

**Mikelle Morra**

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**From:** Myla Saldivar-Trotter [msaldiva@leo.gov]  
**Sent:** Wednesday, June 28, 2006 11:59 AM  
**To:** David Krech; George Li; Joann Ekblad; Mikelle Morra; Susan OConnell  
**Cc:** James Ball  
**Subject:** FCC application status update for week of 06/26/2006

Hi George, David, Susan, Joann, and Mikelle,

Temporarily back from jury duty, but wanted to advise you of the following...sorry for sending this later than normal.

Please be advised of the statuses on the following applications:

Please REMOVE from streamline the following applications:

1. **BTI America LLC's - ITC-214-20060602-00300**
2. ARAB AMERICAN Telecom LLC's - ITC-214-20060608-00306
3. FTMSC US, LLC - ISP-PDR-20060605-00008

Please be advised that the statuses of all other pending applications under review remain unchanged.

Please let me know if you have any questions.

Thanks,  
Myla Saldivar-Trotter  
FBI

6/29/2006

**Mikelle Morra**

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**From:** Mikelle Morra  
**Sent:** Friday, June 30, 2006 3:03 PM  
**To:** 'maesguerra@bayantel.com.ph'; 'firm@tkcrowe.com'; 'llynch@telecomlaw.net'  
**Cc:** George Li: David Krech; Susan OConnell; Joann Ekblad; 'Myla Saldivar-Trotter'; 'jifer@leo.gov'; 'amy.jablonek@usdoj.gov'; 'joseph.springsteen@usdoj.gov'; 'Louis.Brenner@dhs.gov'; Mikelle Morra  
**Subject:** FCC Section 214 Removed from Streamlined

**BTI America LLC**  
**ITC-214-20060602-00300**

**ARAB AMERICAN Telecom LLC**  
**ITC-214-20060608-00306**

The above referenced applications were placed on Public Notice on June 16, 2006 for streamlined processing. Since the Public Notice was released, the Commission has been requested by the Executive Branch agencies of the United States that we remove the subject applications from streamlined processing because of foreign ownership issues. Therefore, pursuant to Section 63.12(c)(3) of the Commission's Rules, we have removed these applications from streamlined processing.

Please be advised that your company may not commence operations until the Section 214 authorization is granted. See Section 63.12(d) of the rules, 47 C.F.R. Section 63.12(d). The Executive Branch will contact you or the "Contact" listed on your application directly for further information. You can be assured that your application will be processed expeditiously upon completion of Executive Branch's review. We will notify you by e-mail when your application is granted.

The Public Notice Report No. TEL-01044S (released June 30, 2006), is attached. If you have any questions, please email: [Mikelle.Morra@fcc.gov](mailto:Mikelle.Morra@fcc.gov), [JoAnn.Ekblad@fcc.gov](mailto:JoAnn.Ekblad@fcc.gov), [Susan.Oconnell@fcc.gov](mailto:Susan.Oconnell@fcc.gov), [David.Krech@fcc.gov](mailto:David.Krech@fcc.gov), and [George.Li@fcc.gov](mailto:George.Li@fcc.gov) or fax to 202-418-2824.

Thank you,

Mikelle Morra  
Federal Communications Commission  
International Bureau/ Policy Division  
202-418-7151

\*\*\* Non-Public: For Internal Use Only \*\*\*

**Mikelle Morra**

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**From:** Law Offices of Thomas K. Crowe, P.C. [firm@tkcrowe.com]  
**Sent:** Wednesday, November 08, 2006 4:10 PM  
**To:** Mikelle Morra  
**Subject:** BTI America LLC

**LAW OFFICES OF THOMAS K. CROWE, P.C.**

**LEGAL AND CONFIDENTIAL**

Ms. Morra:

As discussed, attached is the file-stamped address change letter filed on behalf of BTI America LLC.

Please let me know if you have any questions.

