

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

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

Description of Application: _____

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

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WASHINGTON, D.C. 20036

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JUL 21 2000

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NEW YORK, NY

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CHICAGO, IL

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BRUSSELS, BELGIUM

HONG KONG

AFFILIATE OFFICES

BANGKOK, THAILAND

JAKARTA, INDONESIA

MANILA, THE PHILIPPINES

MUMBAI, INDIA

July 21, 2000

Federal Communications Commission
International Bureau - Telecommunications
P.O. Box 358115
Pittsburgh, PA 15251-5115
ATTN: J. Breck Blaylock

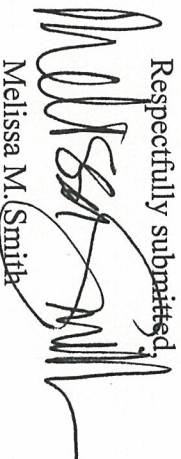
Re: Application of TriVergent Communications, Inc. and Gabriel
Communications, Inc. for Transfer Control of Section 214 Authorization

Dear Mr. Blaylock:

TriVergent Communications, Inc. and Gabriel Communications, Inc., by their attorneys, respectfully submit for filing the enclosed application for transfer of control of entity holding Section 214 authorization to provide international telecommunications service pursuant to Section 214 of the Act and Section 63.18(e)(3) of the Commission's rules.

An original and five (5) copies of this filing are enclosed. Also included with this filing is a check for \$780.00 made out to the Federal Communications Commission (FCC Fee Code CUT) and a completed FCC Form 159 (Remittance Advice). Please acknowledge receipt of this application on the duplicate copy enclosed for that purpose and return the stamped copy via the courier. Please do not hesitate to call the undersigned counsel at the above-referenced number if you have any questions regarding this matter.

Respectfully submitted,



Melissa M. Smith

Enclosures: Section 214 Application; check; FCC Form 159

READ INSTRUCTIONS CAREFULLY
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICE

APPROVED BY OMB

3060-0559

(1) LOCKBOX # 358115

PAGE NO. 1 OF 2

SPECIAL USE
FCC USE ONLY

(2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card) SECTION A - PAYER INFORMATION

(4) STREET ADDRESS LINE NO. 1

(3) TOTAL AMOUNT PAID (dollars and cents)
\$ 780.00

Kelley Drye & Warren LLP

1200 19th Street, N.W.

(5) STREET ADDRESS LINE NO. 2

Suite 500

(6) CITY

Washington

(7) STATE

DC

(8) ZIP CODE

20036

(9) DAYTIME TELEPHONE NUMBER (include area code)

(202) 955-9600

(10) COUNTRY CODE (if not in U.S.A.)

IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)

SECTION B - APPLICANT INFORMATION

(11) APPLICANT NAME (if paying by credit card, enter name exactly as it appears on your card)

TriVergent Communications, Inc.

(12) STREET ADDRESS LINE NO. 1

301 NORTH Main Street

(13) STREET ADDRESS LINE NO. 2

Suite 2000

(14) CITY

Greenville

(15) STATE

SC

(16) ZIP CODE

29601

(17) DAYTIME TELEPHONE NUMBER (include area code)

(864) 271-6335

(18) COUNTRY CODE (if not in U.S.A.)

COMPLETE SECTION C FOR EACH SERVICE. IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEETS (FORM 159-C)

SECTION C - PAYMENT INFORMATION

(19A) FCC CALL SIGN/OTHER ID

(20A) PAYMENT TYPE CODE (PTC)

(21A) QUANTITY

(22A) FEE DUE FOR (PTC) IN BLOCK 20A

FCC USE ONLY

(23A) FCC CODE 1

C U T

1

5

(24A) FCC CODE 2

FCC USE ONLY

(19B) FCC CALL SIGN/OTHER ID

(20B) PAYMENT TYPE CODE (PTC)

(21B) QUANTITY

(22B) FEE DUE FOR (PTC) IN BLOCK 20B

FCC USE ONLY

(23B) FCC CODE 1

(20C) PAYMENT TYPE CODE (PTC)

(21C) QUANTITY

(22C) FEE DUE FOR (PTC) IN BLOCK 20C

FCC USE ONLY

(19C) FCC CALL SIGN/OTHER ID

(20D) PAYMENT TYPE CODE (PTC)

