

ITC-T/C-19980918-20650

Categories of Services for 214 Applications
(Streamline/Non-streamline)

- ASSIGNMENT OF LICENSE
- GLOBAL FACILITIES-BASED SERVICE
- GLOBAL FACILITIES-BASED/GLOBAL RESALE SERVICE
- GLOBAL RESALE SERVICE
- INDIVIDUAL FACILITIES-BASED SERVICE
- INTERCONNECTED PRIVATE LINE RESALE SERVICE
- LIMITED GLOBAL FACILITIES-BASED SERVICE/LIMITED GLOBAL RESALE SERVICE
- LIMITED GLOBAL FACILITIES-BASED SERVICE
- LIMITED GLOBAL RESALE SERVICE
- INMARSAT AND MOBILE SATELLITE SERVICE
- SWITCHED RESALE SERVICE
- TRANSFER OF CONTROL
- SUBMARINE CABLE LANDING LICENSE
- INTERNATIONAL SPECIAL PROJECT

Description of Application: _____

FCC/MELTON

SEP 18 1998

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

In re Application of _____

National Telephone & Communications, Inc.

for Authority Pursuant to Section 214 of the
Communications Act of 1934, as amended
for Transfer of Control of Authorization
to Provide International Resold Communications
Services and Related Transactions
_____)

Streamlined ITC-T/C-19980918-00650
NATIONAL TELEPHONE & COMMUNICATIONS,
INC.

APPLICATION

National Telephone & Communications, Inc. ("NTC" or "Applicant"), pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and Section 63.18 of the Commission's Rules, 47 C.F.R. § 63.18, hereby requests authority for the transfer of control, as defined under relevant Commission law and precedent, of NTC's Section 214 authorization to reflect the proposed acquisition of control of the Board of NTC's direct and ultimate corporate parent Incomnet, Inc. ("Incomnet") by John P. Casey and, to the extent required, an accompanying change in the structure of Incomnet's Board of Directors (the "Transaction"). The proposed Transaction will be completely transparent to NTC's customers, who will continue to receive the same high quality cost-efficient services that they currently receive.

Applicant submits the following information in support of this Application:

COPY

I. REQUEST FOR APPROVAL

NTC is a privately held corporation organized under the laws of the State of Delaware. NTC holds global Section 214 authorization to provide resold international telecommunications services.^{1/} NTC is wholly owned by Incomnet, a publicly traded company organized under the laws of the State of California. NTC is a reseller of telecommunications services, including interstate and international long distance services, that relies exclusively on the facilities of other carriers for its service offerings. Specifically, NTC acts as a supplier of long distance services and a marketing agent for WorldCom Network Services, Inc. ("WorldCom"), one of the largest interexchange carriers in the United States.

Mr. Casey, a Senior Vice President of Meridian Investments, Inc. ("Meridian"), maintains his business offices at 10220 River Road, Suite 115, Potomac, Maryland 20854. Mr. Casey has extensive experience in financial and marketing matters. Casey is also the largest shareholder of Incomnet who, over the course of the past year has steadily increased the size of his investment in Incomnet. Although Mr. Casey intends to exercise general oversight of the operations and management of NTC immediately upon consummation of the proposed transaction, Mr. Casey has not yet assumed an active role in the oversight of NTC's activities.

NTC is currently substantially in arrears for payments for services rendered by WorldCom, as well as for payments due its principal lender, First Bank & Trust Company of Newport Beach ("First Bank"). WorldCom and First Bank have questioned the ability of NTC to meet the terms of these outstanding liabilities and expressed reservations over the continuing viability of NTC.

^{1/} *National Telephone & Communications, Inc.*, ITC-95-093 (Feb. 3, 1995).

Accordingly, WorldCom and First Bank recently announced their intention to cease providing service to and to foreclose on certain of NTC's assets.

In order to address the concerns raised by WorldCom and First Bank, Mr. Casey entered into negotiations with Incommet, WorldCom and First Bank. As a result of these negotiations as well as the continuing negotiations with Incommet, on August 21, 1998, Mr. Casey approved a non-binding Term Sheet to the Board of Directors of Incommet setting forth non-binding terms of a proposal through which Mr. Casey would acquire control of the Board of Incommet. On August 26, 1998, however, WorldCom and First Bank expressly indicated their intention to cease providing service to NTC and foreclose on certain of NTC's assets unless, among other things a Board Change Agreement was entered into by August 28, 1998 (the "Board Change Agreement"). The Board Change Agreement, which is subject to various conditions, was entered into on August 28, 1998. WorldCom and First Bank agreed to forbear until September 25, 1998, provided that, among other things, certain payments to those secured creditors are made by September 25, 1998, and the Board Change Agreement was entered into by August 28, 1998. The Board Change Agreement provides that Mr. Casey will use commercially reasonable efforts to provide additional debt or equity financing for the Company. Assuming that the conditions to the Board Change Agreement are satisfied, it is expected that the Board change will occur by the end of September 1998. Due to the extremely rapid development of the Transaction, NTC has sought Special Temporary Authority ("STA") to complete the transaction by letter filed herewith.

