

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

In the Matter of)
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CTC COMMUNICATIONS GROUP, INC.) Pro Forma ITC-T/C-19990311-00122
) CTC COMMUNICATIONS OF VIRGINIA, INC.
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and)
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CTC COMMUNICATIONS CORP.)
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and)
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CTC COMMUNICATIONS OF)
VIRGINIA, INC.)

Application for authority pursuant to)
Section 214 of the Communications Act of)
1934, as amended, for a *pro forma* transfer of)
control of an authorized international carrier)

JOINT APPLICATION

CTC Communications Group, Inc. ("CTC Group"), CTC Communications Corp. ("CTC Communications"), and CTC Communications of Virginia, Inc. ("CTC-VA") (collectively "Applicants"), by their undersigned counsel and pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and Section 63.18(e)(5) of the Commission's Rules, 47 C.F.R. § 63.18(e)(5), hereby request approval to implement a *pro forma* internal corporate reorganization (the "Reorganization") whereby CTC Communications (a nondominant common carrier holding international Section 214 authorization granted by this Commission in Docket No. ITC-95-187, Rep. No. I-8040 (Apr. 12, 1995)) will become a wholly-owned direct subsidiary of a newly created Delaware holding company, CTC Group; and whereby CTC-VA (a nondominant common carrier holding international Section 214 authorization granted by this Commission in

Telecommunications Division
Granted
MAR 29 1999
date: _____
authorized by: **INTERNATIONAL BUREAU**
Paul J. Danner
Signature Chief, Policy & Facilities Branch

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

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March 11, 1999

BY OVERNIGHT MAIL

Federal Communications Commission
P.O. Box 358115
Pittsburgh, PA 15251-5115

Re: Application of CTC Communications Group, Inc., CTC Communications Corp., and CTC Communications of Virginia for Authority Pursuant to Section 214 of the Communications Act of 1934, As Amended, for *pro forma* Reorganization of an Authorized International Carrier.

Enclosed for filing with the Commission are an original and six (6) copies of the application of CTC Communications Group, Inc., CTC Communications Corp., and CTC Communications of Virginia requesting authority, pursuant to Section 214 of the Communications Act of 1934, as amended, for the *pro forma* reorganization of an authorized international carrier.

As required by the Commission's Rules, a check in the amount of \$780.00 is enclosed. Please date-stamp the extra copy of this application and return it in the enclosed self-addressed, stamped envelope. Any questions regarding the enclosed application should be addressed to the undersigned.

Respectfully submitted,



Pamela S. Arluk
Harry N. Malone

Counsel for CTC Communications Group, Inc.,
CTC Communications Corp., and
CTC Communications of Virginia

Enclosures

cc: Troy Tanner, Chief, Policy and Facilities Branch, International Bureau
Pamela Hintz

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) ITC-T/C-19990311-00122
) Pro Forma
) CTC COMMUNICATIONS OF VIRGINIA, INC.
)
) File No. ITC-214-1999)

JOINT APPLICATION

CTC Communications Group, Inc. ("CTC Group"), CTC Communications Corp. ("CTC Communications"), and CTC Communications of Virginia, Inc. ("CTC-VA") (collectively "Applicants"), by their undersigned counsel and pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and Section 63.18(e)(5) of the Commission's Rules, 47 C.F.R. § 63.18(e)(5), hereby request approval to implement a *pro forma* internal corporate reorganization (the "Reorganization") whereby CTC Communications (a nondominant common carrier holding international Section 214 authorization granted by this Commission in Docket No. ITC-95-187, Rep. No. I-8040 (Apr. 12, 1995)) will become a wholly-owned direct subsidiary of a newly created Delaware holding company, CTC Group; and whereby CTC-VA (a nondominant common carrier holding international Section 214 authorization granted by this Commission in

Docket No. ITC-214-19980820-00606, Rep. No. TEL-00021 (Oct. 22, 1998)) will become a wholly-owned indirect subsidiary of CTC Group.