Joshua T. Guyan, Staff Attorney "firm@tkcrowe.com"  
Law Offices of Thomas K. Crowe, P.C.  
1250 24th Street, NW.  
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Any statements regarding federal tax law contained herein are not intended or written to be used, and cannot be used, for the purposes of avoiding penalties that may be imposed under federal tax law or to market any entity, investment plan or arrangement.

11/29/2006

**Mikelle Morra**

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**From:** Mikelle Morra  
**Sent:** Thursday, November 16, 2006 11:14 AM  
**To:** 'Law Offices of Thomas K. Crowe, P.C.'; 'maesguerra@bayantel.com.ph'; 'tlynch@telecomlaw.net'  
**Cc:** George Li; David Krech; Susan OConnell; Joann Ekblad; 'agmrsald@ic.fbi.gov'; 'Jabloner, Amy'; 'jpifer@leo.gov'; 'joseph.springsteen@usdoj.gov'; 'Louis.brenner@dhs.gov'; Mikelle Morra  
**Subject:** FCC Section 214 Granted

**BTI America LLC**  
**ITC-214-2006060200300**

**ARAB AMERICAN Telecom LLC**  
**ITC-214-20060608-00306**

The above listed applications have been granted by Public Notice released November 16, 2006; Report No. TEL-01087, DA 06-2312 (attached).

Thank you,

Mikelle Morra  
[Mikelle.Morra@fcc.gov](mailto:Mikelle.Morra@fcc.gov)  
International Bureau/ Policy Division  
202-418-7151

\*\*\* Non-Public: For Internal Use Only \*\*\*

LAW OFFICES OF THOMAS K. CROWE, P.C.

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Federal Communications Commission  
Office of the Secretary

FILED/ACCEPTED

NOV - 9 2006

November 9, 2006

**BY HAND**

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: BTI America LLC; Section 214 Application (ITC-214-20060602-00300);  
Department of Homeland Security Petition to Adopt Conditions to Authorizations  
and Licenses

Dear Secretary Dortch:

BTI America LLC ("BTI America" or "Applicant"), through its undersigned attorneys, hereby submits the enclosed Petition to Adopt Conditions to Authorizations and Licenses ("Petition"), signed by representatives of the Department of Justice, Federal Bureau of Investigation and Department of Homeland Security ("DHS"). Staff at DHS provided us with the enclosed copy of the Petition and requested that we assist with filing this Petition so that the BTI America Application for Section 214 Authority (ITC-214-20060602-00300) can be granted by the Commission.

Since BTI America was not provided the original Petition by DHS, Applicant hereby submits five (5) copies of the Petition for filing. Please acknowledge receipt of this filing by file-stamping and returning the extra copy of this submission in the self-addressed, stamped envelope provided for this purpose. Should you require further information, please contact the undersigned.

Respectfully submitted,



Thomas K. Crowe  
Joshua T. Guyan,  
Counsel for BTI America LLC

Enclosure

cc: Mikelle Mora, FCC, International Bureau

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of  
  
BTI America LLC

)  
)  
) IB File Nos.  
)  
) ITC-214-20060602-00300  
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)

Application for Authority to Provide Global or  
Limited Global Facilities-Based Services.

**PETITION TO ADOPT CONDITIONS TO  
AUTHORIZATIONS AND LICENSES**

The United States Department of Justice ("DOJ"), including the Federal Bureau of Investigation ("FBI"), together with the United States Department of Homeland Security ("DHS") (collectively, the "Agencies"), respectfully submit this Petition to Adopt Conditions to Authorizations and Licenses ("Petition"), pursuant to Section 1.41 of the Federal Communications Commission's ("FCC" or "Commission") rules.<sup>1</sup> Through this Petition, the Agencies advise the Commission that they have no objection to the Commission granting its consent in the above-referenced proceeding, provided that the Commission conditions the grant on BTI America LLC ("Applicant") abiding by the commitments and undertakings contained in their October 6, 2006 letter to Sigal P. Mandelker, Stewart A. Baker, and Elaine N. Lammert (the "Letter") attached hereto as Exhibit I.

