

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

In the Matter of )  
 )  
ACT Telecommunications, Inc. )  
 ) File No. ITC-214-20081201-00519  
Application for authorization under Section )  
214 of the Communications Act of 1934, as )  
amended )  
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**PETITION TO ADOPT CONDITIONS TO  
AUTHORIZATIONS AND LICENSES**

The Department of Homeland Security (“DHS”) and Department of Justice (“DOJ”) (collectively, “the Agencies”) submit this Petition to Adopt Conditions to Authorizations and Licenses (“Petition”), pursuant to Section 1.41 of the Federal Communications Commission (“Commission”) rules.<sup>1</sup> Through this Petition, the Agencies advise the Commission that they have no objection to the Commission approving the authority sought in the above-referenced proceeding, provided that the Commission conditions its approval on the assurance of ACT Telecommunications, Inc. to abide by the commitments and undertakings set forth in the October 20, 2009 Letter of Assurances (“LOA”), which is attached hereto.

In the above-referenced proceeding, the Applicant petitioned the Commission for authority under Section 214 of the Communications Act of 1934, as amended, to provide international resold and facilities-based services to all international points.

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<sup>1</sup> 47 C.F.R. § 1.41.

The Commission has long recognized that law enforcement, national security, and public safety concerns are part of its public interest analysis, and has accorded deference to the views of other U.S. government agencies with expertise in those areas. *See In the Matter of Comsat Corporation d/b/a Comsat Mobile Communications, etc.*, 16 FCC Rcd. 21,661, 21707 ¶ 94 (2001).

After discussions with representatives of the Applicant in connection with the above-referenced proceeding, the Agencies have concluded that the additional commitments set forth in the LOA will help ensure that the Agencies and other entities with responsibility for enforcing the law, protecting the national security, and preserving public safety, can proceed appropriately to satisfy those responsibilities. Accordingly, the Agencies advise the Commission that they have no objection to the Commission granting the application in the above-referenced proceeding, provided that the Commission conditions its consent on compliance by ACT Telecommunications, Inc. with the LOA.

Respectfully submitted,

/S/ Greg Pinto  
Greg Pinto  
Director - RCO  
U.S. Department of Homeland Security  
3801 Nebraska Avenue, N.W.  
Washington, DC 20528

/S/ Richard C. Sofield  
Richard C. Sofield  
U.S. Department of Justice  
Director - Foreign Investment Review Staff  
National Security Division  
950 Penn. Avenue, N.W.  
Washington, D.C. 20530

October 27, 2009



TeleDome Building, Suite 201, Old Parham Road, P.O. Box 3090, St. John's, Antigua & Barbuda  
Tel: (268) 480-2367 Fax: (268) 480-5232

October 20th, 2009

Assistant Attorney General  
National Security Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Assistant Secretary for Policy  
U.S. Department of Homeland Security  
3801 Nebraska Avenue, N.W.  
Washington, D.C. 20528

Re: Pending application by ACT Telecommunications, Inc. for authorization under  
Section 214 of the Communications Act of 1934, as amended,  
ITC-214-20081201-00519

Dear Sirs:

This letter outlines the commitments made by ACT Telecommunications, Inc. ("ACT" or "the Company") to the U.S. Department of Justice ("DOJ") 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 ACT's application to the Federal Communications Commission ("FCC") for authority to provide international resold and facilities-based services to all international points under Section 214 of the Communications Act of 1934, as amended. ACT intends to provide Voice over IP (VoIP) and calling card services to residential customers.

ACT agrees that it will establish and maintain one or more points of contact within the United States with the authority and responsibility for accepting and overseeing compliance with judicial orders authorizing U.S. law enforcement to conduct electronic surveillance under 18 U.S.C. § 2510 et seq., and Pen Register and Trap and Trace devices under 18 U.S.C. § 3121 et seq., as well as subpoenas or other lawful demands by U.S. law enforcement authorities for the content of communications or U.S. Records (as defined below). The Company will notify DOJ and DHS in writing of the name, citizenship, and contact information for its point(s) of contact within ten days of this letter and will keep such information current by notifying DOJ and DHS in writing of any change to such information within ten days of such change. The point(s) of contact shall

be a resident U.S. citizen, and ACT 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.

ACT further agrees that the designated point(s) of contact will have access to, and will make available promptly, and in any event no later than five business days, in the United States in response to lawful U.S. process, all ACT 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 in the United States ("U.S. Records"). For these purposes, U.S. Records shall include information subject to disclosure to a U.S. Federal or state governmental entity under the procedures specified in Sections 2703(c) and (d) and Section 2709 of Title 18 of the United States Code. ACT also agrees to ensure that U.S. Records are not made subject to mandatory destruction under any foreign laws.

ACT agrees to submit a certification to DOJ and DHS each year on the anniversary of the date of this letter reaffirming the commitments in this letter, describing any violations of such commitments, and describing its technical capabilities for complying with the Communications Assistance for Law Enforcement Act ("CALEA"), 47 U.S.C. § 1001 et seq. ACT further agrees that it will promptly notify DOJ and DHS, at the addresses listed above, before it seeks to commence the sale (or resale) of any type of communications services not described in this letter, or if there are any other material changes in any of the facts as represented in this letter.

ACT 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, DOJ 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.

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Nothing in this letter is intended to excuse the Company or its subsidiaries from any obligation it 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 CALEA, 47 U.S.C. § 1001 et seq., nor shall it constitute a waiver of (a) any obligation imposed by any U.S. Federal, state or local laws on the Company or its subsidiaries, (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 International Emergency Economic Powers Act) over the activities of the Company or its subsidiaries located within or outside the United States. ACT acknowledges that it must also comply with any other applicable FCC regulatory requirements, including but not limited to, any requirements related to the storage and protection of Customer Proprietary Network Information (CPNI). Nothing in this letter is intended to or is 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

Company or its subsidiaries, and nothing in this letter provides the Company or its subsidiaries with any relief from civil liability.

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

Sincerely,  
ACT TELECOMMUNICATIONS, INC.

By:



Name: Salomon Doumith

Title: Director