

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

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

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

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\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

February 16, 2000

**VIA MESSENGER**

Alicia Smothers  
Federal Communications Commission  
International Bureau-Telecom Division  
445 12<sup>th</sup> Street, SW  
Room 6A767  
Washington, D.C. 20554

Dear Ms. Smothers:

I am enclosing five copies of the 214 application that we filed on behalf of Northvoice Communications (USA) Inc. on January 27<sup>th</sup>. If you have any questions please feel free to call me at (202) 662-8476.

Very truly yours,



Sharon D. Agranov  
Telecommunications Specialist/  
Legal Assistant

Enclosure

READ INSTRUCTIONS CAREFULLY  
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION  
REMITTANCE ADVICE

APPROVED BY OMB 3060-0589

(1) LOCKBOX # 358115

PAGE NO. 1 OF 1 JAN 27 2001

SPECIAL-USE  
FCC USE ONLY

SECTION A - PAYER INFORMATION

(2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card)  
Northvoice Communications (USA) Inc.

(3) TOTAL AMOUNT PAID (dollars and cents)  
\$780.00

(4) STREET ADDRESS LINE NO. 1

Suite 218

(5) STREET ADDRESS LINE NO. 2

13120 Vanier Place

(6) CITY

Richmond, B.C.

(7) STATE

Canada

(8) ZIP CODE

V6V 2J2

(9) DAYTIME TELEPHONE NUMBER (include area code)  
(604) 871-0887

(10) COUNTRY CODE (if not in U.S.A.)

IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B  
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)

SECTION B - APPLICANT INFORMATION

(11) APPLICANT NAME (if paying by credit card, enter name exactly as it appears on your card)

(12) STREET ADDRESS LINE NO. 1

(13) STREET ADDRESS LINE NO. 2

(14) CITY

(15) STATE

(16) ZIP CODE

(17) DAYTIME TELEPHONE NUMBER (include area code)

(18) COUNTRY CODE (if not in U.S.A.)

COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEETS (FORM 159-C)

SECTION C - PAYMENT INFORMATION

(19A) FCC CALL SIGN/OTHER ID

(20A) PAYMENT TYPE CODE (PTC)  
C U T

(21A) QUANTITY

(22A) FEE DUE FOR (PTC) IN BLOCK 20A  
\$780.00

FCC USE ONLY

(23A) FCC CODE 1

(20B) PAYMENT TYPE CODE (PTC)

(21B) QUANTITY

(22B) FEE DUE FOR (PTC) IN BLOCK 20B  
\$

FCC USE ONLY

(23B) FCC CODE 1

(20C) PAYMENT TYPE CODE (PTC)

(21C) QUANTITY

(22C) FEE DUE FOR (PTC) IN BLOCK 20C  
\$

FCC USE ONLY

(19C) FCC CALL SIGN/OTHER ID

(20D) PAYMENT TYPE CODE (PTC)

(21D) QUANTITY

(22D) FEE DUE FOR (PTC) IN BLOCK 20D  
\$

FCC USE ONLY

(23D) FCC CODE 1

(20E) PAYMENT TYPE CODE (PTC)

(21E) QUANTITY

(22E) FEE DUE FOR (PTC) IN BLOCK 20E  
\$

FCC USE ONLY

SECTION D - TAXPAYER INFORMATION (REQUIRED)

(25) COMPLETE THIS BLOCK ONLY IF APPLICANT NAME IN B-11 IS DIFFERENT FROM PAYER NAME IN A-2

PAYER TIN 0

APPLICANT TIN 0

SECTION E - CERTIFICATION

(27) CERTIFICATION STATEMENT  
Kenneth Kwan

(PRINT NAME)

Certify under penalty of perjury that the foregoing and supporting information  
are true and correct to the best of my knowledge, information and belief. SIGNATURE

SECTION F - CREDIT CARD PAYMENT INFORMATION

(28) MASTERCARD/VISA ACCOUNT NUMBER:

Grid for account number: 16 empty boxes

EXPIRATION DATE:

Grid for expiration date: MONTH, YEAR

MASTERCARD

VISA

I hereby authorize the FCC to charge my VISA or MASTERCARD  
for the service(s) described below.