<sup>1</sup> 47 C.F.R. § 1.41.

In the above-captioned proceeding, the Applicant seeks an application for authority to provide global or limited global facilities-based services in accordance with section 63.18(e)(1) of the FCC Rules, and also to provide service in accordance with Section 63.18(e)(2) of the FCC Rules.<sup>2</sup>

As the Commission is aware, the Agencies have taken the position that their ability to satisfy their obligations to protect the national security, enforce the laws, and preserve the safety of the public could be impaired by transactions in which foreign entities will own or operate a part of the U.S. telecommunications system, or in which foreign-located facilities will be used to provide domestic telecommunications services to U.S. customers. After discussions with the Applicant's representative in connection with the proposed application, the Agencies have concluded that the commitments set forth in the Letter will help to ensure that the Agencies and other entities with responsibility for enforcing the law, protecting the national security, and preserving public safety can proceed in a legal, secure, and confidential manner to satisfy these responsibilities. Accordingly, the Agencies hereby advise the Commission that they have no objection to the Commission granting the above-referenced Applications, provided that the Commission conditions its consent on compliance by the Applicant with the commitments set forth in the Letter.

The Agencies are authorized to state that the Applicant does not object to the grant of this Petition.

Respectfully submitted,

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<sup>2</sup> See Public Notice, *Streamlined International Applications Accepted for Filing*, Report No. TEL-01039S (rel. June 16, 2006) (including IB File No. ITC-214-20060602-00300).

*S P M L*

Sigal P. Madelker  
Deputy Assistant Attorney General  
Office of the Assistant Attorney General  
Criminal Division - Room 2113  
United States Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530  
(202) 305-8319

Elaine N. Lammert  
Deputy General Counsel  
Federal Bureau of Investigation  
923 Pennsylvania Avenue, N.W.  
Washington, DC 20532  
(202) 324-1530

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Stewart A. Baker  
Assistant Secretary of Policy  
U.S. Department of Homeland Security  
3801 Nebraska Avenue, N.W.  
Washington, DC 20528  
(202) 282-8030

November 7, 2006



Sigal P. Mandelker

Deputy Assistant Attorney General  
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Criminal Division – Room 2113  
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(202) 305-8319



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Stewart A. Baker

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November 8, 2006

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Stewart A. Baker  
Assistant Secretary of Policy  
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November , 2006



October 6, 2006

Ms. Sigal Mandelker  
Deputy Assistant Attorney General  
Criminal Division  
United States Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Mr. Stewart A. Baker  
Assistant Secretary for Policy  
United States Department of Homeland Security  
3801 Nebraska Avenue, N.W.  
Washington, D.C. 20528

Ms. Elaine N. Lammert  
Deputy General Counsel  
Federal Bureau of Investigation  
935 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Re: Pending Application by BTI America LLC for Authority to Provide  
Global Facilities-Based and Resale Services Between the United States  
and Certain International Points under Section 214 of the Communications  
Act of 1934

Dear Ms. Mandelker, Mr. Baker, and Ms. Lammert:

This letter outlines the commitments made by BTI America LLC ("the Company"), to the U.S. Department of Justice ("DOJ"), including the Federal Bureau of Investigation ("FBI"), and to the U.S. Department of Homeland Security ("DHS"), in order to address national security, law enforcement, and public safety concerns raised with regard to the Company's application to the Federal Communications Commission ("FCC") for authority to provide international facilities-based and resold services to all international points under pursuant to Section 214 of the Communications Act of 1934, as amended.

