

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

In the Matter of

National Rural Utilities Cooperative Finance
Corporation,
Transferor,

and

Atlantic Tele-Network, Inc.,
Transferee,

Applications for Consent to the Transfer of
Control of FCC Licenses and Authorizations

WC Docket No. 15-____

**CONSOLIDATED APPLICATION FOR CONSENT TO TRANSFER CONTROL OF
DOMESTIC AND INTERNATIONAL SECTION 214 AUTHORITY**

Pursuant to 47 U.S.C. § 214 and 47 C.F.R. §§ 63.04, 63.18(e)(3) and 63.24, National Rural Utilities Cooperative Finance Corporation (“CFC”) and Atlantic Tele-Network, Inc. (“ATN”) request Commission consent to transfer control, from CFC to ATN, of DTR Holdings, LLC (“DTR”) and Vitelcom Cellular, Inc. d/b/a Innovative Wireless (“VCI”), which hold international Section 214 authority from the Commission, and Innovative Long Distance, Inc. (“ILD”) and Virgin Islands Telephone Corp. d/b/a Innovative Telephone (“Vitelco,” together with DTR, VCI, and ILD, the “Authorized Carriers,” together with CFC and ATN, “Applicants”), which hold domestic 214 authority from the Commission. CFC, ATN, and their affiliates have executed a purchase agreement pursuant to which ATN will acquire control of the Authorized Carriers and their affiliated operating companies in the U.S. Virgin Islands, British Virgin Islands, and St. Maarten (the “Proposed Transaction”).

This narrative response provides the information requested by 47 C.F.R. §§ 63.04 and 63.18. Attachment 1 to this application describes the parties and the Proposed Transaction, details the applications filed with the Commission in connection with the Proposed Transaction, describes the public interest benefits of the Proposed Transaction, and includes related requests and showings. As demonstrated therein, the Proposed Transaction raises no public interest, competition, or foreign ownership issues that would warrant extended review of the applications.

To assist the Commission in reviewing the Proposed Transaction, the Applicants have included the following attachments:

- Attachment 1: description of the Proposed Transaction, public interest statement, and related requests and showings;
- Attachment 2: list of subject Commission licenses and authorizations;
- Attachment 3: list of FCC registration numbers for the Applicants and parties to the Proposed Transaction;
- Attachment 4: diagram showing pre-consummation ownership of the Authorized Carriers and their affiliates; and
- Attachment 5: diagram showing post-consummation ownership of the Authorized Carriers and their affiliates.

The Applicants have also prepared the following additional attachments:

- Attachment 6: detailed spectrum aggregation analysis for mobile telephony/broadband markets, and
- Attachment 7: analysis of USVI competitor spectrum holdings.

These attachments are not relevant to this consolidated Section 214 application and therefore not included here. They are included with the relevant Form 603 wireless applications.

I. INFORMATION REQUIRED BY 47 C.F.R. § 63.18 AND IBFS MAIN FORM

The Applicants submit the following information, pursuant to 47 C.F.R. § 63.18, in support of their request for consent to transfer control to ATN of international Section 214 authority held by DTR and VCI.

A. Contact Information (47 C.F.R. § 63.18(c), (d), Answer to IBFS Main Form Question 10)

Correspondence concerning the Proposed Transaction should be directed to:

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Neither CFC nor CFC's holding company for its Caribbean telecommunications and cable businesses, Caribbean Asset Holdings, LLC ("CAH"), holds international Section 214 authority. DTR, the holding company for CFC's USVI telecommunications and cable businesses, holds international Section 214 authority, File No. ITC-214-19990330-00206, to provide international telecommunications service on global facilities and resale bases, although

DTR itself does not offer any telecommunications services. One of DTR's wholly-owned subsidiaries, ILD, relies on DTR's international Section 214 authority pursuant to 47 C.F.R.