AUTHORIZED SIGNATURE

SEE PUBLIC BURDEN ESTIMATE ON REVERSE

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

In the Matter of )  
 )  
NorthVoice Communications (USA) Inc. )  
 ) File No. ITC-214-200011 - \_\_\_\_\_  
 )  
Application For Global Authority )  
Pursuant to Section 214 of the )  
Communications Act of 1934, as )  
Amended, to Operate as an )  
International Facilities-Based and )  
Resale Carrier )

**APPLICATION**

NorthVoice Communications (USA) Inc. (the "Applicant") hereby requests global authority, pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and Section 63.18 of the Commission's Rules, 47 C.F.R. §63.18, to provide international telecommunications services between the United States and various international points on a facilities and resale basis.

**I. BACKGROUND**

The Applicant is a corporation organized and existing under the laws of the State of Washington. The Applicant is a wholly-owned subsidiary of NorthVoice Communications Inc. ("NorthVoice"), a British Virgin Islands company headquartered in Canada and majority owned and operated by citizens of Malaysia, Singapore, Australia, Canada and the United States, all of which are WTO-member countries.

NorthVoice is building a global Voice Over Internet Protocol network using state-of-the-art technologies, including Internet Protocol, Frame Relay and ATM technologies, to provide low cost long distance, Internet, wireless datacast and other telecommunications products and

services to residential and business customers. To date, the NorthVoice network has points of presence ("POPs") in Hong Kong and Vancouver, B.C., Canada and, by the end of the first quarter 2000, will encompass 68 to 80 cities in three continents, including 17 major cities in the United States assuming timely grant of this Application.

As discussed more fully below, in conjunction with its network, NorthVoice is affiliated with a start-up entity that is authorized to provide international telecommunications services in Hong Kong. However, to the extent that this entity is deemed a foreign carrier within the Commission's Rules, it does not possess market power in its home market. Thus, the Applicant's affiliation with this carrier raises no competitive issues.

Consistent with the Commission's policy goals to promote effective competition in the market for international telecommunications services,<sup>1</sup> grant of this Application will facilitate the entry of a new facilities-based and resale carrier in this market. Accordingly, grant of this Application is in the public interest.

## II. INFORMATION SUBMITTED PURSUANT TO SECTION 63.18

Pursuant to Section 63.18 of the Commission's Rules, 47 C.F.R. §63.18, the Applicant submits the following information in support of this Application:

- (a) The name, address and telephone number of the Applicant are:

NorthVoice Communications (USA) Inc.  
Suite 218-13120 Vanier Place  
Richmond, B.C., Canada V6V 2J2  
Phone: 604-871-0887  
Fax: 604-871-0889

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<sup>1</sup> Order and Notice of Proposed Rulemaking, *Matter of Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, 12 FCC Rcd 7847 ¶4 (1997) ("*Foreign Participation Order*"); Report and Order, *Matter of Market Entry and Regulation of Foreign-Affiliated Entities*, 11 FCC Rcd 3873, 3877 (1995).

(b) The Applicant is a corporation organized and existing under the laws of the State of Washington.

(c) Correspondence regarding this Application should be addressed to:

Kenneth Kwan  
Chief Executive Officer  
North Voice Communications (USA) Inc.  
Suite 218-13120 Vanier Place  
Richmond, B.C., Canada V6V 2J2  
Phone: 604-871-0887  
Fax: 604-871-0889

with copies to:

Martin L. Stern  
Lisa L. Friedlander  
Preston Gates Ellis & Rouvelas Meeds LLP  
1735 New York Ave., N.W., Suite 500  
Washington, D.C. 20006  
Phone: 202-628-1700  
Fax: 202-331-1024

(d) The Applicant has not previously received authority under Section 214 of the Communications Act.