As fully described herein, this event does not alter CTC Communications' and CTC-VA's ultimate control, management and service to their customers. Accordingly, this transfer of control is merely *pro forma*. Applicants respectfully request streamlined treatment of this application pursuant to Section 63.12 of the Commission's Rules, 47 C.F.R. § 63.12 (1998), and the grant stamp procedure established in the Commission's November 21, 1994 Public Notice, Mimeo 50767. Grant of this *pro forma* transfer will permit CTC Group, CTC Communications, and CTC-VA to realize significant efficiencies which will enhance their ability to continue providing high quality, low cost telecommunications services and to compete more effectively in the international telecommunications marketplace. Accordingly, grant of this Application will benefit the public interest.

In support of this Application, Applicants submit the following information:

I. THE APPLICANTS

A. CTC Communications Corporation

1. CTC Communications is a publicly owned Massachusetts corporation whose principal offices are located in Waltham, Massachusetts. CTC Communications is a nondominant carrier providing telecommunications services to small and medium sized businesses and residential customers. These telecommunications services include local, long distance and data transmission services. CTC Communications is also currently authorized to provide intrastate interexchange and other competitive services in more than thirty states pursuant to certification, registration or tariff requirements, or on an unregulated basis. Information concerning CTC Communications' legal, technical, managerial, and financial qualifications to provide telecommunications services was filed with CTC Communications' application for authority to provide international service under

section 214 of the Communications Act of 1934, 47 U.S.C. § 214, filed with this Commission in Docket No. ITC-95-187. That information is, therefore, already a matter of public record at the Commission and Applicants request that it be incorporated by reference herein.

B. CTC Communications of Virginia, Inc.

CTC-VA is a corporation organized under the laws of Virginia. CTC-VA is a wholly-owned subsidiary of CTC Communications. CTC-VA is a nondominant carrier providing telecommunications services to small and medium sized businesses and residential customers in the State of Virginia pursuant to certification. These telecommunications services include local, long distance and data transmission services. Information concerning CTC-VA's legal, technical, managerial, and financial qualifications to provide telecommunications services was filed with CTC-VA's application for authority to provide international service under section 214 of the Communications Act of 1934, 47 U.S.C. § 214, filed with this Commission in Docket No. ITC-214-19980820-00606. That information is, therefore, already a matter of public record at the Commission and Applicants request that it be incorporated by reference herein.

C. CTC Communications Group, Inc.

CTC Group is a Delaware corporation whose principal offices are located in Waltham, Massachusetts. CTC Group is a holding company created for the purposed of acquiring all the shares of CTC Communications.

II. THE TRANSACTION

The Commission recently proposed a rule that specifically addresses the parameters of Section 214 "pro forma" transfers of control and assignments.¹ In the absence of express guidance regarding the definition of *pro forma* in the context of Section 214 applications for

¹ *In the Matter of 1998 Biennial Regulatory Review – Review of International Common Carrier Regulations*, Notice of Proposed Rulemaking, IB Docket No. 98-118, Report No. IB 98-39, ¶¶ 12-21 (rel. July 14, 1998). (“Section 214 NPRM”).

transfers of control, the Commission looked to its analysis in the *Section 310(d) Forbearance Order*²¹ as precedent to develop this new rule.²¹ In the *Section 310(d) Forbearance Order*, the Commission stated that a *pro forma* transfer is one that does not cause a "substantial change in ownership or control" of the licensee.²¹ In its *Section 214 NPRM*, the Commission proposed that in the context of Section 214 authorizations, a change in ownership or control is "substantial" if "50 percent or more of the stock of the licensee is transferred, or if, as a result of the transaction, the licensee will be controlled by persons who were not previously in control of the licensee."²¹

In this case, the proposed transfer of control will be accomplished through a transaction whereby the shareholders of CTC Communications will exchange their shares on a share-for-share basis for shares of CTC Group. Following the Reorganization, therefore, CTC Group will own 100% of the stock of CTC Communications. CTC Communications will continue to own 100% of the stock of CTC-VA. While the proposed transaction will result in a change in the corporate parent of CTC Communications, it will not involve a change in the manner in which CTC Communications and CTC-VA provide service to their customers. The establishment of CTC Group as CTC Communications' parent company and CTC-VA's indirect parent, and the resulting *pro forma* transfer of control will not involve any change in the officers and directors of the certificated entities nor any change in the management, operations, or services provided to

²¹ See *Federal Communications Bar Association's Petition for Forbearance from Section 310(d) of the Communications Act Regarding Non-Substantial Assignments of Wireless Licenses and Transfers of Control Involving Telecommunications Carriers*, Memorandum Opinion and Order, 13 FCC Rcd 6293(1998) ("Section 310(d) Forbearance Order").