(21D) QUANTITY

(22D) FEE DUE FOR (PTC) IN BLOCK 20D

FCC USE ONLY

(23C) FCC CODE 1

(20E) PAYMENT TYPE CODE (PTC)

(21E) QUANTITY

(22E) FEE DUE FOR (PTC) IN BLOCK 20E

FCC USE ONLY

(19D) FCC CALL SIGN/OTHER ID

(20F) PAYMENT TYPE CODE (PTC)

(21F) QUANTITY

(22F) FEE DUE FOR (PTC) IN BLOCK 20F

FCC USE ONLY

(23D) FCC CODE 1

(20G) PAYMENT TYPE CODE (PTC)

(21G) QUANTITY

(22G) FEE DUE FOR (PTC) IN BLOCK 20G

FCC USE ONLY

SECTION D - TAXPAYER INFORMATION (REQUIRED)

(25) COMPLETE THIS FIELD BLOCK ONLY IF APPLICANT NAME IN B1 IS DIFFERENT FROM PAYER NAME IN A11

(25) PAYER TIN: 0135335107 APPLICANT TIN: 58-2354282

SECTION E - CERTIFICATION

(27) CERTIFICATION STATEMENT: I, Melissa M. Smith, certify under penalty of perjury that the foregoing and supporting information are true and correct to the best of my knowledge, information and belief. SIGNATURE: *Missella M. Smith*

SECTION F - CREDIT CARD PAYMENT INFORMATION

(28) MASTERCARD/VISA ACCOUNT NUMBER

EXPIRATION DATE

MASTERCARD

MONTH YEAR

VISA

AUTHORIZED SIGNATURE

DATE

I hereby authorize the FCC to charge my VISA or MASTERCARD for the service(s) rendered as herein described.

SEE PUBLIC BURDEN ESTIMATE ON REVERSE

REMITTANCE ADVICE (Continuation Sheet)

PAGE NO. 2 OF 2

USE THIS SECTION ONLY FOR EACH ADDITIONAL APPLICANT

SECTION BB - ADDITIONAL APPLICANT INFORMATION

(11) APPLICANT NAME (if paying by credit card, enter name exactly as it appears on your card)

Gabriel Communications, Inc.

(12) STREET ADDRESS LINE NO. 1

16090 Swingley Ridge Road

(13) STREET ADDRESS LINE NO. 2

Suite 500

(14) CITY

Chesterfield

(15) STATE

MO

(16) ZIP CODE

63017

(17) DAYTIME TELEPHONE NUMBER (include area code)

(314) 991-9375

IF MORE BOXES ARE NEEDED, USE ADDITIONAL FCC 159-C CONTINUATION SHEETS TO LIST EACH SERVICE

SECTION CC - PAYMENT INFORMATION

(19A) FCC CALL SIGN/OTHER ID	(20A) PAYMENT TYPE CODE (PTC)	(21A) QUANTITY	(22A) FEE DUE FOR (PTC) IN BLOCK 20A	FCC USE ONLY
(23A) FCC CODE 1		(24A) FCC CODE 2	\$	
(19B) FCC CALL SIGN/OTHER ID	(20B) PAYMENT TYPE CODE (PTC)	(21B) QUANTITY	(22B) FEE DUE FOR (PTC) IN BLOCK 20B	FCC USE ONLY
(23B) FCC CODE 1		(24B) FCC CODE 2	\$	
(19C) FCC CALL SIGN/OTHER ID	(20C) PAYMENT TYPE CODE (PTC)	(21C) QUANTITY	(22C) FEE DUE FOR (PTC) IN BLOCK 20C	FCC USE ONLY
(23C) FCC CODE 1		(24C) FCC CODE 2	\$	
(19D) FCC CALL SIGN/OTHER ID	(20D) PAYMENT TYPE CODE (PTC)	(21D) QUANTITY	(22D) FEE DUE FOR (PTC) IN BLOCK 20D	FCC USE ONLY
(23D) FCC CODE 1		(24D) FCC CODE 2	\$	