(e) The Applicant hereby requests four types of authority, all of which are eligible for streamlined processing.<sup>2</sup> Specifically, the Applicant 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 interests in United States authorized facilities and necessary connecting facilities, and non-U.S. licensed undersea cable systems, to provide international facilities, and non-U.S. licensed undersea cable systems, to provide international

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<sup>2</sup> See Report and Order, *Matter of 1998 Biennial Regulatory Review-Review of International Common Carrier Regulations*, FCC 99-51, IB Docket No. 98-118 (rel. Mar. 23, 1999) (“*Biennial Review Report and Order*”) (reducing waiting period for granting streamlined applications from 35 to 14 days and expanding class of applications eligible for streamlined processing); Report and Order, *Matter of Streamlining the International Section 214 Authorization Process and Tariff Requirements*, 11 FCC Rcd 12884 (1996) (adopting streamlined processing procedures for certain international resale applications) (“*Streamlining Order*”); 47 C.F.R. § 63.12 (1996); see also *Foreign Participation Order* at ¶¶ 21, 322-29.

telecommunications services between the United States and all international points except those countries excluded by the Exclusion List for facilities-based services; (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 the international switched services of all United States-authorized carriers, other than those affiliated carriers with market power on a particular route, 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) of the Commission's Rules, 47 C.F.R. § 63.18(e)(2), to resell international private lines to provide international non-interconnected private lines services between the United States and all international points; and (4) authority pursuant to Section 63.18(e)(2) of the Commission's Rules, 47 C.F.R. § 63.18(e)(2), to resell international private lines interconnected to the public switched network ("PSN") at one or both ends to provide international switched services on all international routes on which the Commission permits such services to be provided.<sup>3</sup> The Applicant certifies that it will comply with the terms and conditions contained in Sections 63.21 through 63.23 of the Commission's Rules, as applicable.

See 47 C.F.R. §§ 63.21-63.23.

(f) The Applicant seeks no other authorization available under Section 63.18(e) at this time.

(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.

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<sup>3</sup> The FCC will automatically amend all Section 214 authorizations to permit carriers to resell international private lines to provide international switched services between the United States and other countries as the provision of such services becomes permitted by the Commission. See *Streamlining Order* ¶ 34; Public Notice, *Commencement of Streamlined Section 214 Procedures and Tariff Requirements*, 11 FCC Rcd 12219, 12221-22 (1996).

(h) Exhibit A attached hereto contains the relevant Section 63.18(h) information. As stated in Exhibit A, the Applicant is a wholly-owned subsidiary of NorthVoice, a British Virgin Islands company. With the exception of certainly commonly-owned entities, the Applicant certifies that it does not have any interlocking directorates with a foreign carrier. See 47 C.F.R. § 62.2.

(i) The Applicant, as a wholly owned indirect subsidiary of NorthVoice, is affiliated, within the meaning of 47 C.F.R. § 63.09(e), with a Hong Kong foreign carrier. However, this carrier is a start-up entity that lacks 50 percent market share in the international transport and local access markets in Hong Kong, and thus is presumptively considered non-dominant, raising no competitive or foreign affiliation concerns. See 47 C.F.R § 63.10(a)(3); *TeleBermuda Int'l, LLC*, DA 99-1930 (rel. Oct. 29, 1999).

(j), (k), (l), (m) Not applicable.

(n) The Applicant certifies that it has not agreed and will not agree in the future to accept any direct or indirect special concessions, as defined in the Commission's Rules, from a foreign carrier or administration with regard 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 effect competition adversely in the U.S. market.

(o) The Applicant certifies that no party to this Application has been denied federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

(p) The Applicant is eligible for global authority and streamlined processing of its Application pursuant to Sections 63.10 and 63.12 of the Commission's Rules. See 47 C.F.R. §§ 63.10, 63.12. Although the Applicant is affiliated with a Hong Kong foreign carrier, this carrier is a start-up entity that does not possess market power in its home market, and therefore the



Applicant is presumptively considered non-dominant under the Commission's Rules. Accordingly, the Applicant, as a non-dominant carrier, is eligible for global Section 214 authority and streamlined processing in every destination market it intends to serve. *See* 47 C.F.R. §§ 63.10(a)(3); 63.12(c)(1)(ii).<sup>4</sup>

