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January 29, 2010

**BY ELECTRONIC FILING**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Re: Request for Special Temporary Authority (International Section 214 Authorization)

Dear Ms. Dortch:

FTTH Communications, LLC ("FTTH") and Everest FTTH Acquisition LLC ("Everest" and together with FTTH, the "Applicants"), pursuant to Section 214 of the Communications Act, as amended, 47 U.S.C. § 214, and Section 63.24 of the Commission's Rules, 47 C.F.R. § 63.24, respectfully request expedited Special Temporary Authority ("STA") for FTTH to provide international Section 214 services pending the grant of such authority. FTTH is a non-dominant carrier that will be owned by Everest upon completion of a transaction, a U.S. company that is not a foreign carrier or affiliated with a foreign carrier, and does not have any direct or indirect foreign owners holding an ownership interest of more than 10 percent. Applicants respectfully request that the Commission grant this STA request as soon as possible, and not later than February 1, 2010, so that disruption of services to FTTH customers can be avoided. Concurrently herewith, FTTH and Everest are filing a transfer of control application and a request for special temporary authority to transfer the domestic Section 214 authorization that FTTH holds.

As detailed in the underlying international Section 214 application filed concurrently herewith and attached hereto (the "Application"), FTTH will be a wholly-owned subsidiary of Everest upon the completion of a transfer of control transaction. Everest and FTTH discovered during the acquisition process that FTTH does not hold international Section 214 authority. Everest is prepared to continue offering services to the FTTH customers and requests immediate authority so that FTTH may provide international Section 214 services and disruption of services to FTTH's customers can be avoided.

Accordingly, Applicants respectfully request grant of this STA request as soon as possible so that FTTH may provide international Section 214 services pending the grant of such authority. Applicants acknowledge that grant of this request will not prejudice action by the Commission on the underlying Application and that any authority granted pursuant to this request is subject to cancellation or modification upon notice but without a hearing.

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January 29, 2010  
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Should you have any questions or require further information, please do not hesitate to contact us.

Respectfully submitted,

A handwritten signature in black ink that reads "Danielle Burt". The signature is written in a cursive, flowing style.

Jean L. Kiddoo  
Danielle Burt

Counsel for Everest FTTH Acquisition LLC

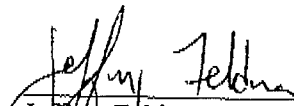
cc: Jeffrey Feldman, Everest FTTH Acquisition LLC  
Patrick Engels, Rudder Capital Corporation  
Clyde C. Ahlquist, Esq.

## DECLARATION OF JEFFREY FEDLMAN

I, Jeffrey Feldman, hereby declare that:

1. I am the founder of Everest FTTH Acquisition LLC.
2. I am authorized to make this Declaration on behalf of Everest FTTH Acquisition LLC.
3. The contents of the foregoing request for Special Temporary Authority are true and correct to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 29 day of January, 2010.

  
\_\_\_\_\_  
Jeffrey Feldman  
Founder  
Everest FTTH Acquisition LLC

## DECLARATION OF FTTH COMMUNICATIONS, LLC

I, Patrick J. Engels, hereby declare that the following is true and correct to the best of my knowledge, information and belief:

1. I am President of FTTH Communications, LLC. My business address is 2980 Commer Drive, Suite 300, Eagan, MN 55121.
2. I am authorized to make this Declaration on behalf of FTTH Communications, LLC.
3. FTTH Communications, LLC currently provides facilities-based and resold local exchange and interexchange services in Minnesota and primarily in the Twin Cities metropolitan area. It offers these services on both an interstate and intrastate basis.
4. FTTH Communications, LLC has approximately several hundred customers.
5. Everest FTTH Acquisition LLC entered into an agreement to acquire all of the membership interests of FTTH Communications, LLC from Rudder Capital Corporation. Everest FTTH Acquisition LLC is prepared to continue offering services to the customers of FTTH Communications, LLC.
6. As of January 27, 2010, FTTH Communications, LLC has been advised by Rudder Capital Corporation that Rudder Capital Corporation intends to liquidate the company's assets, absent full payment for the company by February 1, 2010 for outstanding debt.
7. The contents of the foregoing filing are true and correct to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 20<sup>th</sup>  
day of January, 2010.