The Company agrees that, for all customer billing records, subscriber information, and any other related information used, processed, or maintained in the ordinary course of business relating to communications services offered to U.S. persons ("U.S. Records"), the Company will make such U.S. Records available in the United States in response to lawful U.S. process. For these purposes, U.S. Records shall include information subject to disclosure to a U.S. Federal or state governmental entity under the procedures

BTI America LLC  
A Bayartel Company  
424 South Grand Avenue, One Wilshire Building, Suite 801, Los Angeles, CA 90017  
Telephone: +1 213 455-0213 Fax: +1 213 455-0208  
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specified in Sections 2703(c) and (d) and Section 2709 of Title 18 of the United States Code. The Company agrees to ensure that U.S. Records are not made subject to mandatory destruction under any foreign laws. The Company agrees to take all practicable measures to prevent unauthorized access to, or disclosure of the content of, communications or U.S. Records, in violation of any U.S. Federal, state, or local laws or of the commitments set forth in this letter.

The Company agrees that it will not, directly or indirectly, disclose or permit disclosure of or access to U.S. Records, or to any information (including the content of communications) pertaining to a wiretap order, pen/trap order, subpoena or other lawful demand by a U.S. law enforcement agency for U.S. Records, to any person if the purpose of such disclosure or access is to respond to the legal process or request on behalf of a non-U.S. government without first satisfying all pertinent requirements of U.S. law and obtaining the express written consent of the DOJ and DHS or the authorization of a court of competent jurisdiction in the United States. The term "non-U.S. government" means any government, including an identified representative, agent, component or subdivision thereof, that is not a local, state or Federal government in the United States. Any such requests or legal process submitted by a non-U.S. government to the Company shall be referred to the DOJ and DHS as soon as possible, and in no event later than five (5) business days after such request or legal process is received by or known to the Company, unless the disclosure of the request or legal process would be in violation of U.S. law or an order of a court in the United States.

The Company has designated Thomas K. Crowe, a U.S. citizen, as its point of contact within the United States with the authority and responsibility for accepting and overseeing compliance with a wiretap order, pen/trap order, subpoena or other lawful demand by U.S. law enforcement authorities for the content of communications or U.S. Records. The Company shall promptly notify the FBI, DOJ and DHS of any change in its designated point of contact. Any new point of contact shall be a resident U.S. citizen, and the Company shall cooperate with any request by a U.S. government authority that a background check or security clearance process be completed for a designated point of contact.

The Company agrees that it will notify the FBI, DOJ, and DHS promptly if there are material changes in any of the facts as represented in this letter. All notices to be provided to the FBI, DOJ, or DHS shall be directed to the named addressees of this letter.

The Company agrees that, in the event the commitments set forth in this letter are breached, in addition to any other remedy available at law or equity, the DOJ, FBI, or DHS may request that the FCC modify, condition, revoke, cancel, or render null and void any relevant license, permit, or other authorization granted by the FCC to the Company or any successor-in-interest to the Company.

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Nothing in this letter is intended to excuse the Company from any obligation they may have to comply with U.S. legal requirements for the retention, preservation, or production of information, records or data, or from any applicable requirements of the Communications Assistance for Law Enforcement Act, 47 U.S.C. § 1001, et seq., nor shall this letter constitute a waiver of: (a) any obligation imposed by any U.S. Federal, state or local laws on the Signatories, (b) any enforcement authority available under any U.S. or state laws, (c) the sovereign immunity of the United States, or (d) any authority the U.S. government may possess (including, without limitation, authority pursuant to the International Emergency Economic Powers Act, 50 U.S.C. § 1701, et seq.) over the activities of the Signatories. Nothing in this letter is intended to, nor shall it to be interpreted to, require the parties to violate any applicable U.S. law. Likewise, nothing in this letter limits the right of the United States Government to pursue criminal sanctions or charges against the Signatories, and nothing in this letter provides the Signatories with any relief from civil liability.

We understand that, upon execution of this letter by an authorized representative or attorney for the Company, the DOJ, FBI, and DHS shall notify the FCC that the DOJ, FBI, and DHS have no objection to the FCC's grant of the Company's application filed with the FCC.

Sincerely,

BTT America LLC

By:   
Mariel A. Esguerra  
General Manager

DATED: October 6, 2006

Cc:

Jon Pifer, FBI  
Erica Bomsey, DHS  
Joe Springssteen, DOJ