

**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: _____

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

)
) **FCC/MELLON**
) **JUL 20 2000**

Eclipse PCS of Indianapolis, LLC

RECEIVED

) Application for Authority, Pursuant to) File No. ITC-) JUL 25 2000

) Section 214 of the Communications Act)

) of 1934, as Amended, For Global Resale)

) Authority)

Telecom Division
International Bureau

**APPLICATION FOR AUTHORITY, PURSUANT TO SECTION 214
OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED**

Pursuant to Section 214 of the Communications Act of 1934, as amended,

47 U.S.C. § 214, and Section 63.18(e)(2) of the Rules of the Federal Communications

Commission (“Commission”), 47 C.F.R. § 63.18(e)(2), Eclipse PCS of Indianapolis, LLC

(“Applicant”) hereby requests authority to provide global international resale services

between the contiguous United States, Hawaii, the Commonwealth of Puerto Rico (“Puerto

Rico”) and the United States Virgin Islands and all international points.

In support of this application, Applicant submits the following information.

I. INTRODUCTION AND DESCRIPTION OF THE APPLICANT

Applicant is a limited liability company organized under the laws of Delaware and is

an indirect wholly-owned subsidiary of SBC Communications Inc. (“SBC”). Applicant’s

business consists primarily of the provision of wireless services in the State of Indiana. In

addition, Applicant provides international resale services to its wireless customers.

SBC, Applicant's ultimate parent corporation, has ownership interests in several foreign carriers. SBC's interest in carriers in South Africa, Switzerland, Hungary, Norway, the Netherlands, Denmark, Germany, Canada, Lithuania and Belgium rise to the level of a foreign affiliation under the Commission's international section 214 regulations. See 47 C.F.R. § 63.09(e).

II. PUBLIC INTEREST CONSIDERATIONS

Grant of this application will serve the public interest, convenience and necessity by enabling Applicant to provide international service through the resale of the international services of authorized U.S. common carriers. Applicant's provision of international services will benefit consumers by increasing competition, lowering prices and increasing the service options available to the public. For these reasons, Applicant respectfully requests that the Commission grant this Application.

III. OTHER INFORMATION PROVIDED PURSUANT TO SECTION 63.18 OF THE COMMISSION'S RULES

Applicant provides the following information in compliance with subsections (a) through (p) of Section 63.18 of the Commission's Rules, 47 C.F.R. §§ 63.18(a)-(p), and in support of Applicant's request.

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

Eclipse PCS of Indianapolis, LLC
17330 Preston Road, Suite 100A
Dallas, TX 75252
(972) 733-2005

(b) Applicant is a limited liability company organized under the laws of the State of Delaware.

(c) The name, title, address and telephone number of each officer and other contact person to whom correspondence concerning this application is to be addressed is as follows:

Eclipse PCS of Indianapolis, LLC
Carol L. Tacker, Esq.
17330 Preston Road, Suite 100A
Dallas, TX 75252

(972) 733-2005 (voice)
(972) 733-2021 (facsimile)

with a copy to

Philip Horton
Arnold & Porter
555 12th Street, N.W.
Washington, DC 20004

(202) 942-5787 (voice)
(202) 942-5999 (facsimile)

(d) Applicant has not previously received authority under Section 214 of the Communications Act, as amended, to provide international telecommunications services.

(e) Applicant is applying for global resale authority under Section 63.18(e)(2) of the Commission's Rules. Applicant requests Section 214 authority to operate as a resale carrier pursuant to § 63.18(e)(2) and certifies that it will comply with the terms and conditions contained in §§ 63.21 and 63.23 of the Commission's rules.

(f) No response required.

(g) Applicant is not seeking facilities-based authority under Section 63.18(e)(4) of the Commission's Rules. Therefore, Section 63.18(g) requires no response from Applicant.

(h) Applicant is wholly-owned by Ameritech Wireless Communications, Inc.

