

2. We also remove the requirement that the full Commission review and approve all Section 214 applications for international facilities filed by foreign carriers or their affiliates. The International Bureau has sufficient policy guidance to act on such applications pursuant to its delegated authority in Section 0.261 of our rules. We will continue to act on applications that raise matters reserved for Commission review under that section. This action will eliminate unnecessary regulatory burdens on the Commission and expedite action on pending applications.

II. BACKGROUND

3. On January 28, 1993, TLD filed the captioned application seeking Section 214¹ authority, to provide international private line services to and from Puerto Rico or the U.S. Virgin Islands and the Dominican Republic.² American Telephone & Telegraph Company ("AT&T") filed a Petition to Deny. TLD opposed AT&T's petition, and AT&T filed a reply. Subsequently, AT&T withdrew its opposition.³

4. TLD also filed in 1993 the captioned applications to modify its regulatory status from dominant to nondominant for the provision of international communications services on authorized U.S. international routes where TLD has no affiliation with a carrier on the foreign end, or where the service TLD seeks to provide is solely through the resale of unaffiliated U.S. facilities-based carriers' international switched services. AT&T filed a Petition to Deny but subsequently also withdrew its opposition to these applications.⁴

III. DISCUSSION

Dominican Republic Application

5. TLD requests authority to use previously authorized circuits in the Transcaribbean Cable System ("TCS-1") and the international point-to-point microwave system between Monte del Estado, Puerto Rico, and Otra Banda, Dominican Republic to transmit private line traffic between those two destinations. TLD states that it will acquire the microwave capacity from Telecomunicaciones Ultramarinas de Puerto Rico ("TUPR") pursuant to TUPR's Tariff FCC No. 1. TLD proposes to use its authorized TAINO-CARIB Cable System facilities between Puerto Rico and the U.S. Virgin Islands to extend international private line service between the U.S. Virgin Islands and

¹ See 47 U.S.C. § 214 (1988).

² Because TLD is affiliated with a foreign carrier, Telefonica de Espana ("Telefonica"), TLD's applications for international facilities-based authorizations are acted on by the full Commission. See Telefonica Larga Distancia de Puerto Rico et al., 8 FCC Rcd 106, 113 (1992) (TLD Order).

³ Letter to William F. Caton, Acting Secretary, Federal Communications Commission from Stephen C. Garavito, Attorney for AT&T, dated February 3, 1995 (AT&T Letter).

⁴ Id. at 3.

the Dominican Republic.⁵ TLD states it is only seeking to use its authorized facilities for an additional service that is similar in all material respects to the International Business Service ("IBS") that TLD is currently authorized to provide via satellite to the Dominican Republic.⁶ TLD contends that, given the short geographic distance between Puerto Rico and the U.S. Virgin Islands, on the one hand, and the Dominican Republic, on the other hand, it is relatively costly to provide private line services via satellite in comparison to using the requested microwave and cable facilities. The application specifies that the proposed private line services will terminate at customer premises in Puerto Rico, the U.S. Virgin Islands, and the Dominican Republic, and will not interconnect with the public switched networks in any of these jurisdictions.

6. AT&T initially opposed this application on the same grounds that it opposed TLD's earlier applications to provide direct, facilities-based service to the Bahamas and the Netherlands.⁷ AT&T argued that the authority TLD seeks exceeds limits imposed by the Commission in the TLD Order. AT&T now states, however, that the Commission has made clear it will grant all TLD facilities applications, except those involving circuits to Spain, that involve service from Puerto Rico or the U.S. Virgin Islands and do not involve expansion to the U.S. mainland.⁸ Because the Commission has acknowledged that grant of additional authority to TLD would not prejudice AT&T's petition for rulemaking on foreign market entry, AT&T states, it no longer opposes the grant of authority sought in these facilities applications.⁹ AT&T continues to believe, however, that any expansion of TLD's authority should be denied until Spain, and any other markets where Telefonica (or its affiliates) controls essential facilities, provide comparable access to U.S. carriers.

7. As we stated in the TLD Cable Order, the crucial question to be addressed in any TLD application to initiate an additional service on a U.S. international route where TLD has no affiliation with a carrier on the foreign end -- here, the Dominican Republic -- is whether the authority requested

⁵ TLD provides domestic interexchange and international service in the U.S. Virgin Islands. Telefonica Larga Distancia de Puerto Rico, 7 FCC Rcd 4315 (1992). It also provides service to the U.S. Virgin Islands from Puerto Rico as an off-island, domestic point. See Inquiry into Policies to be followed in the Authorization of Common Carrier Facilities to Provide Telecommunications Service off the Island of Puerto Rico, Report and Order, 2 FCC Rcd 6600 (1987) (Puerto Rico Order), recon., 8 FCC Rcd 63 (1992).

