

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

In the Matter of)
)
S.A.L. Spectrum, LLC)
)
Application for Authority Under Section 214)
of the Communications Act of 1934, as) File No. ITC-214-2009 _____
Amended to Operate as a Facilities-Based)
Carrier and as a Resale Carrier for the)
Provision of International Switched and)
Private Line Services to All International)
Points)

APPLICATION

S.A.L. Spectrum, LLC (“SAL” or “Applicant”) (FRN: 0017163254), by its attorneys and pursuant to section 214 of the Communications Act of 1934, as amended, (“the Act”), 47 U.S.C. § 214, and section 63.18(e) of the Commission’s rules, 47 C.F.R. § 63.18(e), hereby requests authority to operate as a global resale and facilities-based carrier. SAL is affiliated with Atlantic Tele-Network, Inc. (“ATN”) (FRN: 0002372217), which controls or owns more than a 25 percent ownership interest in telecommunications carriers in Bermuda and Guyana. SAL also is affiliated with Bermuda Digital Communications Ltd. (“BDC”), which controls or owns more than a 25 percent ownership interest in a telecommunications carrier in the Turks & Caicos. Accordingly, SAL will be affiliated with these carriers.

The Applicant requests non-dominant treatment on the Bermuda and the Turks & Caicos routes. On the Bermuda route, the foreign carrier with which SAL will be affiliated, Bermuda Digital Communications, Ltd. (“BDC”) is a cellular carrier not licensed to provide international services. BDC lacks a 50% market share in the international transport and local access markets, and BDC is not on the Commission’s list of foreign carriers that are presumed to possess market

power. As such, SAL qualifies for a presumption of non-dominant treatment on the U.S.–Bermuda route pursuant to section 63.10(a)(3) of the Commission’s Rules. The Applicant notes that the Commission has previously afforded non-dominant treatment to other ATN affiliates on similar routes.¹

On the Turks & Caicos route, the foreign carrier with which SAL will be affiliated, Islandcom Telecommunications Ltd. (“Islandcom”) is a cellular services carrier. Islandcom lacks a 50% market share in the international transport and local access markets, and Islandcom is not on the Commission’s list of foreign carriers that are presumed to possess market power. As such, SAL qualifies for a presumption on non-dominant treatment on the U.S.–Turks & Caicos route pursuant to section 63.10(a)(3) of the Commission’s Rules.

On the U.S.-Guyana route, SAL will be affiliated with Guyana Telephone & Telegraph Company Limited (“GT&T”), the incumbent carrier in Guyana. ATN owns 80 percent of GT&T and the government of Guyana owns the remaining 20 percent. Guyana is a member of the World Trade Organization (“WTO”). SAL will accept dominant carrier classification of its U.S.-Guyana service under section 63.10, with the understanding that SAL will not be subject to the Commission’s dominant carrier safeguards when it is only reselling the switched services of unaffiliated facilities-based U.S.-authorized carriers.²

Except as discussed above, SAL is not affiliated with any other foreign carriers in any of the countries for which authority is requested, nor is SAL affiliated with any dominant U.S. carrier whose services Applicant may resell. Thus, SAL qualifies as a non-dominant carrier in

¹ See *Application of Commnet Wireless, LLC*, File No. ICT-214-20081113-00496, granted Dec. 18, 2008 (DA 08-2725); *Application of Choice Communications LLC*, File No. ITC-214-20021219-00604, granted Feb. 7, 2003 (DA 03-422).

² See, e.g., *Application of GTE Corp. and Bell Atlantic Corp. for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, 15 FCC Rcd.14032, 14220 (¶ 414) (2000).

its provision of international service on all routes except U.S.-Guyana under section 63.10(a)(1) of the Commission's Rules. As SAL will accept dominant carrier classification of its U.S.-Guyana service, this Application is eligible for streamlined processing treatment pursuant to section 63.12.

Pursuant to section 63.18 of the Commission's Rules, SAL sets forth the following information in support of this Application:

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

S.A.L. Spectrum, LLC
10 Derby Square
Salem, Massachusetts 01970
Telephone: (978) 619-1300
dminster@atni.com

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

- (c) Correspondence concerning this Application should be sent to:

Douglas J. Minster
Vice President and General Counsel
Atlantic Tele-Network, Inc.
10 Derby Square
Salem, Massachusetts 01970
Email: dminster@atni.com

With a copy to:

Robert J. Aamoth
Randall W. Sifers
Kelley Drye and Warren, LLP
3050 K Street NW, Suite 400
Washington, DC 20007
Telephone: (202) 342-8620
Email: raamoth@kelleydrye.com

- (d) SAL has not previously received section 214 authority from the Commission.

