

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

_____)
In the Matter of)
)
Pivotel America Inc.)
(FRN 0028587335))
)
Application for Global Authority) File No. ITC-214-_____-_____
Pursuant to Section 214 of the)
Communications Act of 1934, as amended,)
to Operate as an International Facilities-Based)
and Resale Carrier Between the United States)
and Various International Points)
_____)

APPLICATION

Pivotel America Inc. (“Pivotel” or “Applicant”) hereby requests global facilities-based authority and global resale authority, under Section 214 of the Communications Act of 1934, as amended (the “Act”), 47 U.S.C. § 214, and Section 63.18 of the Commission’s Rules, 47 C.F.R. § 63.18, to provide international telecommunications services between the United States and international points. As explained herein, this Application is entitled to streamlined processing under Section 63.12(c)(1)(ii) of the Commission’s Rules, 47 C.F.R. § 63.12(c)(1)(ii).

I. THE APPLICANT

Pivotel is a company formed under the laws of the State of Delaware with its principal place of business located at 3224 Wrights Ferry Rd., Louisville, TN 37777. Pivotel does not currently provide any telecommunications services. Pivotel is a wholly-owned, indirect subsidiary of Pivotel Group Pty Limited (“Pivotel Group”), which is an authorized telecommunications carrier in Australia. Neither Pivotel nor Pivotel Group has more than a 50% market share in the international transport and local access markets in any of country where they operate, and Pivotel is therefore presumptively considered to be a non-dominant service provider pursuant to Section

63.10(a)(3) of the Commission's Rules, 47 C.F.R. §63.10(a)(3). In addition, Pivotel has no affiliation with a dominant U.S. carrier whose international switched or private line services it seeks authority to resell and does not seek authority to provide switched basic services over private lines to a country for which the Commission has not previously authorized the provision of such services. Following the grant of this petition, Pivotel may permit one or more of its wholly-owned subsidiaries to provide service pursuant to its international section 214 authorization and it will submit notice within 30 days after any such subsidiary begins providing service in accordance with Section 63.21(h) of the Commission's Rules, 47 C.F.R. §63.21(h).

II. PUBLIC INTEREST CONSIDERATIONS

By granting this application, the Commission will serve the public interest, convenience, and necessity by increasing competition in the international service market. Pivotel believes that the added competition it will bring to the market will benefit the consumers of United States international telecommunications services. These benefits include competitive pricing and increased availability of a variety of innovative service options. Therefore, grant of this Application will further the public interest.

III. INFORMATION REQUIRED BY SECTION 63.18

Pivotel submits the following information, as required by Section 63.18 of the Commission's Rules, in support of this Application:

- (a) Name, address and telephone number of Applicant:

Pivotel America Inc.
3224 Wrights Ferry Rd.
Louisville, Tennessee, 37777
Tel: 1 (865) 338-9750

- (b) Applicant is organized under the laws of the State of Delaware.
- (c) Correspondence concerning this application should be sent to:

William B. Wilhelm
Danielle C. Burt
Christian E. Hoefly
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, DC 20004
Tel: (202) 739-3000
Fax: (202) 739-3001
Email: william.wilhelm@morganlewis.com
danielle.burt@morganlewis.com
christian.hoefly@morganlewis.com

with a copy to:

Robert Sakker
Pivotel America Inc.
3224 Wrights Ferry Rd.
Louisville, Tennessee, 37777
Tel: (865) 338-9750
Email: robert.sakker@pivotel.com

- (d) Pivotel has not previously received authority under Section 214 of the Act.
- (e) Pivotel requests global Section 214 authority to operate as a facilities-based and resale international carrier pursuant to Sections 63.18(e)(1) and 63.18(e)(2), respectively, of the Commission's Rules. Pivotel requests such authorization for all international routes authorized by the Commission. As indicated above, Pivotel is affiliated with Pivotel Group, a carrier in Australia. Pivotel is also affiliated, in accordance with the Commission's Rules, with two foreign carriers that are majority-owned by Columbia Ventures Corporation, an indirect majority-owner of Pivotel Group. Columbia Ventures Corporation directly owns 100% of Magnet Networks Limited, a carrier in Ireland (<https://www.magnetnetworks.com/>), and indirectly owns 80% of Velocity1 Limited, a carrier in the United Kingdom (<https://www.velocity1.co.uk/>) with the equity in Velocity1 held through Magnet Networks. None of Pivotel, Pivotel Group, Magnet Networks Limited, or Velocity1 Limited has more than a 50% market share in the international transport and local access markets in any of the country where they operate and neither has sufficient market power in the destination markets to affect competition adversely in the U.S. market. Applicant certifies that it will comply with the terms and conditions of Sections 63.21, 63.22, and 63.23 of the Commission's Rules.
- (f) Pivotel seeks Section 214 authorization to provide only the services referenced under paragraph (e) of Section 63.18 of the Commission's Rules.