⁶ TLD is authorized to operate up to 166 satellite circuits between Puerto Rico and the Dominican Republic, and to use these circuits to provide, inter alia, IBS, a private line service that TLD provides pursuant to the provisions of Comsat's tariff for IBS. See Telefonica Larga Distancia de Puerto Rico, 3 FCC Rcd 5937 (1988).

⁷ See Telefonica Larga Distancia de Puerto Rico, 9 FCC Rcd 4041, 4042-4044 (1994) (TLD Cable Order).

⁸ See AT&T Letter at 2 (citing TLD Cable Order, 9 FCC Rcd 4041).

⁹ See AT&T Letter at 2. On February 7, 1995, we adopted a Notice of Proposed Rulemaking in which we tentatively concluded that effective foreign market access for U.S. carriers should be an important public interest factor in our Section 214 analyses of applications by foreign carriers seeking to acquire U.S. international facilities. Market Entry and Regulation of Foreign-affiliated Entities, FCC 95-53, IB Docket 95-22, released February 17, 1995 (Foreign Carrier NPRM).

poses an additional risk of anticompetitive conduct and, if so, whether the safeguards we have in effect are sufficient to protect against that risk.¹⁰ TLD's application does not propose to expand the number of circuits that TLD operates to the Dominican Republic or seek authorization to utilize new or different facilities. Grant of this application, however, would be the first authorization given to TLD to provide international private line service using international cable or microwave instead of satellite facilities. TLD states in its application that it will not interconnect its private lines to the public switched network in any jurisdiction and will not use them to provide public switched service. This authorization is thus consistent with our International Resale Order.¹¹ Moreover, there is no evidence of anticompetitive conduct by TLD in its provision of IBS, which is a private line offering via satellite similar to the service TLD now seeks to provide via cable and microwave facilities.¹² Nor is there any evidence that TLD has violated the terms of its Section 214 authorizations or the Commission's rules. Finally, we note that TLD is not affiliated with any foreign carrier in the Dominican Republic. We are therefore persuaded that, properly conditioned, grant is unlikely to permit market abuse or anticompetitive conduct.¹³

8. We find that a grant to TLD, as conditioned above, will enable it to provide international private line services to the Dominican Republic using its more efficient and economical TCS-1 Cable System and TUPR's Monte del Estado microwave facilities, instead of more costly satellite facilities.¹⁴ As a result, TLD will be able to offer to the public private line services at lower rates, thereby fostering competition in the Caribbean telecommunications market. We therefore grant TLD's application to provide private line service to the Dominican Republic.

Applications for Nondominant Status

9. TLD has also sought modification of its regulatory status from dominant to

¹⁰ TLD Cable Order, 9 FCC Rcd at 4044. See also AmericaTel Corporation, 10 FCC Rcd 2091, 2092 (1995).

¹¹ To prevent evasion of the international settlements process through one-way resale of private lines for the provision of switched basic services into the United States, our International Resale Order requires that carriers seeking to resell international private lines for the provision of switched services demonstrate that the country at the other end of the private line affords equivalent resale opportunities. See Regulation of International Accounting Rates, Phase II, First Report and Order, 7 FCC Rcd 5599 (1991) (International Resale Order), Order on Reconsideration and Third Further Notice of Proposed Rulemaking, 7 FCC Rcd 7927, 7930 (1992) (Reconsideration Order), pet. for recon. pending.

¹² Comsat's tariff prohibits the use of IBS capacity for the provision of public switched voice traffic. See Comsat Tariff F.C.C. No. 1, p. 137, July 15, 1993.

¹³ We note that Section 43.51(a)(3) of our rules requires that, whenever a U.S. carrier (such as TLD) enters into an agreement with another carrier (such as Telefonica) to interconnect an international private line to the U.S. public switched network at its central office, it must notify the Commission. 47 C.F.R. § 43.51(a)(3) (1994). See also Reconsideration Order, 7 FCC Rcd at 7930. TLD's operations will of course be subject to any modifications that we may make to our rules in any relevant future proceeding of general applicability.