("AWCT"), a corporation organized under the laws of the state of Delaware whose address is

17330 Preston Road, Suite 100A, Dallas, TX 75252. AWCI's business consists primarily of the provision of wireless services in the States of Indiana and Ohio. AWCI is wholly owned by Ameritech Corporation ("Ameritech"), a corporation organized under the laws of the state of Delaware whose address is 606 S. Wacker Dr., Chicago, IL 60606. Ameritech's principal businesses consist of local exchange, wireless and directory publishing services provided by the operating subsidiaries of Ameritech. Ameritech is wholly-owned by SBC, a corporation organized under the laws of the state of Delaware. SBC's principal businesses consist of local exchange, wireless and directory publishing services provided by the operating subsidiaries of SBC. No entity beneficially owns more than 10 percent of SBC. SBC's address is as follows:

SBC Communications Inc.
175 East Houston Street
San Antonio, TX 78205

(f) Applicant hereby certifies that it is affiliated, as that term is defined in

Section 63.09(e) of the Commission's Rules, with the following foreign carriers:

1. Telkom South Africa Ltd. ("Telkom S.A.") (South Africa). A consortium formed between Telekom Malaysia Berhad and SBC owns 30 percent of Telkom S.A. SBC owns 60% of the consortium. Before the acquisition by this consortium, Telkom S.A. was a completely state-owned company. Telkom S.A. is the incumbent telecommunications carrier in South Africa.
2. diAx Holding AG ("diAx") (Switzerland). SBC, through a joint venture, owns an indirect 40 percent interest in diAx, a relatively new, full-service Swiss telecommunications carrier, with far less than 50 percent market share in the international transport and local access markets in Switzerland. In the Commission decision approving the merger of SBC and Ameritech,¹ the Commission determined that diAx lacks market power in Switzerland, and that

¹ In re Ameritech Corp. and SBC Communications Inc., 14 FCC Rcd. 14,712 (Oct. 8, 1999) ("SBC/Ameritech Order").

SBC and its subsidiaries are entitled to non-dominant carrier treatment on the U.S.-Switzerland route.²

3. MATAV Rt (Hungary). MagyarCom, a consortium formed indirectly between Ameritech, a wholly-owned subsidiary of SBC, and Deutsche Telekom owns approximately 60 percent of MATAV Rt., the incumbent telecommunications operator in Hungary. Through its interest in MagyarCom, Ameritech, and therefore SBC, holds a non-controlling, 29.8 percent interest in MATAV.

4. BEN Netherlands B.V. (“BEN Netherland”)(the Netherlands). Through its interests in Tele Danmark and Belgacom S.A., Ameritech owns an indirect, non-controlling interest in BEN Netherland. BEN Netherland provides GSM 1800 wireless services in the Netherlands, and has far less than a 50 percent market share in the international transport and local access markets in the Netherlands. In the SBC/Ameritech Order, the Commission held that BEN Netherland does not possess market power in the Netherlands, and that SBC subsidiaries are entitled to non-dominant regulation on the U.S.-Netherlands route.³

5. Tele Danmark A/S (“Tele Danmark”)(Denmark). Ameritech holds, through an indirect subsidiary a 41.6 percent, *de facto* controlling interest in Tele Danmark. Tele Danmark is a full service telecommunications carrier in Denmark authorized to provide, among other services, local exchange and international telecommunications services to the public.

6. NetCom GSM (“NetCom”)(Norway). Ameritech owns a 19.6 percent interest in NetCom. Tele Danmark owns 20.4 percent of NetCom. Therefore, Ameritech has an effective interest of approximately 28.1 percent in NetCom. NetCom is a wireless carrier with less than 50 percent market share of the local access and transport markets in Norway.

7. Talkline GmbH (“Talkline”)(Germany and the Netherlands). Talkline is wholly-owned by Tele Danmark. Consequently, Ameritech holds an indirect controlling interest in Talkline. Talkline is authorized to provide mobile communications services in Germany and resold cellular service in the Netherlands. Talkline has far less than a 50 percent market share of the international transport and local access markets in Germany and the Netherlands. In the SBC/Ameritech Order, the Commission held that Talkline lacks market power in Germany and the Netherlands, and that SBC subsidiaries are entitled to

² Id. at ¶ 533.