II. DESIGNATED CONTACTS

The designated contacts for correspondence and questions concerning this Application are:

Dale R. DeForge
National Telephone & Communications, Inc.
2801 Main Street
Irvine, CA 92614
(949) 224-7750 (Tel)
(949) 224-7751 (Fax)

with a copy to:

John P. Casey
10220 River Road, Suite 115
Potomac, MD 20854
(301) 983-5000 (Tel)
(301) 983-9012 (Fax)

and:

Phyllis A. Whitten
Edward S. Quill, Jr.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007
(202) 424-7500 (Tel)
(202) 424-7645 (Fax)

III. PUBLIC INTEREST

The transfer of control of NTC to Mr. Casey, through NTC's parent Incomnet, serves the public interest. Applicant respectfully submits that the proposed transfer of control is necessary to permit NTC to continue to provide service to its existing customers and to prevent a sudden interruption in international service to NTC's customers. As explained above, Mr. Casey's assumption of control of Incomnet is one of the explicit conditions imposed by WorldCom and First Bank to permit NTC to continue operating.

Although the control of NTC will be transferred to Mr. Casey, the Transaction will not affect the rates, terms or conditions of service or result in a change in the manner in which NTC provides

service to its international customers. NTC will continue to provide service under its own name and pursuant to its own grant of Section 214 authority. In addition, NTC will be led by a team of well-qualified telecommunications managers. As such, the Transaction has not caused inconvenience or confusion to NTC's customers or otherwise adversely impacted the operations of NTC.

While the Transaction will be transparent to NTC's customers with regard to the services that they receive, the Transaction is also expected to provide NTC with financial and managerial resources required to permit it to continue offering service to its customers. As explained in detail above, the financial exigencies faced by NTC require immediate resolution.

IV. INFORMATION REQUIRED UNDER SECTION 63.18

The following information is submitted, as required by Section 63.18 of the Commission's Rules, 47 C.F.R. §63.18, in support of Applicant's request for authorization.

(a) Names, addresses and phone numbers of Applicant:

National Telephone & Communications, Inc.
2801 Main Street
Irvine, CA 92614
(949) 224-7750 (Tel)
(949) 224-7751 (Fax)

(b) NTC is a corporation organized under the laws of the State of Delaware. Incomnet is a publicly traded corporation organized under the laws of the State of California. Mr. Casey is a U.S. citizen residing in Potomac, Maryland. Mr. Casey, Incomnet, and the Board of Directors of Incomnet, NTC's direct and ultimate corporate parent, have entered into an agreement, which is subject to satisfaction or waiver of various conditions, through which Mr. Casey is expected to acquire control of the Board of Incomnet by the end of September 1998, provided that certain conditions are met. As a result of the Transaction, the directors and officers of Incomnet and NTC will undergo substantial changes in composition. A list of the current officers and directors of Incomnet and NTC are included at Exhibit A.

(c) Correspondence concerning this application should be sent to:

Dale R. DeForge
National Telephone and Communications, Inc.
2801 Main Street
Irvine, CA 92614
(949) 224-7750 (Tel)
(949) 2224-7751 (Fax)

with a copy to:

John P. Casey
10220 River Road, Suite 115
Potomac, MD 20854
(301) 983-5000 (Tel)
(301) 983-9012 (Fax)

and:

Phyllis A. Whitten
Edward S. Quill, Jr.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW, Suite 3000
Washington, DC 20007
(202) 424-7500 (Tel)
(202) 424-7645 (Fax)

- (d) NTC holds Section 214 authority, granted by the Commission on February 3, 1995, to operate as a global international resale carrier of switched telecommunications services. See FCC File No. ITC-95-093. Neither Incomnet nor Mr. Casey holds Section 214 authority.
- (e) Mr. Casey and NTC's corporate parent (Incomnet) have executed and consummated an agreement through which Mr. Casey, subject to various conditions, will acquire control of the Board of Incomnet and therefore of NTC.
- (f) Not applicable.
- (g) Not applicable.
- (h) Neither Mr. Casey nor NTC are affiliated with any carrier that holds market power in a foreign destination market.