§ 63.21(h).¹ VCI holds the following international Section 214 authority:

- File No. ITC-214-19930312-00048, old File No. ITC-93-137, for switched resale international telecommunications services,² and
- File No. ITC-214-19990330-00207, for global facilities-based and global resale international telecommunications services.³

Neither ATN nor ATN's wholly-owned subsidiary, ATN VI Holdings, LLC ("ATN VI"), holds international Section 214 authority. ATN directly or indirectly controls the following subsidiaries holding international Section 214 authority to provide international telecommunications services:

- Choice Communications, LLC ("Choice"): File Nos. ITC-214-19971201-00749, for global resale international telecommunications services and ITC-214-20021219-00604, for global facilities-based and global resale international telecommunications services;
- Commnet Wireless, LLC: File No. ITC-214-20081113-00496, for global facilities-based and global resale international telecommunications services;
- EssexTel, Inc.: File No. ITC-214-20110303-00065, for global facilities-based and global resale international telecommunications services;

¹ See Letter from Edgar Class, Counsel for Chapter 11 Trustee Stan Springel, to FCC Secretary Marlene H. Dortch, File No. ITC-214-19990330-00206 (filed Mar. 20, 2009) (notifying the Commission that ILD was relying on the international Section 214 authority of its parent company, Innovative Commission Corporation, Debtor-in-Possession ("ICC-DIP")). Following Commission consent, this authorization was later assigned from ICC-DIP to DTR, of which ILD is a wholly-owned subsidiary. Out of an abundance of caution, ILD later confirmed for the Commission that it was relying on DTR's international Section 214 authority. See Letter from Nathania Bates, General Counsel, Innovative Companies, to FCC Secretary Marlene H. Dortch, File No. ITC-214-19990330-00206 (filed Dec. 3, 2013).

² See *International Authorizations Granted*, Public Notice, 14 FCC Rcd. 9992 (1999).

³ See *Vitelcom Cellular, Inc.*, Order, Authorization and Certificate, 8 FCC Rcd. 4378 (1993).

- ION HoldCo, LLC: File No. ITC-214-20070426-00164, for global resale international telecommunications services;
- National Mobile Communications Corporation: File No. ITC-214-20050422-00566, for global resale international telecommunications; and
- SAL Spectrum, LLC: File No. ITC-214-20091123-00501, for global facilities-based and global resale international telecommunications services.

B. Post-Consummation Ownership (47 C.F.R. § 63.18(h), Answer to IBFS Main Form Question 11)

Upon consummation of the Proposed Transaction, the following entities and person will hold a 10-percent-or-greater ownership interest in DTR, ILD, and VCI:

Name: DTR Holdings, LLC (“DTR”)
 Address: 20701 Cooperative Way, Dulles, Virginia 20166
 Citizenship: U.S. Virgin Islands
 Principal Business: holding company
 Ownership Interest: DTR owns 100 percent of the respective shares of each of ILD and VCI.

Name: Caribbean Asset Holdings, LLC (“CAH”)
 Address: 20701 Cooperative Way, Dulles, Virginia 20166
 Citizenship: Delaware
 Principal Business: holding company
 Ownership Interest: CAH owns 100 percent of DTR’s member interests and is DTR’s sole member.

Name: ATN VI Holdings, LLC (“ATN VI”)
 Address: c/o Atlantic Tele-Network, Inc.
 600 Cummings Center, Beverly, Massachusetts 01915
 Citizenship: Delaware
 Principal Business: holding company
 Ownership Interest: ATN VI will own 100 percent of CAH’s member interests and will be CAH’s sole member.

Name: Atlantic Tele-Network, Inc. (“ATN”)
 Address: 600 Cummings Center, Beverly, Massachusetts 01915
 Citizenship: Delaware
 Principal Business: holding company
 Ownership Interest: ATN owns 100 percent of ATN VI’s member interests.

Name: Cornelius B. Prior, Jr.
 Address: P.O. Box 12030, St. Thomas, U.S. Virgin Islands 00801
 Citizenship: United States
 Ownership Interest: Mr. Prior owns approximately 28 percent of ATN’s shares.

No other person or entity holds—or will hold, following the consummation of the Proposed Transaction—a 10-percent-or-greater ownership interest in ATN. In Attachments 4 and 5, the Applicants provide pre- and post-consummation ownership charts for the Authorized Carriers.

C. Interlocking Directorates (47 C.F.R. § 63.18(h), Answer to IBFS Main Form Question 12)

ATN currently has, and post-consummation will continue to have, the interlocking directorates with foreign carriers listed in Table 1 below.