- (e) SAL requests authority in this Application to operate as a facilities-based and resale carrier, pursuant to the terms and conditions of section 63.18(e)(1) and section 63.18(e)(2) of the Commission's Rules, on all

routes possible under a grant of global authority. As evidenced by the signature of the Applicant's authorized representative to this Application, Applicant certifies that it will comply with the terms and conditions contained in sections 63.21, 63.22, and 63.23 of the Commission's Rules, as appropriate.

- (f) No response required.
- (g) Not applicable.
- (h) SAL is a wholly-owned subsidiary of Atlantic Tele-Network, Inc., ("ATN") a Delaware corporation.

ATN is headquartered at:

Atlantic Tele-Network, Inc. ("ATN")

10 Derby Square

Salem, MA 01970

Telephone: (978) 619-1300

Principal business: Holding company owning various domestic U.S. and foreign telecommunications entities.

ATN is owned 37 percent by its founder and Chairman, Cornelius B. Prior, Jr., a U.S. citizen. Under section 63.09 of the Commission's rules, Mr. Prior therefore is deemed to own 37 percent of SAL. Mr. Prior resides in St. Thomas, U.S.V.I. His mailing address is:

9719 Estate Thomas

St. Thomas, U.S.V.I. 00802

Telephone: (340) 777-8000

There are no other ten-percent or greater direct or indirect owners of SAL.

Interlocking Directorates:

Cornelius Prior, Chairman of the Board of Atlantic Tele-Network, Inc. ("ATN"), and 37 percent owner of SAL under the Commission's attribution rules, is also Chairman of the Board of Guyana Telephone & Telegraph Company Limited ("GT&T"), the incumbent carrier in Guyana.

Michael Prior, CEO and Director of Atlantic Tele-Network, Inc. ("ATN"), and a board member of Guyana Telephone & Telegraph Company Limited ("GT&T"), the incumbent carrier in Guyana, and of Bermuda Digital Communications, Ltd. ("BDC"), a wireless service operator in Bermuda operating under the trade name Cellular One.

William Kreisher, Vice President of Corporate Development of Atlantic Tele-Network, Inc. ("ATN"), is also a board member of Bermuda Digital

Communications, Ltd. (“BDC”), a wireless service operator in Bermuda operating under the trade name Cellular One.

Justin Benincasa, Treasurer of SAL; Chief Financial Officer of Atlantic Tele- Network, Inc. (“ATN”), a board member of Guyana Telephone & Telegraph Company Limited (“GT&T”), the incumbent carrier in Guyana, and of Bermuda Digital Communications, Ltd. (“BDC”), a wireless service operator in Bermuda operating under the trade name Cellular One.

Douglas Minster, Secretary of SAL; Vice President and General Counsel of Atlantic Tele-Network, Inc. (“ATN”), and a board member of Guyana Telephone & Telegraph Company Limited (“GT&T”), the incumbent carrier in Guyana, and of Bermuda Digital Communications, Ltd. (“BDC”), a wireless service operator in Bermuda operating under the trade name Cellular One.

- (i) As evidenced by the signature of the Applicant’s authorized representative to this Application, SAL certifies that it is not a foreign carrier.

SAL is affiliated with Atlantic Tele-Network, Inc. (“ATN”), which controls Guyana Telephone & Telegraph Company, Ltd. (“GT&T”) in the Republic of Guyana, and Bermuda Digital Communications, Ltd. (“BDC”) in Bermuda. BDC controls Islandcom Telecommunications Ltd (“Islandcom”) in the Turks & Caicos.

Atlantic Tele-Network, Inc. (“ATN”)

As discussed above, ATN is a holding company that owns 80 percent of Guyana Telephone & Telegraph Company, Ltd. (“GT&T”), the dominant domestic and international telephone carrier in the Republic of Guyana. ATN also owns 58 percent of Bermuda Digital Communications, Ltd. (“BDC”), which is a non-dominant wireless carrier in Bermuda.

Guyana Telephone & Telegraph Co. (“GT&T”)

GT&T is the incumbent carrier in Guyana. ATN owns 80 percent of GT&T with the government of Guyana owning the remaining 20 percent.

Bermuda Digital Communications, Ltd. (“BDC”)

BDC offers wireless services in Bermuda under the Cellular One brand name. Its services consist of wireless telecommunications access between any two points on the island, and international telecommunications access through links with long distance carriers. ATN owns 57.8 percent of BDC.