### III. THE APPLICANT'S OWNERSHIP STRUCTURE DOES NOT RAISE ANY PUBLIC INTEREST CONCERNS

As noted above, the Applicant is 100% owned by a company incorporated under the laws of the British Virgin Islands ("BVI"), which is not a WTO-member country.<sup>5</sup> Consequently, under the *Foreign Participation Order*, the Commission may apply an effective competitive opportunities ("ECO") analysis as part of its public interest inquiry if the applicant is a foreign carrier or is affiliated with a foreign carrier that has market power in the destination markets Applicant intends to serve. *Foreign Participation Order* ¶ 128. As certified herein pursuant to Section 63.18(i) of the Commission's rules, Applicant is not itself a foreign carrier, nor is it affiliated with any foreign carriers that possess market power in their home markets and, therefore, the ECO test is not applicable here.<sup>6</sup>

Furthermore, even if it determines that the ECO test may be applicable in this instance, the Commission should find that because NorthVoice's "home market" is in Canada and other WTO-member countries, the ECO test need not be applied. Indeed, the Commission has held that, in general, an entity's "home market" is deemed to be the country in which the applicant has

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<sup>4</sup> Furthermore, as stated by the Commission in its Order establishing streamlined processing for Section 214 authority, foreign-affiliated U.S. carriers should be treated no differently than non-affiliated U.S. carriers to the extent that the foreign carrier does not possess market power on the routes served. *See Streamlining Order* at ¶ 12.

<sup>5</sup> The BVI is an overseas territory of the United Kingdom. The BVI is not itself a signatory to the WTO Agreement, and the Embassy of the United Kingdom confirmed that the BVI is not a WTO-member through its status as a UK territory.

<sup>6</sup> In granting the transfer of a submarine cable landing license to an applicant 100% owned by a Bermuda (non-WTO member country) company, the Commission held that no ECO test was required as the applicant was not a foreign carrier nor was it affiliated with a foreign carrier that had market power in the destination market of the cable. *See*

its "principal place of business," which in this case is Canada and Hong Kong, both WTO-member countries.<sup>7</sup> See *Foreign Participation Order* ¶ 116.<sup>8</sup> Accordingly, there is no reason to apply the ECO test here.

Finally, grant of this Application would provide substantial benefits to the global telecommunications market by facilitating the entry of a new facilities-based and resale carrier. As noted, NorthVoice is constructing an advanced VOIP network using state-of-the-art technologies and is planning to provide a variety of telecommunications products and services to residential and business customers, including low cost long distance and Internet services. By the end of the first quarter 2000, NorthVoice's network is planned to encompass 68 to 80 cities in three continents, including 17 major cities in the United States.

Accordingly, the facts presented herein demonstrate that Applicant's ownership structure does not raise any public interest concerns, and grant of this Application is consistent with the Commission's public interest goal of promoting global telecommunications competition.

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*TeleBermuda International, LLC*, at ¶¶ 8-9. The Commission should reach the same conclusion here as the analysis for Section 214 applications is analogous. See *Foreign Participation Order* ¶ 130.

<sup>7</sup> NorthVoice has its headquarters and main sales office in Canada, with an additional office in Hong Kong. NorthVoice conducts the majority of its business from these offices, and they serve as the place of employment for NorthVoice's 86 employees. NorthVoice has also established POPs and retail outlets in Canada and Hong Kong. Accordingly, the majority of NorthVoice's tangible property is located in WTO-member countries, and the majority of NorthVoice's revenues are derived from sales to customers in WTO-member countries.

<sup>8</sup> In addition, while the Applicant's parent company is incorporated in the BVI, NorthVoice is majority owned by a citizen of Malaysia, which is a WTO-member country.

**IV. CONCLUSION**

The Applicant is legally, financially, and technically qualified to provide the services for which it requests authority. For the reasons stated above, the Applicant submits that the public interest, convenience, and necessity would be furthered by a grant of this Section 214 application.

Respectfully submitted, ---

NorthVoice Communications (USA) Inc.

