

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

In the Matter of)
)
EssexTel, Inc.)
)
Application for Authority Under Section 214)
of the Communications Act of 1934, as) File No. ITC-214-2011 _____
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

EssexTel, Inc. (“EssexTel” or “Applicant”) (FRN: 0020-6443-57), 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. EssexTel is a wholly-owned subsidiary of Atlantic Tele-Network, Inc. (“ATN”) (FRN: 0002372217), which controls or owns more than a 25 percent ownership interest in telecommunications carriers in Bermuda, Guyana, Aruba, and the Turks & Caicos. Accordingly, EssexTel will be affiliated with these carriers.

On the Bermuda route, ATN holds more than a 25 percent ownership interest in Bermuda Digital Communications, Ltd. (“BDC”). BDC is a cellular carrier that is not licensed to provide international services. BDC lacks a 50 percent 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, EssexTel 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 subsidiaries on this route.¹

On the Turks & Caicos route, ATN holds more than a 25 percent ownership interest in Islandcom Telecommunications Ltd. ("Islandcom"), a cellular services carrier. Islandcom lacks a 50 percent 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, EssexTel 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. The Applicant notes that the Commission has previously afforded non-dominant treatment to other ATN subsidiaries on this route.²

On the Aruba route, ATN holds more than a 25 percent ownership interest in DTH Television & Telecommunications N.V. d/b/a MIO Aruba ("MIO Aruba"), a cellular services carrier. MIO Aruba lacks a 50 percent market share in the international transport and local access markets, and MIO Aruba is not on the Commission's list of foreign carriers that are presumed to possess market power. As such, EssexTel qualifies for a presumption on non-dominant treatment on the U.S.–Aruba route pursuant to section 63.10(a)(3) of the Commission's Rules.

On the Guyana route, EssexTel 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

¹ See Application of S.A.L. Spectrum, LLC, File No. ITC-214-20091123-00501, granted Dec. 18, 2009 (DA 09-2631); Application of Commnet Wireless, LLC, File No. ITC-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 Application of S.A.L. Spectrum, LLC, File No. ITC-214-20091123-00501, granted Dec. 18, 2009 (DA 09-2631).

World Trade Organization (“WTO”). EssexTel will accept dominant carrier classification of its U.S.-Guyana service under section 63.10, with the understanding that EssexTel 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.³

Except as discussed above, EssexTel is not affiliated with any other foreign carriers in any of the countries for which authority is requested, nor is EssexTel affiliated with any dominant U.S. carrier whose services Applicant may resell. Thus, EssexTel qualifies as a non-dominant carrier in its provision of international service on all routes except U.S.-Guyana under section 63.10(a)(1) of the Commission’s Rules. As EssexTel 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, EssexTel sets forth the following information in support of this Application:

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

EssexTel, Inc.
600 Cummings Center
Beverly, Massachusetts 01915
Telephone: (978) 619-1300

- (b) EssexTel is a corporation organized under the laws of the State of Delaware.

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

Mary Mabey
Corporate Counsel
Atlantic Tele-Network, Inc.
600 Cummings Center
Beverly, Massachusetts 01915

³ 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 Red.14032, 14220 (¶ 414) (2000).

Telephone: (978) 619-1323
mmabey@atni.com

With a copy to:

Robert J. Aamoth
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3050 K Street NW, Suite 400
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- (d) EssexTel has not previously received section 214 authority from the Commission.
- (e) EssexTel 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. In addition, EssexTel requests authority to provide facilities-based and resale services on the U.S. -- Guyana route using any common carrier or non-common carrier facility that does not appear on an exclusion list issued by the Commission. 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) EssexTel will use previously authorized facilities to provide its facilities-based services and thus this Application is categorically excluded from environmental assessment pursuant to Section 1.1306 of the Commission's Rules.
- (h) EssexTel is a wholly-owned subsidiary of Atlantic Tele-Network, Inc., ("ATN") a Delaware corporation. ATN is a holding company for various domestic U.S. and foreign telecommunications entities, and is headquartered at:

Atlantic Tele-Network, Inc. ("ATN")
600 Cummings Center
Beverly, Massachusetts 01915
Telephone: (978) 619-1300

Cornelius B. Prior, Jr., a U.S. citizen, and Gertrude J. Prior, a U.S. citizen, control approximately 40 percent of the common stock of ATN individually or through a variety of investment vehicles. Mr. Prior is the founder and Chairman of ATN, while Mrs. Prior is Mr. Prior's spouse. Under section 63.09 of the Commission's rules, the Priors are collectively deemed to own approximately 40 percent of EssexTel. The Priors reside in St. Thomas, U.S.V.I. Their 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 EssexTel.