¹⁴ See supra ¶ 5.

nondominant for the provision of service to certain countries where it has no affiliation with a foreign carrier, or where the provision of service is solely through the resale of the international switched services of unaffiliated U.S. facilities-based carriers. TLD has requested a change in its regulatory status pursuant to Section 63.13 of our rules.¹⁵ In application File No. I-S-P-93-002-ND, TLD has certified that it has no affiliation with any foreign carrier in the countries listed in Appendix A of its application.¹⁶ In applications File Nos. I-S-P-93-003-ND and I-S-P-93-005-ND, TLD notes that it is affiliated with companies that have interests in carriers in Portugal and Venezuela, but it certifies that those interests are not controlling.¹⁷ Therefore, TLD states it is not "affiliated" with those carriers within the meaning of Section 63.01(r)(1)(i) of our rules.¹⁸

10. In File No. I-S-P-93-004-ND seeking nondominant status to Romania, TLD states that it does appear to be affiliated, within the meaning of Section 63.01(r)(1)(i) of our rules, with Telefonica Romania, S.A., which provides cellular services in Romania.¹⁹ TLD further argues, however, that it does not believe Telefonica Romania, S.A. fits within our definition of a foreign carrier²⁰ because Telefonica Romania, S.A. provides only cellular services and does not own or control intercity or local access facilities used to provide international telecommunications services to the public. Even if Telefonica Romania, S.A. meets the definition of a foreign carrier, TLD argues, it is entitled to a presumption of nondominance on the U.S.-Romania route because it provides service on this route solely through the resale of the international switched services of other U.S. facilities-based carriers with which TLD is not affiliated. Thus, according to TLD, it should be classified as a

¹⁵ 47 C.F.R. § 63.13 (1994); see also Regulation of International Common Carrier Services, 7 FCC Rcd 7331 (1992) (International Services).

¹⁶ In its appendix to application File No. I-S-P-93-002-ND, TLD lists numerous countries for which it certifies that it has no foreign carrier affiliation. Subsequent to the filing of its application, TLD submitted a letter on September 22, 1994 stating that TLD's affiliates acquired interests in telecommunications companies in Columbia and Peru. TLD amended its application to withdraw its request for nondominant status to these two countries. See Letter, dated September 22, 1994, from Alfred M. Mamlet, Counsel for TLD, to William F. Caton, Acting Secretary, Federal Communications Commission. TLD has since filed a separate application for nondominant status to Columbia (File No. I-S-P-95-001-ND). This application will be acted on separately.

¹⁷ In application File No. I-S-P-93-003-ND, TLD's parent corporation, Telefonica International (TI), through a holding company, owns 15 percent of the voting shares of Canada de Pessoas, Limitada (Contactel), which operates paging services in Portugal. The application states that such an ownership interest is insufficient to provide TI control over Contactel. In application File No. I-S-P-93-005-ND, TI owns 16 percent of the stock of a holding company, Venworld Telecom, that owns 40 percent of Compania Amonima de Telefonos de Venezuela (CANTV), giving TI a 6.4 percent ownership interest in CANTV. TLD asserts that this ownership percentage, and the ability to appoint one director to a board of nine and one alternate, does not give TI control over CANTV.

¹⁸ 47 C.F.R. § 63.01(r)(1)(i) (1994).

¹⁹ TLD's parent company, TI, through a holding company, owns sixty percent of the voting shares of Telefonica Romania, S.A. See File No. I-S-P-93-004-ND.

²⁰ See 47 C.F.R. § 63.01(r)(1)(ii) (1994) (definition of a "foreign carrier").

nondominant carrier for the provision of service to Romania under Section 63.10(a)(4) of our rules.²¹

11. AT&T originally objected to TLD's applications for nondominant status. It argued that our International Services decision considered streamlined treatment of nondominant carriers without addressing the broader question of entry standards for foreign carriers seeking to enter the U.S. telecommunications market.²² However, AT&T no longer objects to the grant of the captioned applications given the Commission's decision to address market entry by foreign carriers in a separate rulemaking proceeding.²³

12. We stated in the TLD Order that TLD would be regulated as dominant to all foreign points unless and until it could demonstrate, pursuant to International Services, that it qualifies for nondominant regulation on particular routes where it lacks affiliation with a foreign carrier that has the ability and incentive to discriminate in its favor.²⁴ In International Services, we concluded that a U.S. carrier that has no affiliation with a foreign carrier in a particular country to which it provides service should be considered presumptively nondominant for the provision of international service on that route. We also concluded that a U.S. carrier that provides service to a particular country solely through the resale of an unaffiliated U.S. facilities-based carrier's international switched services shall presumptively be classified as nondominant for the provision of the authorized service.²⁵