SECTION DD - TAXPAYER INFORMATION

(23) COMPLETE THIS BLOCK ONLY IF SECTION BB IS APPLICABLE

APPLICANT TIN

0 4 3 1 8 2 0 8 5 5

reset form

KELLEY DRYE & WARREN LLP
1200 19TH STREET, N.W.
WASHINGTON, DC 20036

006246

15-122/540
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PAY
TO THE
ORDER OF

DATE July 20, 2000

Federal Communications Commission

\$ 780.00

Seven Hundred Eight And No/100-----

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Shirley K. Lambert MP

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IF NOT CORRECT PLEASE NOTIFY US PROMPTLY. NO RECEIPT DESIRED.
KELLEY DRYE & WARREN LLP

DATE	DESCRIPTION	AMOUNT
7/20/00	Charge 012687.0005 for filing fees	\$780.00

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Application of _____)
TriVergent Communications, Inc.)
And Gabriel Communications, Inc.)
) Docket No.
for Authority to Transfer Control of)
Entity Holding Section 214 Authorizations to)
Provide Telecommunications Services Between)
the United States and International Points)

APPLICATION

TriVergent Communications, Inc. (“TriVergent”) and Gabriel Communications, Inc. (“Gabriel”) (collectively, hereinafter, the “Applicants”), by their attorneys and pursuant to Section 214 of the Communications Act of 1934, as amended (“the Act”) and section 63.18 of the Commission’s Rules, 47 C.F.R. §63.18, hereby respectfully request authority from the Federal Communications Commission (“Commission”) to transfer control of TVCI to Gabriel through merger as described more fully below. As discussed below, TVCI and Gabriel are currently certified to provide international telecommunications services between the United States and various points pursuant to Section 214 authorizations. Due to the timing of the Applicants’ business plans, the Applicants respectfully request that the Commission process this Application in accordance with the Commission’s streamlined processing procedures as set forth in Section 63.12 of the Commission’s Rules.

I. The Applicants

TVCI. TVCI is a privately-held, South Carolina corporation headquartered at 301 North Main Street, Greenville, South Carolina, 29601, and is a direct wholly-owned subsidiary of State Communications, Inc. (“SCI”). TVCI is a facilities-based, integrated communications provider, and offers business customers a bundled product package that includes high-speed Internet access, such as digital subscriber line (“DSL”), and local and long distance telecommunications service, as well as web design and web hosting. Subsequent to the merger described below, SCI will cease to exist and Gabriel will assume ultimate control of TVCI, as described hereafter. TVCI currently provides local and long distance services primarily to certain markets in the Southeast, including Florida, Georgia, South Carolina and North Carolina, and plans to expand service to other markets. TVCI is authorized by the Commission to provide interstate and international long distance telecommunications services.¹ TVCI’s federal authority occasions this application for transfer of control. SCI also is authorized by the Commission to provide interstate and international long distance telecommunications services,² however SCI does not have any customers pursuant to this Section 214 authority and will be filing separately for a discontinuance of its authority to provide international resale services.

Gabriel. Gabriel is a privately-held Delaware corporation whose principal offices are located at 16090 Swingley Ridge Road, Chesterfield, MO, 63017. Gabriel is a facilities-based, integrated communications and applications services provider. Gabriel packages dedicated high

¹ TVCI holds a global Section 214 authorization to provide resale service granted effective December 24, 1999 in File No. ITC-214-19991119-00742. See FCC Public Notice dated December 10, 1999.

² SCI holds a global Section 214 authorization to provide resale service, granted effective May 6, 1998 in File No. ITC-214-10080226-00148. See FCC Public Notice dated April 1, 1998.

speed Internet access and “traditional” local and long distance telephone services with unified voice, e-mail and fax messaging and other advanced data services. Founded in 1998, Gabriel now has broadband telecommunications networks in operation or under development in 15 markets in Arkansas, Illinois, Indiana, Kansas, Kentucky, Missouri, Ohio, Oklahoma, and Tennessee. Gabriel has previously been authorized to provide interstate and international long distance telecommunications service by the Commission.³

II. Request for Authority to Transfer Control of TVCI to Gabriel

The Applicants and SCI have signed a definitive agreement (“Agreement”) of merger whereby at the closing SCI will merge with and into a wholly-owned special-purpose subsidiary of Gabriel, Triangle Acquisition, Inc. (“Triangle”). Triangle will be the surviving entity, and by virtue of the merger, SCI’s existing subsidiary, TVCI, will become a direct subsidiary of Triangle. At the same time, as consideration for the merger, each SCI shareholder will receive Gabriel stock in return for cancellation of its SCI shares at the exchange ratio specified in the Agreement. Thus, upon consummation of the merger, TVCI will become a direct, wholly-owned subsidiary of Triangle⁴ and ultimate control of TVCI will have changed from the present SCI shareholders to Gabriel.