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Patrick J. Engels  
FTTH Communications, LLC

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

\_\_\_\_\_  
In the Matter of )

**FTTH Communications, LLC** )  
(FRN 0007719230) )

Application for Global Authority )  
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 )

File No. ITC-214-\_\_\_\_\_-\_\_\_\_\_

**APPLICATION**

FTTH Communications, LLC (“FTTH” 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. Concurrently herewith, FTTH and Everest FTTH Acquisition LLC (“Everest”) are filing a request for special temporary authority for FTTH to provide international services pending the grant of such authority.<sup>1</sup>

<sup>1</sup> Everest had previously entered into a securities agreement to acquire all of the membership interests of FTTH. As part of the acquisition process, Everest and FTTH discovered that FTTH does not hold international Section 214 authority. Everest is prepared to continue offering services to the FTTH customers and requests immediate authority so that FTTH may provide international Section 214 services and disruption of services to FTTH’s customers can be avoided.

## **I. THE APPLICANT**

FTTH is a Minnesota limited liability company with its principal offices located at 2980 Commers Drive, Suite 300, St. Paul, MN 55121. FTTH provides intrastate and interstate telecommunications services to approximately several hundred customers in Minnesota. FTTH holds blanket domestic Section 214 authority and holds authority from the Minnesota Public Utilities Commission to provide facilities-based and resold local exchange telecommunications services in the Twin Cities metropolitan area and interexchange telecommunications services throughout Minnesota.

FTTH will be a wholly-owned subsidiary of Everest upon the completion of a transfer of control transaction.<sup>2</sup> Everest entered into a securities purchase agreement (“Agreement”) with Rudder Capital Corporation for Everest to acquire all of the membership interests of FTTH. Immediately following the consummation of the proposed transaction, Everest will become the new corporate parent of FTTH.

FTTH has no affiliation with any foreign carrier in any of the destination countries for which authority is requested nor is FTTH affiliated with any dominant U.S. carrier whose services FTTH may resell. Thus, pursuant to Section 63.10 (a)(1) of the Commission’s Rules, 47 C.F.R. § 63.10 (a)(1), FTTH should be classified as a non-dominant carrier in its provision of international service on all routes. Furthermore, as explained herein, this Application is entitled to streamlined processing under Section 63.12 of the Commission’s Rules. 47 C.F.R. § 63.12.

## **II. PUBLIC INTEREST CONSIDERATIONS**

FTTH believes that the added competition it will bring to the market will benefit the consumers of United States-international telecommunications services. These benefits include

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<sup>2</sup> FTTH and Everest are concurrently filing a transfer of control application and a request for special temporary authority to transfer the domestic Section 214 authorization that FTTH holds.

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**

FTTH 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:

FTTH Communications LLC  
2980 Commers Drive, Suite 300  
St. Paul, MN 55121  
Tel: (651) 925-4222

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

Jean L. Kiddoo  
Danielle Burt  
BINGHAM MCCUTCHEN LLP  
2020 K Street, N.W.  
Washington, DC 20006  
Tel: (202) 373-6000  
Fax: (202) 373-6001  
Email: jean.kiddoo@bingham.com  
danielle.burt@bingham.com

with a copy to:

Jeffrey Feldman  
Everest FTTH Acquisition LLC  
Suite L-10  
1 Executive Drive  
Fort Lee, NJ 07024  
Tel: (201) 905-8309  
Fax: (201) 944-7467

- (d) FTTH currently holds domestic Section 214 authorization.



- (e) FTTH 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. FTTH requests such authorization for all international routes authorized by the Commission.
- (f) FTTH seeks Section 214 authorization to provide only the services referenced under paragraph (e) of Section 63.18 of the Commission's Rules.
- (g) FTTH will use previously authorized facilities to provide the services requested by the Application. Consequently, FTTH is categorically excluded from environmental assessment pursuant to Section 1.1306 of the Commission's Rules. 47 C.F.R. § 1.1306.
- (h) Following the completion of the transaction with Everest, information regarding the 10% or greater direct or indirect owners of Applicant will be as follows.