Table 1: ATN Interlocking Directorates

Name	Position with ATN	Foreign Carrier and Position
Cornelius B. Prior, Jr.	Chairman, Board of Directors	<ul style="list-style-type: none"> • Bermuda Digital Communications, Ltd. – Director
Michael T. Prior	President and Chief Executive Officer	<ul style="list-style-type: none"> • Bermuda Digital Communications, Ltd. – Director
Justin D. Benincasa	Treasurer and Chief Financial Officer	<ul style="list-style-type: none"> • Bermuda Digital Communications, Ltd. – Director • Guyana Telephone and Telegraph, Ltd. – Chairman, Board of Directors
Leonard Q. Slap	Senior Vice President, Secretary and General Counsel	<ul style="list-style-type: none"> • Guyana Telephone and Telegraph, Ltd. – Director
Barry C. Fougere	Senior Vice President – Business Operations	<ul style="list-style-type: none"> • Bermuda Digital Communications, Ltd. – Director • Guyana Telephone and Telegraph, Ltd. – Director
John Audet	Vice President – Finance	<ul style="list-style-type: none"> • Guyana Telephone and Telegraph, Ltd. – Director

D. Narrative of Transfer of Control and Public Interest Statement (47 C.F.R. § 63.24(e), Answer to Main IBFS Form Question 13)

In Attachment 1, the Applicants describe the Proposed Transaction, related applications filed with the Commission, and the public interest benefits of the Proposed Transaction.

E. Foreign Carrier Affiliates (47 C.F.R. § 63.18(i), Answer to IBFS Main Form Question 14)

ATN is presently affiliated with the foreign carriers listed in Table 2 below, and DTR and VCI will become affiliated with these foreign carriers upon consummation of the Proposed Transaction. DTR and VCI are currently affiliated with the foreign carrier listed in Table 3 below, and ATN will become affiliated with this foreign carrier upon consummation of the Proposed Transaction.

Table 2: ATN Pre-Consummation Foreign Carrier Affiliates

Country	Affiliated Carrier
Aruba	DTH Television & Telecommunication N.V., d/b/a MIO Aruba
Bermuda	Bermuda Digital Communications Ltd. d/b/a Logic (“BDC”) KeyTech Limited operating companies (“KeyTech”) ⁴
Guyana	Guyana Telephone and Telegraph Company Limited (“GT&T”)

⁴ ATN has entered into an unrelated transaction to acquire a controlling 51-percent ownership interest in KeyTech, which provides in relevant part, through its operating subsidiaries, voice and data services in Bermuda and the Cayman Islands. *See* ATN to Acquire Controlling Interest in KeyTech Bermuda, Press Release (Oct. 6, 2015), <http://ir.atni.com/releasedetail.cfm?ReleaseID=935284%20>. As part of the KeyTech acquisition, ATN will contribute its existing interest in BDC, which will merge into a KeyTech subsidiary. Although the KeyTech acquisition has not yet been consummated, the potential affiliation is reported here as a matter of completeness. ATN and KeyTech will be filing any necessary applications with the Commission for approval of that transaction.

Table 3: ATN Additional Post-Consummation Foreign Carrier Affiliate

Country	Affiliated Carrier
British Virgin Islands	B.V.I. Cable TV Ltd. d/b/a BVI Cable TV ⁵

Pursuant to 47 C.F.R. § 63.10(a), ATN and the Authorized Carriers request post-consummation non-dominant regulatory treatment on all international routes except the U.S.-Guyana route.

With respect to the U.S.-Aruba, U.S.-Bermuda, and U.S.-British Virgin Islands routes, the Commission should classify ATN and the Authorized Carriers as presumptively non-dominant.

None of the foreign carrier affiliates in these markets, as identified in Tables 2 and 3 above, has a market share of 50 percent or more in the respective international transport or local access markets in any of these jurisdictions. Moreover, none of these carriers appears on the Commission’s list of foreign carriers presumed to have market power in foreign telecommunications markets.⁶

The Commission already regulates ATN as dominant on the U.S.- Guyana route, and ATN agrees to continue to be so regulated following the consummation of the Proposed Transaction, without prejudice to its right to petition for reclassification at a later date. Similarly,

⁵ BVI Cable TV is authorized to provide telecommunications services in the British Virgin Islands, although it presently provides only cable television services in that market. The Authorized Carriers’ corporate affiliate in St. Maarten, Caribbean Teleview Services N.V. d/b/a St. Maarten Cable TV, is authorized to provide only cable television and Internet access services. Consequently, St. Maarten Cable TV does not fall within the definition of “telecommunications carrier” in 47 C.F.R. § 63.09(d).