³ Id. at ¶ 537.

regulation as non-dominant carriers along the U.S.-Germany and U.S.-Netherlands routes.⁴

8. UAB Mobilijos Telekomunikacijos (“Bite”) (Lithuania). Bite is a wholly-owned subsidiary of Tele Danmark. Consequently, Ameritech holds an indirect controlling interest in Bite. Bite is authorized to provide wireless services in Lithuania, and has far less than a 50 percent market share in the international transport and local access markets in Lithuania. In the SBC/Ameritech Order, the Commission held that Bite lacks market power in Lithuania, and that SBC subsidiaries are entitled to regulation as non-dominant carriers on the U.S.-Lithuania route.⁵

9. Ameritech Communications International, Inc. (“ACII”) (Canada). ACII is an indirect, wholly owned subsidiary of Ameritech. As a consequence, SBC holds a controlling interest in ACII. Last year, ACII received authorization to provide international telecommunications services in Canada, and therefore became a foreign carrier, as that term is defined in Section 63.09(d). ACII has a minuscule share of the international transport and local access market in Canada. On June 30, 1999, Ameritech Communications, Inc. and Ameritech Mobile Communications, Inc. (subsidiaries of SBC) notified the Commission that: (1) ACII (a wholly-owned subsidiary of Ameritech Communications, Inc.) had become a foreign carrier in Canada, (2) ACII lacks market power in Canada, and (3) ACI and AMCI therefore are entitled to non-dominant treatment along the U.S.-Canada route.⁶ The Commission apparently agrees that ACII lacks market power in Canada because the Commission has not imposed dominant carrier status on ACI and AMCI along the U.S.-Canada route.⁷

10. ETTele Ost (“ETO”) (Norway). Tele Danmark owns a 51 percent interest in ETO, which provides competitive fixed network, broadband and internet services in Norway. ETO currently serves a minuscule share of the Norwegian market. SBC recently notified the Commission of its affiliation with ETO.⁸

⁴ Id.

⁵ Id. at ¶ 538.

⁶ Ameritech Communications, Inc. Certification of Status of its Affiliate, Ameritech Communications International, Inc. as a Foreign Carrier in Canada, FCC File Nos. ITC-96-441, ITC-96-272, ITC-97-298 (filed June 30, 1999); Ameritech Mobile Communications, Inc. Certification of Status of its Affiliate, Ameritech Communications International, Inc. as a Foreign Carrier in Canada, FCC File No. ITC-96-243 (filed June 30, 1999).

⁷ Foreign Participation Order, 12 FCC Rcd. 23891, ¶¶ 161-162 (1997).

⁸ Southwestern Bell Communications Services, Inc., et. al. Notification of Foreign Affiliation, FCC File No. FCN-NEW-20000120-00002 (public notice of notification, Report No. FCN-00014, Feb. 11, 2000).

Consequently, the Commission has not yet considered whether ETO possesses market power in Norway. Nevertheless, as SBC pointed out in its notification, due to its low share of the Norwegian market, ETO does not have market power and SBC is entitled to a presumption of non-dominance along the U.S.-Norway route.⁹

11. Belgacom S.A. (“Belgacom”) (Belgium). SBC, through its subsidiary Ameritech, indirectly has an affiliation with Belgacom.¹⁰ Belgacom is the incumbent telecommunications carrier in Belgium.

Applicant hereby certifies that it is not a foreign carrier in any country.

(j) Pursuant to section 63.18(j) of the Commission’s rules, 47 C.F.R. § 63.18(j),

Applicant hereby certifies that: (1) it does not seek to provide international telecommunications services to any destination country in which Applicant is a foreign carrier or controls a foreign carrier, and (2) no foreign carriers own more than 25 percent of Applicant. Applicant further certifies that it seeks to serve certain destination countries in which SBC, an entity which owns greater than 25 percent of Applicant, controls foreign carriers. These foreign carriers and destination countries are:

1. Denmark (Tele Danmark);
2. Germany (Talkline);
3. Netherlands (Talkline);
4. Lithuania (Bite);
5. Canada (ACID);
6. Norway (ETO);

⁹ Id. at 4-5.