- (g) Pivotel will use previously authorized facilities to provide the services requested by the Application. Consequently, Pivotel is categorically excluded from environmental assessment pursuant to Section 1.1306 of the Commission's Rules, 47 C.F.R. § 1.1306.
- (h) The following information is provided pursuant to Section 63.18(h) of the Commission's Rules, 47 C.F.R. § 63.18(h):

The following entities directly or indirectly own 10 percent or more of the Applicant:

Name: **Pivotel International Pty Limited**
 Address: 75 Nerang Street
 Southport, Queensland, 4215
 Australia
 Citizenship: Australian
 Percentage Owned: 100%
 Principal Business: Telecommunications

The following entities hold a ten percent (10%) or greater, direct or indirect, ownership interest in **Pivotel International Pty Limited**:

Name: **Pivotel Group Pty Limited**
 Address: 75 Nerang Street
 Southport, Queensland, 4215
 Australia
 Citizenship: Australian
 Percentage Owned: 100%
 Principal Business: Telecommunications

The following entities hold a ten percent (10%) or greater, direct or indirect, ownership interest in **Pivotel Group Pty Limited**:

Name: **Columbia Ventures (Australia) Pty Limited**
 Address: Level 1, 51-59 Sturt St
 Townsville, Queensland, 4810
 Australia
 Citizenship: Australian
 Percentage Owned: 50%
 Principal Business: Investment

Name: **Judape Pty Limited**
 Address: C/O LBW & Partners
 19 Havilah Street
 Chatswood, New South Wales, 2067
 Australia

Citizenship: Australian
Percentage Owned: 33%
Principal Business: Investment

Name: **Sakker Pty Limited**
Address: 2A Highlands Avenue
Wahroonga, New South Wales, 2076
Australia
Citizenship: Australian
Percentage Owned: 17%
Principal Business: Investment

The following entities hold a ten percent (10%) or greater, direct or indirect, ownership interest in **Columbia Ventures (Australia) Pty Limited**:

Name: **CVC Iceland Holding II ehf**
Address: Efstaleiti 5
103 Reykjavik
Iceland
Citizenship: Iceland
Percentage Owned: 100%
Principal Business: Investment

The following entities hold a ten percent (10%) or greater, direct or indirect, ownership interest in **CVC Iceland Holding II ehf**:

Name: **Columbia Ventures Corporation**
Address: 14001 SE 1st St, Ste 201
Vancouver, Washington, 98684
Citizenship: United States (Washington)
Percentage Owned: 100%
Principal Business: Investment

The following entities hold a ten percent (10%) or greater, direct or indirect, ownership interest in **Columbia Ventures Corporation**:

Name: Kenneth Dean Peterson Jr
Address: 2401 NW Walden Dr
Camas, Washington, 98607
Citizenship: United States
Percentage Owned: 100%
Principal Business: Individual

The following entities hold a ten percent (10%) or greater, direct or indirect, ownership interest in **Judape Pty Limited**:

Name: **Bolger Family Trust¹**
Address: 23 Seafarer Court
Paradise Waters, Queensland, 4217
Australia
Citizenship: Australian
Percentage Owned: 100%
Principal Business: Trust

The following entities hold a ten percent (10%) or greater, direct or indirect, ownership interest in **Bolger Family Trust**:

Name: Peter Edward Bolger
Address: 23 Seafarer Court
Paradise Waters, Queensland, 4217
Australia
Citizenship: Australian
Percentage Owned: 0%; Appointer of the Bolger Family Trust Trustee, Judape Pty Ltd.
Principal Business: Individual

The following entities hold a ten percent (10%) or greater, direct or indirect, ownership interest in **Sakker Pty Limited**:

Name: **Sakker Family Trust²**
Address: 2A Highlands Avenue
Wahroonga, New South Wales, 2076
Australia
Citizenship: Australian
Percentage Owned: 100%
Principal Business: Trust

The following entities hold a ten percent (10%) or greater, direct or indirect, ownership interest in **Sakker Family Trust**:

Name: Deirdre Anne Sakker
Address: 2A Highlands Avenue

¹ The Bolger Family Trust is a discretionary family trust under Australian law and as such, the beneficiaries are not determined at this time.