²¹ Section 214 NPRM ¶ 13.

²¹ Section 310(d) Forbearance Order ¶ 7.

²¹ Section 214 NPRM ¶ 14.

customers, who will continue to receive high quality, affordable services by CTC Communications and CTC-VA. The transfer of control of CTC Communications to CTC Group, therefore, will be virtually transparent to the customers of CTC Communications and CTC-VA in terms of the services that they receive.

III. PUBLIC INTEREST CONSIDERATIONS

Because the event described above does not change the underlying control of CTC Communications and CTC-VA or their authorizations, this event results merely in a *pro forma* transfer of control of CTC Communications and CTC-VA and their Section 214 authorizations. Consummation of the proposed transaction will serve the public interest in promoting competition among providers of international telecommunications services by improving operational efficiency, providing Applicants with greater flexibility to obtain financing for their continuing expansion, and securing their competitive position in the telecommunications marketplace. These enhancements will therefore ensure the continued provision of high quality services to Applicants' existing customers and should promote competition in the international telecommunications service market. In sum, the proposed acquisition will benefit the public interest by enhancing the ability of Applicants to offer competitively priced services in the international marketplace.

IV. INFORMATION REQUIRED BY SECTION 63.18

Pursuant to Section 63.18(e)(5) of the Commission's Rules, 47 C.F.R. § 63.18(e)(5),

Applicants submit the following information:

(a) Name and address of Applicants:

CTC Communications Corporation
360 Second Avenue
Waltham, Massachusetts 02451
(781) 466-8080

CTC Communications of Virginia, Inc.
360 Second Avenue
Waltham, Massachusetts 02451
(781) 466-8080

CTC Communications Group, Inc.
360 Second Avenue
Waltham, Massachusetts 02451
(781) 466-8080

(b) CTC Group is a corporation organized under the laws of the State of Delaware. CTC Communications is a corporation organized under the laws of the Commonwealth of Massachusetts. CTC-VA is a corporation organized under the laws of the Commonwealth of Virginia.

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

Pamela S. Artuk
Harry N. Malone
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007-5116
202/424-7500 (Telephone)
202/424-7645 (Fax)

with a copy to:

Pamela Hintz
Director of Regulatory and Tariff Compliance
CTC Communications Corp.

360 Second Avenue
Waltham, MA 02451
(781) 466-1242 (Telephone)
(781) 466-1306 (Fax)

- (d) CTC Group does not hold directly or indirectly section 214 authorization.
- CTC Communications is authorized to provide resold international telecommunications services pursuant to section 214 authorization granted by the Commission. *See* File No. ITC-95-187, Public Notice Rep. No. I-8040 (rel. Apr. 12, 1995).
- CTC Communications of Virginia is authorized to provide resold international telecommunications services pursuant to section 214 authorization granted by the Commission. *See* File No. ITC-214-19980820-00606, Public Notice Rep. No. TEL-00021 (Oct. 22, 1998).
- (e)(5) The authorization sought in this application will approve an event that constitutes a *pro forma* transfer of control.
- (f) Not applicable.
- (g) Not applicable.
- (h) By the attached certification, CTC Group certifies that it has no affiliation with any foreign carrier, as defined by Section 63.18(h)(1) of the Commission's Rules. In support of this certification, attached hereto as Exhibit A is a list of CTC Group's 10 percent or greater equity ownership, including the address, citizenship and principal business of each such owner. In addition, attached hereto as Exhibit B is a list of all other directorates held by CTC Group's directors, exclusive of charitable or trade association positions. CTC Group further certifies that it is not affiliated with the U.S. carrier(s) whose facilities-based service(s) CTC Group proposes to resell (either directly or indirectly through the resale of another reseller's service).
- (i) By the attached certification and as required by Section 63.18(i) of the Commission's Rules, CTC Group, the transferee, certifies that, except as permitted by the Commission's rules, CTC Group has not agreed to accept nor shall it accept in the future any special concessions, as defined by the Commission's Rules, directly or indirectly from any foreign carrier or administration with respect to traffic or revenue flows on 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.

