



PUBLIC NOTICE

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November 15, 2018

FINAL NOTICE OF INTENT TO DECLARE THE INTERNATIONAL SECTION 214 AUTHORIZATION OF AIR CHANNEL COMMUNICATIONS, INC. TERMINATED

File No. ITC-214-20070611-00223

By this Public Notice, the International Bureau (Bureau) affords Air Channel Communications, Inc. (Air Channel) final notice and opportunity to respond to the July 17, 2018 letter submitted by the Department of Justice (DOJ), including the Federal Bureau of Investigation (FBI), with the concurrence of the Department of Homeland Security (DHS) (collectively the “Executive Branch Agencies”).¹ The Executive Branch Agencies request that the FCC terminate, declare null and void and no longer in effect the international section 214 authorization issued to Air Channel under file number **ITC-214-20070611-00223** and the corresponding Letter of Assurance.² The Executive Branch Agencies make this request because they believe Air Channel is no longer in business and therefore unable to comply with the commitments and undertakings contained in the LOA, a condition of Air Channel’s international Section 214 authorization.³

On August 20, 2018, the Bureau’s Telecommunications and Analysis Division sent letters to Air Channel at the last known addresses on record via certified, return receipt mail, asking Air Channel to respond to the Executive Branch Agencies’ allegations and possible violations of the Commission’s rules by September 19, 2018.⁴ The *Air Channel Letter* states that failure to respond will be deemed as an admission of the facts alleged by the Executive Branch Agencies and the Commission and will result in the issuance of an order to terminate Air Channel’s international Section 214 authorization.⁵ Air Channel did not respond to the letter.⁶

¹ Letter from Richard Sofield, Principal Deputy Chief, Foreign Investment Review Staff, National Security Division, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC (July 17, 2018) (*DOJ Letter*).

² *Id.* at 1; FCC, *International Bureau, International Authorizations Granted*, Report No. TEL-01197, Public Notice, 22 FCC Rcd 18581 (IB 2007); Letter from Richard Taiwo, President, Air Channel Communications, Inc., to Sigal P. Mandelker, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice, Steward A. Baker, Assistant Secretary of Policy, U.S. Department of Homeland Security, and Elaine N. Lammert, Deputy General Counsel, Federal Bureau of Investigation (July 31, 2007) (LOA).

³ *DOJ Letter* at 1-2.

⁴ Letter from Denise Coca, Division Chief, Telecommunications and Analysis Division, International Bureau, FCC to Mr. Richard Taiwo, Air Channel Communications, Inc. at 1 (Aug. 20, 2018) (*Air Channel Letter*). A copy of this letter, the *DOJ Letter*, and the LOA may be viewed on the FCC’s website through IBFS at <https://licensing.fcc.gov/myibfs> by searching for File No. ITC-214-20070611-00223 and accessing the “other filings related to this application” from the Document Viewing area.

⁵ *Id.* at 2.

⁶ The *Air Channel Letter* was sent via certified mail, return receipt requested to the contacts listed on the international Section 214 application at their addresses on record: (1) Richard Taiwo – 10 S. Riverside Plaza, Suite # 1800, Chicago, Illinois 60606 (mail returned as undeliverable); 515 Main Street, Unit #903, Evanston, Illinois 60202 (continued....)

Additionally, Air Channel may be in violation of several other Commission statutory and rule provisions. The *Air Channel Letter* states that Air Channel failed to inform the Commission of any changes in its business status of providing international telecommunications service, as required by Section 63.21(a) of the Commission's rules.⁷ The *Air Channel Letter* states there is no indication that Air Channel is currently providing service pursuant to its international Section 214 authorization and if Air Channel has discontinued service that affected customers, it may also be in violation of Section 63.19(a) of the Commission's rules requiring prior notification for such a discontinuance.⁸ Further, as part of its authorization, Air Channel was required to file an annual international telecommunications traffic and revenue report, as required by Section 43.62 of the Commission's rules which was in effect until April 2018.⁹ Specifically, Section 43.62(b) stated that "[n]ot later than July 31 of each year, each person or entity that holds an authorization pursuant to section 214 to provide international telecommunications service shall report whether it provided international telecommunications services during the preceding calendar year."¹⁰ Air Channel, however, did not submit traffic and revenue reports indicating whether or not it provided services for the 2014 and 2015 reporting periods and may have violated Section 43.62 of the Commission's rules.¹¹

Air Channel's failure to respond to this Public Notice will be deemed as an admission of the facts alleged by the Executive Branch Agencies and of the violations of the statutory and rule provisions set out above. The Bureau hereby provides final notice to Air Channel that it intends to take action and issue an Order declaring Air Channel's international Section 214 authorization terminated for failure to comply with conditions of its authorization. We further advise Air Channel that its non-compliance with the applicable regulatory provisions would warrant termination wholly apart from demonstrating Air Channel's inability to satisfy the conditions of its authorization. **Air Channel must respond no later than 15 days of the date of this Public Notice and address the issues alleged in the *DOJ Letter*.**

The Bureau is serving a copy of the Public Notice on Air Channel by certified mail, return receipt requested, at the last addresses of record appearing in Commission records. Air Channel should send its response to Denise Coca, Chief, Telecommunications and Analysis Division, International Bureau via email at Denise.Coca@fcc.gov and to Veronica Garcia-Ulloa, Attorney Advisor, Telecommunications and Analysis Division, International Bureau at Veronica.Garcia-Ulloa@fcc.gov and file it in IBFS under File No. **ITC-214-20070611-00223** via IBFS at <http://licensing.fcc.gov/myibfs/pleading.do>.

The proceeding in this Notice shall be treated as a "permit-but-disclose" proceeding in

and 1601 Sherman Ave, Suite 240, Evanston IL 60201 (mail returned as undeliverable); (2) Terri Firestein – 712 Stanmore Drive, Beltsville, Maryland 20705 (mail returned as undeliverable) and 10806 Garrison Hollow Road, Clear Spring, Maryland 21722 (Terri Firestein signed receipt of mail). We note that the *DOJ Letter* includes a July 31, 2012 email attachment from Terri Firestein stating that she no longer works for Air Channel or Richard Taiwo. *DOJ Letter* attachment at 1-5. We also emailed the letters to Terri Firestein at tfireccg@aol.com, which was the contact email on the international Section 214 application. We received an automatic electronic reply stating that delivery to recipient was complete, but no delivery notification was sent by the destination server.

⁷ *Air Channel Letter* at 1 (stating that after having received an international Section 214 authorization, pursuant to Section 63.21(a), a carrier "is responsible for the continuing accuracy of the certifications made in its application" and must correct information no longer accurate, "and in any event, within thirty (30) days"); 47 CFR § 63.21(a).

⁸ *Id.* at 1, n.5; 47 CFR § 63.19(a).

⁹ *Id.* at 2, n.6 (citing 47 CFR § 43.62(b) and providing subsequent history).

¹⁰ 47 CFR § 43.62(b) (2015).

¹¹ *Id.* at 2, n.8.

accordance with the Commission's *ex parte* rules.¹² Persons making *ex parte* presentations must file in IBFS, under File No. **ITC-214-20070611-00223**, a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b).¹³ In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information, please contact Veronica Garcia-Ulloa, Attorney Advisor, Telecommunications and Analysis Division, International Bureau, (202) 418-0481.

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¹² 47 CFR § 1.1200 *et seq.*

¹³ 47 CFR § 1.1206(b).