² The Sakker Family Trust is a discretionary family trust under Australian law and as such, the beneficiaries are not determined at this time.

Wahroonga, New South Wales, 2076
Australia
Citizenship: Australian
Percentage Owned: 0%; Appointer of the Sakker Family Trust Trustee
Principal Business: Individual

To the best of Applicant's knowledge, no other individual or entity owns or controls more than 10% directly or indirectly of the Applicant.

Pivotel and Pivotel Group share the following officers and directors: Peter Edward Bolger, an Australian citizen, is CEO and Treasurer of Pivotel and CEO of Pivotel Group; and Robert Sakker, an Australian citizen, is President and Secretary of Pivotel and Executive Director of Pivotel Group.

- (i) Pivotel certifies it is not a foreign carrier within the meaning of Section 63.09(d) of the Commission's Rules, 47 C.F.R. §63.09(d). Pivotel also certifies it is affiliated within the meaning of Section 63.09(e) of the Commission's Rules, 47 C.F.R. §63.09(e), with Pivotel Group, which is a licensed carrier in Australia, Magnet Networks Limited, a carrier in Ireland, and Velocity1 Limited, a carrier in the United Kingdom.
- (j) Pivotel certifies that it seeks to provide international telecommunications services to all global points, including Australia, Ireland, and the United Kingdom.
- (k) Australia, Ireland, and the United Kingdom are Members of the World Trade Organization and Pivotel, Pivotel Group, Magnet Networks Limited, and Velocity1 Limited lack market power in the relevant services market in Australia, Ireland, and the United Kingdom as described above.
- (l) Pivotel may resell the international switched services or private lines services of unaffiliated U.S. carriers for the purpose of providing telecommunications services to Australia, Ireland, and the United Kingdom where Pivotel's affiliates operate as described above.
- (m) Pivotel presumptively qualifies for non-dominant treatment pursuant to Section 63.10(a)(3) of the Commission's Rules, 47 C.F.R. § 63.10(a)(3). None of Pivotel, Pivotel Group, Magnet Networks Limited, or Velocity1 Limited has more than a 50% market share in the relevant service markets, and are therefore presumptively considered to be a non-dominant service provider.
- (n) Pivotel certifies that it has not agreed to accept special concessions directly or indirectly from any foreign carrier where the foreign carrier possesses market power on the foreign end of the route and Pivotel will not enter into such agreements in the future.

- (o) Pivotel certifies, pursuant to Sections 1.2001 through 1.2003 of the Commission's Rules (implementing the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862), it is not subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.
- (p) This application qualifies for streamlined processing pursuant to Section 63.12(c)(1)(ii) of the Commission's Rules, 47 C.F.R. § 63.12(c)(1)(ii). Although the Applicant is affiliated with a foreign carriers in Australia, it qualifies for a presumption of non-dominance under Section 63.10(a)(3) because Pivotel and Pivotel Group lack a 50% market share in the relevant service market on the foreign end of the route.

IV. CONCLUSION

For the reasons stated above, Pivotel America Inc. respectfully submits that the public interest, convenience, and necessity would be furthered by a grant of this Application.

Respectfully submitted,

/s/ William B. Wilhelm

William B. Wilhelm

Danielle C. Burt

Christian E. Hoefly

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christian.hoefly@morganlewis.com

Counsel for Pivotel America Inc.

June 19, 2019

CERTIFICATION OF APPLICANT

The undersigned hereby certifies, on behalf of Pivotel America Inc. ("Pivotel"), with respect to the foregoing application for section 214 authority to provide international services, that:

1. Pivotel will comply with the terms and conditions contained in Section 63.21, 63.22 and 63.23 of the Commission's Rules, 47 C.F.R. §63.21-.23.
2. Pivotel 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.
3. Pivotel is not subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.
4. The contents of the Application are true and correct to the best of my knowledge, information, and belief.

Pivotel America Inc.

By:  _____

Name: Robert Sakker
Title: President and Secretary
Date: June 19, 2019