- (1) The following entity will own or control ten percent (10%) or more of **FTTH Communications, LLC**:

Name: Everest FTTH Communications LLC.  
Address: 1 Executive Drive, Suite L-10  
Fort Lee, NJ 07024  
Citizenship: U.S. (Delaware corporation)  
Percentage Owned: 100%  
Principal Business: Holding Company

- (2) The following entity owns or controls ten percent (10%) or more of **Everest FTTH Acquisition LLC**:

Name: EveresTV, Inc.  
Address: 1 Executive Drive, Suite L-10  
Fort Lee, NJ 07024  
Citizenship: U.S. (Delaware corporation)  
Percentage Owned: 81%  
Principal Business: Holding Company

- (3) The following entity owns or controls ten percent (10%) or more of **EverestTV, Inc.:**

Name: Primary Succession Capital, LLC  
Address: 1 Executive Drive, Suite L-10  
Fort Lee, NJ 07024  
Citizenship: U.S. (New York limited liability company)  
Percentage Owned: 80%  
Principal Business: Investment Company

- (4) The following individual owns or controls ten percent (10%) or more of **Primary Succession Capital, LLC:**

Name: Jeffrey Feldman  
Address: 1 Executive Drive, Suite L-10  
Fort Lee, NJ 07024  
Citizenship: U.S.  
Percentage Owned: 100%  
Principal Business: Individual

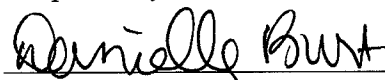
- (5) No other entity will own or control more than 10% directly or indirectly of FTTH Communications, LLC. Applicant does not have any interlocking directorates with a foreign carrier.
- (i) FTTH certifies that it is not affiliated with a foreign carrier.
- (j) FTTH certifies that it does not seek to provide international telecommunications services to any destination country for which any of the following is true:
- (1) The Applicant is a foreign carrier in that country; or
  - (2) The Applicant controls a foreign carrier in that country; or
  - (3) Any entity that owns more than twenty-five percent (25%) of Applicant, or that controls the Applicant, controls a foreign carrier in that country.
  - (4) Two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than twenty-five percent (25%) of Applicant and are parties to, or the beneficiaries of, a contractual relation (e.g., a joint venture or market alliance) affecting the provision or marketing of international basic telecommunications services in the United States.
- (k) Not applicable.
- (l) Not applicable. Applicant does not propose to resell the international switched services of an unaffiliated U.S. carrier for the purpose of providing international telecommunications services to a country where it is a foreign carrier or is affiliated with a foreign carrier.
- (m) Not applicable.
- (n) FTTH 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 FTTH will not enter into such agreements in the future.

- (o) FTTH 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) FTTH respectfully requests streamlined processing of this Application pursuant to Section 63.12 of the Commission's Rules. 47 C.F.R. § 63.12. This Application qualifies for streamlined processing for the following reasons: (1) FTTH is not affiliated with a foreign carrier on any route for which authority is sought; (2) FTTH is not affiliated with any dominant U.S. carrier whose international switched or private lines services it seeks to resell; and (3) FTTH is not requesting authority to provide switched service over private lines to countries not previously authorized for service by the Commission.

#### IV. CONCLUSION

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

Respectfully submitted,



Jean L. Kiddoo

Danielle Burt

2020 K Street, N.W.

Washington, DC 20006

Tel: (202) 373-6000

Fax: (202) 373-6001

Email: jean.kiddoo@bingham.com

danielle.burt@bingham.com

Counsel for Everest FTTH Acquisition LLC

Dated: January 29, 2010

**VERIFICATION**

I, Jeffrey Feldman, state that I am the founder of Everest FTTH Acquisition LLC; that I am authorized to make this Verification on behalf of Everest FTTH Acquisition LLC; that the foregoing filing was prepared under my direction and supervision; and that the contents are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 29 day of January, 2010.

  
\_\_\_\_\_  
Jeffrey Feldman  
Everest FTTH Acquisition LLC

## CERTIFICATION OF APPLICANT

The undersigned hereby certifies, on behalf of FTTH Communications, LLC ("FTTH") with respect to the foregoing application for section 214 authority to provide international services, that:

1. FTTH is not affiliated with any foreign carrier in any of the countries to which FTTH proposes to provide service in the foregoing application.
2. FTTH 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
3. FTTH does not seek to provide international telecommunications service to any destination where: (1) FTTH is a foreign carrier in that country; (2) FTTH controls a foreign carrier in that country; (3) any entity that owns more than a 25% interest in FTTH, or controls FTTH, controls a foreign carrier in that country; or (4) two or more parties own, in the aggregate, more than 25% of FTTH and are parties to, or the beneficiaries of, a contractual relationship that affects that provision or marketing of international basic telecommunications services in the United States.
4. FTTH 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. FTTH is not subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.
6. The contents of the Application are true and correct to the best of my knowledge, information, and belief.

FTTH Communications, LLC

By: 

Name: Patrick Engels  
Title: President  
Date: January 29, 2010