⁶ *International Bureau Revises and Reissues the Commission’s List of Foreign Telecommunications Carriers that Are Presumed to Possess Market Power in Foreign Telecommunications Markets*, Public Notice, 22 FCC Rcd. 945 (Int’l Bur. 2007) (“Presumed Market Power List”).

the Authorized Carriers also agree to be regulated as dominant on the U.S.-Guyana route following the consummation of the Proposed Transaction, without prejudice to their rights to petition for reclassification at a later date.⁷

F. Certifications Regarding Destination Markets (47 C.F.R. § 63.18(j), Answer to IBFS Main Form Question 15)

Post-consummation, DTR and VCI: (a) will not be authorized to provide service to any destination country where either is a foreign carrier; (b) will not be authorized to provide service to any destination country where DTR or VCI controls a foreign carrier; (c) will be authorized to provide service to Aruba, Bermuda, British Virgin Islands, and Guyana, where each is affiliated with foreign carriers; and (d) will not be authorized to provide service to any destination country where two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than 25 percent of the Section 214 holder 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.

G. WTO Status (47 C.F.R. § 63.18(k), Answer to IBFS Main Form Question 16)

Guyana is a WTO member.⁸ The Commission has long treated Bermuda and the British Virgin Islands as effective WTO members, as the U.S. Government treats all British overseas territories as subject to U.K. WTO commitments.⁹

⁷ This is consistent with the regulatory treatment afforded ATN's other U.S. subsidiaries. *See, e.g., International Authorizations Granted*, Public Notice, File No. ITC-214-20081113-00496, 23 FCC Rcd. 18,027 (2008).

⁸ World Trade Organization, Members and Observers as of Apr. 26, 2015, www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm.

⁹ *See Cable & Wireless USA, Inc.*, Order, Authorization & Certificate, 15 FCC Rcd. 3050, 3052 n.14 (Int'l Bur. 2000) (finding that Bermuda is subject to U.K. WTO commitments), *citing* Letter from Robert E. Dalton, Assistant Legal Adviser for Treaty Affairs, U.S. Department of State, to Rebecca Arbogast, Chief, Telecommunications Division, FCC

Although Aruba participates in certain WTO regimes, such as the Agreement on Government Procurement,¹⁰ Aruba is not presently a WTO member.¹¹ Nevertheless, for the reasons noted in part I.E above, ATN’s foreign carrier affiliate in Aruba, MIO Aruba, should continue to be classified as presumptively non-dominant.

H. Eligibility for Streamlined Processing (47 C.F.R. §§ 63.12, 63.18(p), Answer to IBFS Main Form Question 20)

Although the proposed transaction qualifies for streamlined processing of the international Section 214 applications under 47 C.F.R. § 63.12(b)-(c), the Applicants do not request streamlined treatment given the numerous applications they have filed with the Commission in connection with the Proposed Transaction. Instead, the Applicants request a single, consolidated pleading cycle for consideration of all of the applications associated with the Proposed Transaction.

International Bureau, File No. ITC-214-19990709-00412 (Feb. 16., 2000) (“Dalton Letter”) (stating that “it remains the Department’s position that, consistent with the Vienna Convention on the Law of Treaties and actions taken by the United Kingdom in accepting the WTO Agreement, the WTO Agreement applies to all British territories, including Bermuda and Gibraltar. The Office of the U.S. Trade Representative concurs in this view.”).

¹⁰ Declaration of the Minister of Foreign Affairs of the Kingdom of the Netherlands (May 12, 2014) (accepting for Aruba the Protocol Amending the WTO Agreement on Government Procurement of March 30, 2012).

¹¹ See Trade Agreements, Dep’t of Economic Affairs, Commerce, and Industry of Aruba, www.arubaeconomicaffairs.aw/index.php?option=com_content&task=view&id=45&Itemid=57 (last visited Oct. 21, 2015) (stating that “Aruba is not a complete member of the WTO”); *T.A. Resources N.V.*, Order and Authorization, 26 FCC Rcd. 15,978 (Int’l Bur. 2011) (finding that as of 2011, Aruba was not a WTO member but that Aruba offered effective competitive opportunities for entry of U.S. carriers into the Aruban telecommunications market). See also Dalton Letter (referencing earlier guidance to the FCC stating that for the Kingdom of the Netherlands, the WTO Agreement applies only with respect to the Kingdom in Europe and to the Netherlands Antilles). Aruba seceded from the Netherlands Antilles in 1986—prior to the entry into force of the WTO Agreement in 1994—and currently has the status of an independent country within the Kingdom of the Netherlands.