NTC is a wholly owned subsidiary of Incomnet. The following entities hold a ten percent (10%) or greater ownership or management interest in Incomnet:

<u>Name/Address</u>	<u>% Held</u>	<u>Citizenship</u>	<u>Principal Business</u>
John P. Casey 10220 River Road Suite 115 Potomac, MD 20854	30.7% ^{2/}	U.S.	Individual
Cohen Group 1500 Hempstead Turnpike East Meadow, NY 11554	20% ^{3/}	U.S.	Individuals

Following the completion of the proposed transaction, no NTC directors will hold interlocking positions with any other telecommunications providers.

- (i) Applicant certifies that its has not agreed and will not agree in the future to accept any direct or indirect special concessions from a foreign carrier or administration with regards to traffic or revenue flows between the United States and any foreign countries the company is authorized to serve.

^{2/} Mr. Casey currently holds an option (the "Cohen Option") to purchase Series A and Series B Convertible Preferred Stock which is convertible into common stock. If Incomnet had sufficient authorized but unissued common stock to effect a conversion of these preferred shares and the other preferred shares that were tendered for conversion in June 1998, Mr. Casey would own approximately 47 percent of the shares of the outstanding common stock of Incomnet. At this time, however, Incomnet does not have sufficient common stock authorized to permit conversion of Incomnet's preferred stock. As a term of the Board Change Agreement referred to above, Mr. Casey is obligated to assign the Cohen Option to Incomnet under certain conditions and, if those conditions are not met, the common stock issuable pursuant to the conversion of the preferred stock that is subject to the Cohen Option will be offered on a pro rata basis to all Incomnet shareholders at a price representing no actual profit to Mr. Casey. If Incomnet is not financially capable of redeeming the Cohen Preferred Stock on or before October 14, 1998, Mr. Casey will exercise the option and acquire the underlying Cohen Preferred Stock.

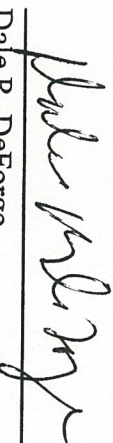
^{3/} The Cohen Group, comprised of twelve individual investors, holds Series A and Series B Convertible Preferred Stock, which if converted into common stock would total approximately 28 percent of the common stock of Incomnet. As noted above, Incomnet does not at this time have sufficient common stock authorized to permit the conversion of preferred shares into common stock. Also as cited above, Mr. Casey holds an option to purchase all of the preferred stock held by the Cohen Group. The Cohen Group also holds options to purchase an additional 1.5 percent of Incomnet. These options are not part of the Cohen Option.

- (j) Applicant certifies that no party to this application has been denied federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. Applicant's certification is attached.

V. CONCLUSION

For the reasons stated herein, Applicant respectfully submit that grant of this application serves the public interest. Applicant therefore respectfully request that the Commission grant approval to permit Mr. Casey to acquire control of NTC as set forth above.

Respectfully submitted,



Dale R. DeForge
National Telephone & Communications, Inc.
2801 Main Street
Irvine, CA 92614
(949) 224-7750 (Tel)
(949) 224-7751 (Fax)

Dated: September 17,1998

EXHIBITS

List of officers and directors of Incomnet, Inc. A
and National Telephone & Communications, Inc. A

CERTIFICATION

EXHIBIT A

Current Officers and Directors of Incomnet, Inc.

Melvyn Reznick, President and Director
Mark J. Richardson, Secretary
Howard Silverman, Director
David Wilstein, Director
Nancy S. Zivitz, Director
Richard M. Horowitz, Director
Rolf Lesem, Director

Current Officers and Directors of National Telephone & Communications, Inc.


Michael J. Keebaugh, Executive Vice President
Debra A. Chuckas, Senior Vice President
Timothy M. Ciaccio, Vice President
Gerald A. DeCiccio, Vice President
Dale R. DeForge, Secretary
James R. Quandt, Director
Michael L. Tenzer, Director
Fred G. Jager, Director
Pamela Fanning Carter, Director

CERTIFICATION OF APPLICANT

On behalf of National Telephone & Communications, Inc., and in accordance with Section 1.2001-1.2003 of the Commission's Rules, 47 C.F.R. §§ 1.2001-1.2003, I hereby certify that no party to this application is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. See 21 U.S.C. § 853a. I also hereby certify that the statements in the foregoing request for Special Temporary Authority are true, complete, and correct to the best of my knowledge and are made in good faith.

National Telephone & Communications, Inc. has not agreed to any concessions directly or indirectly from any foreign carrier or administration with respect to traffic and revenue flow between the United States and various international points under the authority granted under Section 214 of the Communications Act of 1934, as amended, and the Commission's Rules, and has not agreed to enter into such agreements in the future.

National Telephone & Communications, Inc.

By: 

Name: Michael J. Keebaugh

Title: COO and EVP

Date: September 15, 1998