¹⁰ In The Matter of Southwestern Bell Communications Services, Inc., DA 00-1474 (June 30, 2000) ¶ 21.

(k) Pursuant to section 63.18(k) of the Commission's rules, for each of the destination countries listed in subsection (j) of this application, Applicant provides the following information:

- (1) Tele Danmark (Denmark). Denmark is a member of the World Trade Organization.
- (2) Talkline (Germany and the Netherlands). Both Germany and the Netherlands are members of the World Trade Organization. Talkline has far less than 50 percent market share of the international transport and local access markets in Germany and the Netherlands, and therefore is presumed not to have market power in Germany and the Netherlands.¹¹ Additionally, as noted above, the Commission has already concluded that Talkline lacks market power in Germany and the Netherlands.¹²
- (3) Bite (Lithuania). Lithuania is not a member of the World Trade Organization. However, Bite has far less than a 50 percent market share in the international transport and local access markets in Lithuania, and therefore is presumed not to possess market power in any relevant market on the U.S.-Lithuania route.¹³ For this reason, the Commission has already concluded that Bite lacks sufficient market power to affect competition adversely in the United States.
- (4) ACII (Canada). Canada is a member of the World Trade Organization. ACII is a nascent carrier with far less than 50 percent of the international transport and local access markets in Canada, and therefore is presumed not to possess market power in any relevant market on the U.S.-Canada route.¹⁴ In addition, as noted in section (i)(8) of this application, the Commission apparently already has concluded that ACII lacks market power in Canada.
- (5) ETO (Norway). Norway is a member of the World Trade Organization. ETO is a nascent carrier with a miniscule share of the international transport and local access markets in Norway, and therefore is presumed not to possess market power in any relevant market on the U.S.-Norway route.¹⁵

¹¹ Foreign Participation Order, 12 FCC Rcd 23891, 23955-65, ¶¶ 150-70 (1997).

¹² SBC/Ameritech Order, at ¶ 537.

¹³ Foreign Participation Order, 12 FCC Rcd 23891, 23955-65, ¶¶ 150-70 (1997).

¹⁴ Id.

¹⁵ Id.

(l) Applicant proposes to resell the international switched services of unaffiliated U.S. carriers for the purpose of providing global international communications services. In ten countries — South Africa, Switzerland, Hungary, Norway, the Netherlands, Denmark, Germany, Canada, Lithuania and Belgium — Applicant has a foreign affiliation as defined by Section 63.09(e) of the Commission's Rules. Pursuant to Section 63.18(l) of those Rules, Applicant provides the following information with respect to the foreign carriers with which it has an affiliation and as to which it either satisfies Section 63.10(a)(3) of the Commission's Rules or files the quarterly traffic reports required by Section 43.61(c) of the Commission's Rules.

On all international routes Applicant will provide service solely via resale of the international switched services of an unaffiliated U.S. carrier. Since all of Applicant's foreign affiliated carriers, except Telkom S.A., Tele Danmark, MATAV Rt and Belgacom lack 50 percent market share in the international transport and the local access markets on the foreign end of the route, Applicant will satisfy Section 63.10(a)(3) of the rules for all international communications services covered by this application, other than those to South Africa, Denmark, Hungary and Belgium. With respect to those four countries, Applicant will file the quarterly traffic reports required by Section 43.61(c) of the rules.

(m) Pursuant to Section 63.18(m) of the Commission's Rules, and in accord with the standards set forth in Section 63.10 of those Rules, Applicant requests that it be treated as non-dominant for the provision of the international communications services to South Africa, Switzerland, Hungary, Norway, the Netherlands, Denmark, Germany, Canada, Lithuania and Belgium, for the following reasons:

1. Applicant would satisfy Section 63.10(a)(4) for the provision of international communications service to South Africa through the resale of an unaffiliated U.S. facilities-based carriers' international switched services.
2. diAx lacks 50 percent market share in the international transport and local access markets in Switzerland and thus Applicant would satisfy Section 63.10(a)(3) of the Commission's Rules for all international communications services which are covered by this application.
3. Applicant would satisfy Section 63.10(a)(4) for the provision of international communications service to Hungary through the resale of an unaffiliated U.S. facilities-based carriers' international switched services
4. BEN lacks 50 percent market share in the international transport and local access market in the Netherlands and thus Applicant would satisfy Section 63.10(a)(3) of the Commission's Rules for all international communications services which are covered by this application.
5. NetCom is a wireless carrier which lacks 50 percent market share in the international transport and local access market in Norway and thus Applicant would satisfy Section 63.10(a)(3) of the Commission's Rules for all international communications services which are covered by this application.
6. Applicant would satisfy Section 63.10(a)(4) for the provision of international communications service to Denmark through the resale of an unaffiliated U.S. facilities-based carriers' international switched services.
7. Talkline provides mobile communications services by connecting customers to different mobile operators' networks, and has far below 50 percent of the market share of the international transport and local access markets in Germany and the Netherlands and thus Applicant would satisfy Section 63.10(a)(3) of the Commission's Rules for all international communications services which are covered by this application.
8. Bite provides only mobile wireless communications services and lacks 50 percent market share in the international transport and local access markets in Lithuania and thus Applicant would satisfy Section 63.10(a)(3) of the Commission's Rules for all international communications services which are covered by this application.
9. ACII received authorization to provide international telecommunications services in Canada last year, and therefore became a foreign carrier, as that term is defined in Section 63.09. ACII has a minuscule share of the international transport and local access market in Canada and lacks 50 percent market share in the international transport and local access markets in Canada and thus Applicant

would satisfy Section 63.10(a)(3) of the Commission's Rules for all international communications services which are covered by this application.

10. ETO, which provides competitive fixed network, broadband and internet services in Norway, has far below 50 percent of the market share of the international transport and local access markets in Norway and thus Applicant would satisfy Section 63.10(a)(3) of the Commission's Rules for all international communications services which are covered by this application.

11. Applicant would satisfy Section 63.10(a)(4) for the provision of international communications service to Belgium through the resale of an unaffiliated U.S. facilities-based carriers' international switched services.

(n) Applicant hereby certifies that it has not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.

(o) Applicant is not subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. Attached hereto is a certification, pursuant to Sections 1.2001 through 1.2003 of the Commission's Rules (implementing the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862), of Applicant.

(p) Applicant requests streamlined processing of this application. This application qualifies for streamlined processing pursuant to Section 63.12 of the Commission's Rules because, although Applicant is affiliated with foreign carriers within the meaning of Section 63.09(e) in South Africa, Switzerland, Hungary, Norway, the Netherlands, Denmark, Canada, Germany and Belgium, these affiliated destination markets are World Trade Organization member countries and Applicant qualifies for a presumption of non-dominance under Section 63.10(a)(4) of the Commission's Rules as the international service which is the subject of this application would be provided solely through the resale of an unaffiliated

U.S. facilities-based carrier's international switched services (either directly or indirectly through resale of another U.S. resale carrier's international switched services).

In addition, although Applicant is affiliated with a foreign carrier within the meaning of Section 63.09(e) in Lithuania, the Commission has previously found that Bite lacks market power in the destination market.¹⁶

¹⁶ Id. at ¶¶ 534-538.

IV. CONCLUSION

In view of the foregoing, Applicant respectfully requests that the Commission grant this application.

Respectfully submitted,

Eclipse PCS of Indianapolis, LLC

By: 

DATE:

7/19/00

**CERTIFICATION PURSUANT TO
SECTIONS 1.2001-1.2003 OF THE COMMISSION'S RULES**

Pursuant to Sections 1.2001-1.2003 of the Commission's Rules, 47 C.F.R.

§§ 1.2001-1.2003, Eclipse PCS of Indianapolis, LLC hereby certifies that neither it, nor any of its officers or directors, nor any of the shareholders holding 5 percent or more of the outstanding stock or shares (voting and/or non-voting) of Eclipse PCS of Indianapolis, LLC is subject to a denial of federal benefits that include FCC benefits pursuant to Section 5301 of the Federal Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

Eclipse PCS of Indianapolis, LLC

By: 

DATE: 7/19/10