion

4. The rules and standards adopted in the Commission's *Foreign Participation Order*⁷ apply to this application. In that order, the Commission adopted, as a factor of its public interest analysis, a rebuttable presumption that applications for Section 214 authority from carriers from WTO Member countries do not pose concerns that would justify denial of an application on competition grounds.⁸ The Commission stated that it would grant expeditiously the Section 214 application of any carrier seeking to serve a WTO Member country except in the exceptional case where a carrier's entry presents a very high risk to competition in the U.S. market that cannot be addressed by the Commission's safeguards or by additional conditions. In addition, the Commission may further review applications if the Executive Branch raises serious concerns regarding national security, law enforcement, foreign policy or trade issues.⁹

5. Singapore is a WTO Member country. SingTel USA is therefore entitled to a presumption in favor of entry on the Singapore route. The Executive Branch has not raised any concerns with respect to SingTel USA's application. MCI WorldCom, however, has submitted a petition to deny SingTel USA's application. For the reasons discussed below, we deny MCI WorldCom's petition to deny and grant SingTel USA's application to provide switched and private line international telecommunications services on a facilities basis between the United States and Singapore.

6. MCI WorldCom argues that we should reject SingTel USA's application because the application is premature. MCI WorldCom states that approval of the application would be meaningless at this time because SingTel USA will be unable to provide facilities-based service on the U.S.-Singapore route until SingTel's settlement rates are at or below the Commission's settlement rate benchmark of \$0.15.¹⁰ SingTel's settlement rates are currently above the benchmark level. In its

⁴ 47 C.F.R. § 63.10.

⁵ See Public Notice, Report No. TEL-00051NS (January 6, 1998).

⁶ MCI WorldCom Petition to Deny, File No. ITC-214-19981118-00807 (filed December 24, 1998).

⁷ Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, *Report and Order and Order on Reconsideration*, 12 FCC Rcd 23,891 (1997), *recon. pending* (*Foreign Participation Order*).

⁸ See *Foreign Participation Order* at ¶ 50.

⁹ *Id.* at ¶ 51, 61-66.

¹⁰ MCI WorldCom Petition to Deny at 1-2 (filed December 24, 1998). For a discussion of the Commission's settlement rate benchmarks policy and the settlement rate benchmark condition, see International Settlement Rates, IB Docket No. 96-261, *Report and Order*, 12 FCC Rcd 19,806 (1997),

the Commission has authorized the provision of such service. See 47 C.F.R. §§ 63.18(e)(2)(ii)(c), (e)(3)-(4); 63.21(a).

11. IT IS FURTHER ORDERED that SingTel USA shall be regulated as a dominant carrier under Section 63.10 of the rules and shall comply with the requirements of paragraph (c) of that section for services between the United States and Singapore.

12. IT IS FURTHER ORDERED that SingTel USA shall not agree to accept special concessions from SingTel for the provision of service between the United States and Singapore. "Special concessions" is defined in Section 63.14(b) of the Commission's rules as amended by the Commission's *Foreign Participation Order*, FCC 97-398.

13. IT IS FURTHER ORDERED that SingTel USA may provide facilities-based service between the United States and Singapore only if its affiliate in Singapore, SingTel, has in effect a settlement rate with all U.S. international carriers that is at or below the Commission's relevant benchmark. International Settlement Rates, *Report and Order*, IB Docket No. 96-261, 12 FCC Rcd 19806, ¶ 231.

14. 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 public notice of this Order (see Section 1.4(b)(2)).

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Rebecca Arbogast
Chief, Telecommunications Division
International Bureau

reply, SingTel USA concedes that it would be subject to the Commission's settlement rate benchmark condition on the U.S.-Singapore route, but argues that its application is not premature. SingTel USA states that under the Commission's policy, its application should be granted subject to the condition that SingTel USA may not commence facilities-based service on the U.S.-Singapore route until SingTel's settlement rate is at or below the Commission's settlement rate benchmark.¹¹

7. We agree with SingTel USA that under the Commission's policy, SingTel USA's application should be granted at this time, subject to the condition that SingTel USA may not commence facilities-based service on the U.S.-Singapore route until SingTel's settlement rate is at or below the Commission's settlement rate benchmark. The Commission made clear in the *Benchmarks Order* that applications to provide facilities-based service to affiliated markets would be granted, but that the Section 214 authorization would be subject to the settlement rate benchmark condition. This condition requires that a carrier providing service on an affiliated route may not commence service until the settlement rates of its foreign affiliate are at or below the relevant settlement rate benchmark.¹² We impose this condition in order to reduce the ability of U.S.-authorized carriers to engage in a predatory price squeeze when providing service to an affiliated market.¹³ Under this condition, we will grant SingTel USA's application, but SingTel USA will be prohibited from using its facilities-based authority on the U.S.-Singapore route until SingTel's settlement rate with U.S. carriers is at or below the settlement rate benchmark of \$0.15.

IV. Ordering Clauses

8. Accordingly, IT IS HEREBY CERTIFIED that the present and future public interest, convenience, and necessity require a grant of the present application. Therefore, IT IS ORDERED that application File No. ITC-214-19981118-00807 is GRANTED, and SingTel USA is authorized pursuant to Section 63.18(e)(1), 47 C.F.R. §§ 63.18(1), to provide facilities-based service between the United States and Singapore subject to all current and future Commission regulations, including those specifically listed below, as well as the conditions set out below.

9. IT IS FURTHER ORDERED that SingTel USA shall comply with the requirements specified in Sections 43.82, 63.14, 63.15(b), 63.19, and 63.21 of the Commission's Rules, 47 C.F.R. §§ 43.82, 63.14, 63.15(b), 63.19, 63.21.

10. IT IS FURTHER ORDERED that SingTel USA may not—and SingTel USA's tariffs must state that its customers may not—connect their private lines to the public switched network at either the U.S. or foreign end, or both, for the provision of international switched basic services unless

aff'd sub. nom., Cable and Wireless v. FCC, Case No. 97-1612 (D.C. Cir., January 12, 1999) (*Benchmark Order*).

¹¹ Singapore Telecom USA, Inc., Opposition to Petition to Deny, File No. ITC-214-19981118-00807, at 1-2 (filed January 11, 1999).

¹² *Benchmarks Order* at ¶ 231.

¹³ *Benchmarks Order* at ¶¶ 207-231.