- (j) By the attached certification and as required by Section 63.18(j) of the Commission's rules, CTC Group, the transferee, certifies that 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, 21 U.S.C. § 853(a).

CONCLUSION

For the reasons stated herein, CTC Communications Group, Inc., CTC Communications Corp., and CTC Communications of Virginia, Inc. respectfully submit that the public interest, convenience, and necessity would be furthered by grant of this application for consent to the *pro forma* transfer of control of CTC Communications to CTC Group and expeditious processing of this application.

Respectfully submitted,

By: 

Pamela S. Arluk

Harry N. Malone

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

3000 K Street, N.W., Suite 300

Washington, D.C. 20007-5116

202/424-7500

Counsel for CTC Communications Group, Inc.,
CTC Communications Corp., and
CTC Communications of Virginia

Dated: March 11, 1999

CERTIFICATION OF TRANSFEREE


I, John D. Pittenger, Executive Vice President of CTC Communications Group, Inc. ("CTC Group"), hereby certify that CTC Group has no affiliation with any foreign carrier, as defined by Section 63.18(h)(1) of the Commission's Rules; that CTC Group is not affiliated with the U.S. carrier(s) whose facilities-based service(s) CTC Group proposes to resell (either directly or indirectly through the resale of another reseller's service); and that CTC Group has not agreed to accept nor shall CTC Group accept in the future any special concessions, as defined by the Commission's Rules, directly or indirectly from any foreign carrier or administration with respect to traffic or revenue flows on 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.

Further, I hereby certify that no party to the foregoing Application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

Further, I hereby certify that the statements in the foregoing Joint Application are true, complete, and correct to the best of my knowledge, information and belief.

CTC COMMUNICATIONS GROUP, INC.

By:



(Signature)

LIST OF EXHIBITS

List of 10% or Greater Shareholders of the Transferee
CTC Communications Group, Inc. A

Interlocking Directorships of the Transferee
CTC Communications Group, Inc. B

EXHIBIT A

List of 10% or Greater Shareholders of the Transferee CTC Communications Group, Inc.

CTC Communications Group, Inc. currently is 100% owned by CTC Communications Corp. After the transaction discussed herein is consummated, CTC Group will be beneficially owned in shares greater than 10% by the following persons. All real persons are U.S. citizens and may be reached at CTC Group's corporate address.

Robert J. Fabbriatorre Chairman and CEO, CTC Communications Group, Inc	27.5%
William P. Collatos General Partner, Spectrum Equity Investors, L.P.	12.9%
Kevin J. Maroni General Partner, Spectrum Equity Investors, L.P.	12.9%
Spectrum Equity Investors II, L.P.*	12.9%

* The general partners of this limited partnership are Mr. Collatos, Mr. Maroni, and Brian B. Applegate, and may be deemed the beneficial owners of all shares owned by it.

EXHIBIT B

Interlocking Directorships of the Transferee CTC Communications Group, Inc.

Robert J. Fabricatore	Director of Epiphany Ventures, Inc. (real estate investment)
Carl Redfield	Director of Paragon Systems, Inc. (electronics manufacturing) Director of VA Research (computer systems manufacturing).
Ralph C. Sillari	Serves on no other non-charitable boards.
Hank Hermann	None.
J. Richard Murphy	Director of Stickney & Poor Spice Co. Director of Mary Immaculate Health Care Systems (non-profit)
Kevin J. Maroni	Director of American Cellular Corp. (cellular service carrier) Director of Pathnet, Inc. (long distance carrier) Director of WNP Communications (LMDS licensee) Director of Fornus Communications (international millimeter wire service)
Robert A. Nicholson	Director of Navitar Communications Group, Inc. (a Canadian competitive local exchange carrier)