By: 

Kenneth Kwan

Chief Executive Officer  
NorthVoice Communications (USA) Inc.  
Suite 218 - 13120 Vanier Place  
Richmond, BC, Canada  
V6V 2J2

Dated: January 21, 2000

EXHIBIT A

Information Submitted Pursuant to Section 63.18(h)

The name, address, citizenship and principal business of the Applicant's 10% or greater

shareholder is as follows:

<u>Shareholder Name/Address</u>	<u>%Held</u>	<u>Citizenship</u>	<u>Principal Business</u>
NorthVoice Communications Inc. ("NorthVoice") Suite 201-338 West Broadway Street Vancouver, B.C., Canada V5Y 3X2	100	British Virgin Islands	Telecommunications

The name, address, citizenship and principal business of NorthVoice's 10% or greater

shareholder is as follows:

<u>Shareholder Name/Address</u>	<u>%Held</u>	<u>Citizenship</u>	<u>Principal Business</u>
Cambridge Investments Ltd. ("Cambridge") Commerce Chambers Road Town Tortola, British Virgin Islands	100	British Virgin Islands	Holding Company

The name, address, citizenship and principal business of Cambridge's 10% or greater

shareholder is as follows:

<u>Shareholder Name/Address</u>	<u>%Held</u>	<u>Citizenship</u>	<u>Principal Business</u>
Ms. Liaw Yueh Hwa Suite 2101 -1009 Expo Boulevard Vancouver, B.C., Canada	100	Malaysia	Management Investor

With the exception of certain commonly-owned entities, the Applicant does not have

interlocking directorates as that term is defined in Section 62.2 of the Commission's Rules. See

47 C.F.R. § 62.2.

CERTIFICATION OF APPLICANT

North Voice Communications (USA) Inc. certifies that it is not subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, nor does it have any interlocking directorates with a foreign carrier. North Voice Communications (USA) Inc. certifies, as set forth more fully in the foregoing Application, that it is affiliated with a foreign carrier that is authorized to provide international telecommunications services in Hong Kong. North Voice Communications (USA) Inc. certifies that it does not seek to provide international telecommunications services to any destination-country for which any of the statements contained in Section 63.18(f) are true. North Voice Communications (USA) Inc. 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.

North Voice Communications (USA) Inc.

By: 

Kenneth Kwan  
Chief Executive Officer  
North Voice Communications (USA) Inc.  
Suite 218 - 13120 Vanier Place  
Richmond, BC, Canada  
V6V 2J2

Dated: January 21, 2000

# BERRY BEST COURIERS, LTD.

P 24622

1990 M St., N.W., Washington, D.C. 20036, Suite 740 -- 202-293-4964

FROM:

TO:

Account Number	Date	
	1-27-00	
Sender's name (Please Print or Type)		
Smaron Ivanov (308) 1602-8476		
Company		
Preston Jesters		
Street Address		
135 New York Ave, NW		
City	State	ZIP
Washington DC	DC	20000

You warrant that this shipment is packed adequately to insure safe transportation with ordinary care in handling. You warrant that your package is properly marked and addressed for delivery.

Our liability for delays not caused by your negligence is limited to a refund of your delivery charges. We will not be liable for loss damage or delay caused by events that we cannot reasonably foresee including, but not limited to acts of God, perils of transportation, weather conditions, mechanical delays, acts of war, strikes, civil commotion, or acts or omissions of public authorities with actual or apparent authority.

**WE WILL NOT BE LIABLE IN ANY CASE FOR INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES, WHETHER OR NOT WE KNEW SUCH DAMAGES MIGHT BE INCURRED.**

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Federal Communications Commission  
c/o Mellon Bank  
Three Mellon Bank Center  
525 William Penn Way  
27th Floor Room 153-2713  
Pittsburgh, Pennsylvania

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12628

**Preston|Gates|Ellis &**

**Rouvelas|Meeds LLP**

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WASHINGTON, DC 20006

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DATE 01/13/00 AMOUNT \*\*\*\*\*\$780.00

FED. COMMUNICATIONS COMM.

TO THE ORDER OF

FILING

⑈012628⑈ ⑆254070115⑆

⑈3740 0010⑈

*Miriam L. Kaplan*