II. INFORMATION REQUIRED BY 47 C.F.R. § 63.04

The Applicants submit the following information, pursuant to 47 C.F.R. § 63.04, in support of their request for consent to transfer control to ATN of domestic telecommunications lines held by ILD and Vitelco.¹²

A. Description of the Proposed Transaction (47 C.F.R. § 63.04(a)(6))

In Attachment 1, the Applicants provide a description of the Proposed Transaction, related applications filed with the Commission, and a description of how consummation of the Proposed Transaction will serve the public interest, convenience, and necessity.

B. Description of Geographic Service Areas of Transfer, Transferee, and Affiliates (47 C.F.R. § 63.04(a)(7))

Neither CFC, CAH, nor DTR offers any domestic telecommunications services. DTR's affiliates offer domestic (non-CMRS) telecommunications services as follows:

- ILD offers domestic interexchange and international telecommunications services in the U.S. Virgin Islands.
- Vitelco offers local exchange, exchange access, intraterritorial, domestic interstate, and fixed broadband Internet access services in the U.S. Virgin Islands.

Neither ATN nor ATN VI offers any domestic telecommunications services. ATN's affiliates offer domestic fixed wireless consumer broadband Internet access services in the U.S. Virgin Islands, Arizona, California, Colorado, Montana, Nebraska, Nevada, New Mexico, Texas, Utah, and Wyoming, and domestic interstate, intrastate, and local exchange services in New Hampshire, New York, and Vermont. There is no domestic wireline overlap between ATN and any of its affiliates, on one hand, and ILD and Vitelco, on the other, as neither ATN nor any of its affiliates provides domestic wireline services in the U.S. Virgin Islands.

¹² 47 C.F.R. § 63.04(b) provides that applicants submitting a joint domestic/international Section 214 application should include the information requested in 47 C.F.R. § 63.04(a)(6) through (a)(12).

C. Eligibility for Streamlining (47 C.F.R. § 63.04(a)(8))

The portion of this consolidated application pertaining to domestic Section 214 authority does not qualify for streamlined processing under 47 C.F.R. § 63.03(b)(1), as both Vitelco and Choice are facilities-based carriers in the U.S. Virgin Islands and parties to a transaction that involves a corporate change in control. This portion of the application also does not qualify for streamlined processing under 47 C.F.R. § 63.03(b)(2), as the dominant local exchange carrier in the U.S. Virgin Islands—Vitelco—is a party to the Proposed Transaction. As noted in part I.H. above, the Applicants instead request a single, consolidated pleading cycle for consideration of all of the applications associated with the Proposed Transaction.

D. Related Applications (47 C.F.R. § 63.04(a)(9))

In Attachment 1, Table 1, the Applicants provide a list of all related applications associated with the Proposed Transaction.

E. Special Consideration (47 C.F.R. § 63.04(a)(10))

The Applicants do not request any special consideration of this application pursuant to Section 63.04(a)(10).

F. Waiver Requests (47 C.F.R. § 63.04(a)(11))

The Applicants have not sought any waivers in connection with this application.

G. Public Interest Statement (47 C.F.R. § 63.04(a)(12))

In Attachment 1, the Applicants explain in detail how consummation of the Proposed Transaction would serve the public interest, convenience, and necessity and would not create any horizontal effects in any local exchange, exchange access, interstate interexchange, or wireline broadband Internet access product market in the U.S. Virgin Islands.

CONCLUSION

For the reasons stated above, the Applicants respectfully request that the Commission expeditiously grant consent for the transfer of control of DTR and VCI from CFC to ATN pursuant to the terms of the Proposed Transaction.

Respectfully submitted,

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October 30, 2015

ATTACHMENT LIST

- Attachment 1: Description of the Proposed Transaction, Public Interest Statement, and Related Requests and Showings
- Attachment 2: Commission Licenses and Authorizations Held by the Authorized Carriers and Their Affiliates
- Attachment 3: FCC Registration Numbers for the Applicants and Parties to the Proposed Transaction
- Attachment 4: Pre-Consummation Ownership of the Authorized Carriers and Their Affiliates
- Attachment 5: Post-Consummation Ownership of the Authorized Carriers and Their Affiliates