Islandcom Telecommunications Ltd (“Islandcom”)

Islandcom is a non-dominant wireless in the Turks & Caicos. Its services consist of wireless telecommunications access between any two points on the island, and international telecommunications access through links with long distance carriers. BDC owns 42.4 percent of Islandcom under the Commission’s attribution rules.

SAL is not affiliated with any other foreign telecommunications carriers.

- (j) As evidenced by the signature of the Applicant's authorized representative to this Application, SAL certifies that it will be authorized to provide international telecommunications in Guyana, where SAL is affiliated with GT&T, in Bermuda, where SAL is affiliated with BDC, and in the Turks & Caicos, where SAL is affiliated with Islandcom.
- (k) Guyana has been a member of the WTO since January 1995. Bermuda, a dependent overseas territory of the United Kingdom, is not technically a WTO member country. However, the Commission has routinely treated it as such for Section 214 applications.³ Islandcom Telecommunications Ltd., the foreign carrier with which SAL will be affiliated in the Turks & Caicos, lacks market power there.
- (l) SAL shall file quarterly traffic reports on the U.S.-Guyana route as required by sections 63.18(l) and 63.61(c).
- (m) SAL qualifies for a presumption of non-dominant treatment under section 63.10(a)(3) of the Commission's Rules in its provision of service to Bermuda because the foreign carrier with which SAL will be affiliated in Bermuda lacks 50 percent market share in the international transport and local access markets on the foreign end of the route. SAL notes that the Commission has afforded non-dominant treatment to other ATN subsidiaries on similar routes.⁴

SAL qualifies for a presumption of non-dominant treatment under section 63.10(a)(3) of the Commission's Rules in its provision of service to the Turks & Caicos because the foreign carrier with which SAL will be affiliated in the Turks & Caicos lacks 50 percent market share in the international transport and local access markets on the foreign end of the route. SAL notes that the FCC has recognized that Cable & Wireless (Turks & Caicos) Limited is the dominant carrier in the Turks & Caicos.

SAL accepts dominant carrier treatment on the U.S.-Guyana route, with the understanding that SAL will not be subject to the Commission's dominant carrier

³ See *Cable & Wireless USA Inc. Application for Authority to Operate as a Facilities-Based Carrier in Accordance with the Provisions of Section 63.18(e)(4) of the Rules Between the United States and Bermuda*, Order, Authorization, and Certificate, 15 FCC Rcd. 3050, ¶ 7 (released Feb. 18, 2000); see also *ARCOS-1 USA, Inc. Application for Authority for a Transfer of Control of a Cable Landing License*, Memorandum Opinion and Order, DA 00-2107, ¶ 9 (released Sep. 18, 2000).

⁴ See Application of Choice Communications LLC, File No. ITC-214-20021219-00604, granted Feb. 7, 2003 (DA 03-422).

safeguards when it is only reselling the switched services of unaffiliated facilities-based U.S.-authorized carriers.⁵

- (n) As evidenced by the signature of the Applicant's authorized representative to this Application, SAL certifies that it has no agreements to accept special concessions directly or indirectly from any foreign carrier with respect to 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. SAL further agrees not to enter into any such agreements in the future.
- (o) As evidenced by the signature of the Applicant's authorized representative to this Application, no party to this Application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988.
- (p) Streamlined processing is appropriate for this Application under section 63.12 of the Commission's Rules because, for every country for which authority is requested in this Application, either (1) SAL will have no foreign affiliates; (2) SAL will have a foreign affiliate, but qualifies for a presumption of non-dominant treatment under section 63.10(a)(3); or (3) SAL will have a foreign affiliate, but the destination country is a member of the WTO, and SAL will accept dominant carrier treatment on the route except when SAL is reselling the switched services of unaffiliated U.S. facilities-based carriers. Also, post-close, SAL will not be affiliated with any dominant U.S. carrier; and no authority is requested to provide switched basic services over private lines to a country for which the Commission has not previously authorized the provision of switched services over private lines.

For these reasons, SAL requests that the Commission grant this Application.

Respectfully submitted,

S.A.L. SPECTRUM, LLC

By: 

Douglas J. Minster
Its Secretary

Date: November 23, 2009

⁵ See, e.g., *Application of GTE Corp. and Bell Atlantic Corp. for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, 15 FCC Rcd.14032, 14220 (¶ 414) (2000).