The following individuals are officers or directors of EssexTel as well as officers or directors of a foreign carrier:

- Darren Derrick -- Guyana Telephone & Telegraph Company, Ltd. (“GT&T”).
 - Leonard Q. Slap – GT&T.
 - Justin D. Benincasa – GT&T, Bermuda Digital Communications, Ltd. (“BDC”).
- (i) As evidenced by the signature of the Applicant’s authorized representative to this Application, EssexTel certifies that it is not a foreign carrier. EssexTel is affiliated with the following foreign carriers: GT&T in the Republic of Guyana; BDC in Bermuda; DTH Television & Telecommunications N.V. d/b/a MIO Aruba (“MIO Aruba”) in Aruba; and Islandcom Telecommunications Ltd (“Islandcom”) in the Turks & Caicos.
- (j) As evidenced by the signature of the Applicant’s authorized representative to this Application, EssexTel certifies that (1) EssexTel is not a foreign carrier in any market; (2) EssexTel does not controls a foreign carrier in any market; (3) ATN, an entity that owns more than 25 percent of EssexTel, also controls foreign carriers in Bermuda, Guyana, Aruba, and the Turks & Caicos; and (4) two or more foreign carriers (or parties that control foreign carriers) do not own, in the aggregate, more than 25 percent of EssexTel and are parties to, or the beneficiaries of, a contractual relation affecting the provision or marketing or international basic telecommunications services in the United States.
- (k) Guyana is a member of the WTO. 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.⁴ Aruba is an associate member of the WTO through the Netherlands; MIO Aruba lacks market power in Aruba. Islandcom lacks market power in the Turks & Caicos.

⁴ 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 Red. 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).

- (l) EssexTel shall file quarterly traffic reports on the U.S.-Guyana route as required by sections 63.18(l) and 43.61(c) of the Commission's Rules.
- (m) EssexTel 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 EssexTel 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. EssexTel notes that the Commission has afforded non-dominant treatment to other ATN subsidiaries on this route.⁵

EssexTel 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 EssexTel 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. The Applicant notes that the Commission has previously afforded non-dominant treatment to other ATN subsidiaries on this route.⁶

EssexTel 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 Aruba because the foreign carrier with which EssexTel will be affiliated in Aruba lacks 50 percent market share in the international transport and local access markets on the foreign end of the route.

EssexTel accepts dominant carrier treatment on the U.S.-Guyana route, with the understanding that EssexTel 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.⁷

- (n) As evidenced by the signature of the Applicant's authorized representative to this Application, EssexTel 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 sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market and will not enter into such agreements in the future..

⁵ See Application of S.A.L. Spectrum, LLC, File No. ITC-214-20091123-00501, granted Dec. 18, 2009 (DA 09-2631); Application of Commnet Wireless, LLC, File No. ITC-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).

⁶ See Application of S.A.L. Spectrum, LLC, File No. ITC-214-20091123-00501, granted Dec. 18, 2009 (DA 09-2631).

⁷ 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 Red.14032, 14220 (¶ 414) (2000).

- (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) EssexTel has no foreign carrier affiliates; (2) EssexTel has a foreign carrier affiliate, but qualifies for a presumption of non-dominant treatment under section 63.10(a)(3); or (3) EssexTel has a foreign carrier affiliate, but the destination country is a member of the WTO, and EssexTel will accept dominant carrier treatment on the route except when EssexTel is reselling the switched services of unaffiliated U.S. facilities-based carriers. Also, post-close, EssexTel 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, EssexTel requests that the Commission grant this Application.

Respectfully submitted,

ESSEXTEL, INC.

By: _____

Leonard Q. Slap
Its Secretary

Date: 3/3/2011