After the consummation of the merger, Gabriel will own 100% of the former SCI and TVCI, but TVCI will continue to operate under its same name and operating authority. Thus, the transfer of control will be transparent to customers and will not have any adverse impact on

³ Gabriel holds a global Section 214 authorization to provide facilities-based and resale service, granted effective May 7, 1999 in File No. ITC-214-19990323-00165. See FCC Public Notice dated April 2, 1999. Gabriel’s Section 214 authority is not affected in any way by the instant application.

⁴ As part of the consummation of the merger, Triangle will change its name to TriVergent Corporation.

them. After the merger, TVCI's toll-free contact for customer service and Commission inquiries will remain: 888-782-8318, for business customers; and 800-800-9681, for residential customers.

Gabriel clearly is qualified to acquire and control SCI and TVCI. Like SCI, Gabriel has successfully raised sufficient capital to deploy facilities and provide service in its target markets. Notably, for its initial network build-out, Gabriel has raised approximately \$187 million in capital investment, including approximately \$97 million in an initial round of private equity financing in 1998, followed by establishment of a \$90 million dollar senior secured debt facility in 1999. Like SCI, Gabriel's preferred stockholders include various large institutional investors. Furthermore, Gabriel had cash and cash equivalents of approximately \$63 million as of December 31, 1999. Accordingly, Gabriel's resources, combined with those of SCI, create a far stronger company than either operation independently. The combined company has fully funded plans to develop networks in over 40 markets in 16 Midwestern and Southeastern states. On a pro forma basis, the combined company will have total invested and committed capital of \$800 million.

Additionally, like SCI, Gabriel is led by a highly-qualified team of management personnel, all of whom have extensive backgrounds in telecommunications. Collectively, Gabriel's senior management team has over 200 years of telecommunications industry experience, in founding, developing and managing successful high growth communications businesses, including CenCom Cable and Brooks Fiber. The members of Gabriel's management team have extensive experience in telecommunications network management, provisioning, billing, customer service, OSS design and implementation, sales, marketing, finance, and legal and regulatory affairs, including significant entrepreneurial experience in emerging

telecommunications companies. Upon consummation of the merger, various SCI executives likely will join with those of Gabriel to form the management team for the combined company.

III. Public Interest Analysis

The proposed transfer of control of TVCI from its current shareholders to Gabriel does not raise any public interest issues and is clearly in the public interest. The combination of TVCI and Gabriel will enhance their ability to compete in the market for telecommunications services. The Applicants will benefit from increased economies of scale that will permit them to operate more efficiently and thus to compete more effectively. SCI or TVCI and Gabriel currently operate in a total of 16 markets, and expect that the combined company will be operational in over 30 markets, with approximately 350 collocations in service, by year-end 2000. The merger will allow the combined entity to introduce new products and services and to respond to the competitive telecommunications environment across the nation. Over time, consumers across the nation will benefit from a greater number of product and service options as well as lower prices.

IV. Streamlined Processing

The Applicants believe that this Application qualifies for streamlined processing procedures as set forth in Section 63.12 of the Commission's Rules. First, neither Applicant is affiliated with a foreign carrier in a destination market. Second, neither Applicant is affiliated with a dominant U.S. carrier whose international switched or private line services the Applicants seek to resell. Finally, the Applicants do not seek authority to provide switched basic services over private lines to any country not previously authorized by the Commission. *The Applicants therefore request that the Commission accord this Application streamlined processing treatment.*

V. Section 63.18 Information

The Applicants submit the following information pursuant to section 63.18(e)(3) of the Commission's Rules:

- (a) The name, address, and telephone number of the Applicants are as follows:
- | | |
|--|--|
| TriVergent Communications, Inc.
301 North Main Street
Suite 2000
Greenville, Suite Carolina 29601
(864) 271-6335 | Gabriel Communications, Inc.
16090 Swingley Ridge Road
Suite 500
Chesterfield, MO 63017
(636) 537-5700 |
|--|--|
- (b) TVCI is a privately held South Carolina corporation. Gabriel is a privately held Delaware corporation.
- (c) Correspondence concerning this Application should be sent to:

Brad E. Mutschleknau
Melissa M. Smith
KELLEY, DRYE & WARREN LLP
1200 19th Street, N.W.
Suite 500
Washington, D.C. 20036
(202) 955-9600 (phone)
(202) 955-9792 (fax)

Copies of any correspondence also should be sent to the following designated

representatives of the Applicants:

For TVCI:

Riley M. Murphy
Secretary, General Counsel
TRIVERGENT COMMUNICATIONS, INC.
301 North Main Street, Suite 2000
Greenville, South Carolina 29601

For Talk.com

Edward J. Cadieux
Executive Director—Regulatory
GABRIEL COMMUNICATIONS,
INC.
16090 Swingley Ridge Road
Suite 500
Chesterfield, MO 63017

(d) TVCI received global Section 214 authorization to provide resale service effective December 24, 1999 in File No. ITC-214-19991119-00742. Gabriel received global Section 214 authorization to provide facilities-based and resale service granted May 7, 1999 in File No. ITC-214-19990323-00165.

(e) This Application is submitted pursuant to Section 63.18(e)(3).

(f) No response required.

(g) No response required.

(h) The ownership information of Gabriel in its original Section 214 Application filed with the Commission on March 23, 1999 has not changed in any material respect. Thus, the information requested in this subsection already is a matter of record and on file with the Commission.

There are no interlocking directorates with foreign carriers.

(i) As evidenced by the certification provided in *Attachment A*, Gabriel is not affiliated with any foreign carrier.

(j), (k), (l), (m)

Not applicable; Gabriel is not affiliated or otherwise related to any foreign carrier on any of the routes on which Gabriel or TVCI seek to provide international telecommunications services.

(n) As evidenced by the certification provided in *Attachment A*, Gabriel 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 market power on the foreign end of the route and Gabriel will not enter into such agreements in the future.

- (o) As evidenced by the certification provided in *Attachment A*, 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) The Applicants request streamlined processing for this Application pursuant to Section 63.12 of the Commission's Rules. This Application is eligible for streamlined processing because neither Applicant is affiliated with foreign carriers on any route, nor are the Applicants requesting authority to provide switched services over private lines to countries not previously authorized for this service.

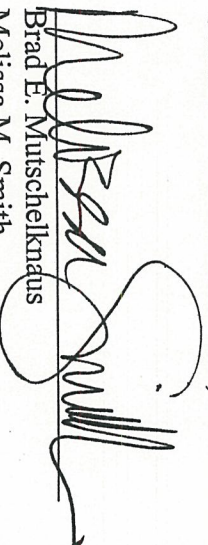
VI. Conclusion

WHEREFORE, TVCI and Gabriel respectfully request that the Commission authorize the transfer of control of TVCI from its current shareholders to Gabriel.

Respectfully submitted,

**TRIVERGENT COMMUNICATIONS, INC. AND
GABRIEL COMMUNICATIONS, INC.**

By:



Brad E. Mutschelknaut

Melissa M. Smith

KELLEY DRYE & WARREN LLP

1200 19th Street, N.W.

Suite 500

Washington, D.C. 20036

(202) 955-9600

Their Attorneys

Dated: July 21, 2000

ATTACHMENT A

CERTIFICATE

The undersigned hereby certifies, on behalf of Gabriel Communications, Inc., with respect to the foregoing application for authority to transfer control of entity holding Section 214 authority to Gabriel, that:

1. Gabriel is not a foreign carrier and is not affiliated with any foreign carrier.
2. Gabriel 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 market power on the foreign end of the route and Gabriel will not enter into such agreements in the future.
3. 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).

By: 
Title: Executive Director – Regulatory

Date: July 20, 2000