13. Pursuant to our decision in International Services, we find no reason to continue to regulate TLD as dominant on those U.S. international routes for which it has no affiliation with a carrier on the foreign end and for which it has requested nondominant status, including the U.S.-Portugal and U.S.-Venezuela routes. We find, based on the information in the record, that TLD's parent corporation does not have a controlling interest in carriers in either Portugal or Venezuela. Thus, TLD is not affiliated with a foreign carrier, within the meaning our rules, in either market. We see no evidence from TLD's current international operations that suggests the presumption in Section 63.10(a)(1) of our rules should not apply to TLD for services to the countries listed in application File

²¹ See 47 C.F.R. § 63.10(a)(4) (1994).

²² See AT&T Letter at 3.

²³ Id.

²⁴ See TLD Order, 8 FCC Rcd at 111. In our International Services order, we modified our regulation of foreign-affiliated entities to apply dominant carrier treatment only on those routes where an affiliated foreign carrier has the ability and incentive to discriminate in favor of its U.S. affiliate in the provision of services or facilities used to terminate U.S. international traffic. International Services, 7 FCC Rcd at 7332. See also 47 C.F.R. § 63.10. We defined "affiliation" in our International Services order to include "a controlling interest by the applicant, or by any entity that directly or indirectly controls or is controlled by it, or that is under direct or indirect common control with it, in a foreign carrier or in any entity that directly or indirectly controls a foreign carrier; or a controlling interest in the applicant by a foreign carrier, or by any entity that directly or indirectly controls a foreign carrier." See 47 C.F.R. § 63.01(r)(1)(i).

²⁵ International Services 7 FCC Rcd at 7332-7333; see also 47 C.F.R. § 63.10(a)(1) and (4) (1994).

Nos. I-S-P-93-002-ND²⁶, I-S-P-93-003-ND, and I-S-P-93-005-ND. Nor in our recent rulemaking on foreign carrier entry have we proposed to change our basic framework for determining the regulatory status of U.S. carriers that are affiliated with foreign carriers, though we have allowed parties the opportunity to comment on our current definition of affiliation.²⁷ As noted by AT&T, concerns related to the broader question of entry standards for foreign carriers or their affiliates will be addressed in our rulemaking on that subject. We therefore grant TLD's request for nondominant status in File Nos. I-S-P-93-002-ND, I-S-P-93-003-ND and I-S-P-93-005-ND.²⁸

14. We also grant TLD's request for nondominant status to Romania (File No. I-S-P-93-004-ND) despite TLD's affiliation with Telefonica Romania, S.A. Because TLD provides service on the U.S.-Romania route solely through the resale of international switched services of other U.S. facilities-based carriers with which TLD is not affiliated, it is presumptively nondominant under Section 63.10(a)(4) of our Rules.²⁹ No party has offered any evidence to defeat this presumption, and we find no basis in the record to continue regulating TLD as dominant to Romania.

15. TLD's change in regulatory status permits it, among other things, to add circuits on routes for which it is regulated as nondominant without obtaining prior Commission approval.³⁰ We will, however, continue to require that TLD obtain our prior approval to acquire additional capacity in the TCS-1 and TAINO-CARIB cables. We imposed this requirement in the TLD Order at the request of the State Department.³¹ We will consider modifying or eliminating this requirement should TLD and the State Department request such action.

TLD's Provision of Domestic Interexchange Service

16. On March 9, 1995, TLD met with Commission staff regarding TLD's ability to provide domestic interexchange service.³² TLD was concerned that the language in previous

²⁶ See supra note 16.

²⁷ See Foreign Carrier NPRM, supra note 9, at ¶¶ 52-66. We have requested comment on whether we should change our definition of affiliation from a control standard to one that treats a U.S. carrier as an affiliate of a foreign carrier when the foreign carrier either controls, or owns a certain percentage of the capital stock of, a U.S. carrier (e.g., greater than 10 or 25 percent).

²⁸ See attached Appendix for a list of countries for which we grant TLD nondominant status.

²⁹ 47 C.F.R. § 63.10(a)(4).

³⁰ This general rule is subject to certain limitations contained in Section 63.15(a). 47 C.F.R. § 63.15(a) (1994).

³¹ See TLD Order, 8 FCC Rcd at 109-110, 116. We imposed other conditions on the assignment of the TCS-1 and TAINO-CARIB landing licenses to TLD at the request of the State Department. See id. These conditions also are unaffected by our action regulating TLD as nondominant to the countries listed in Appendix A to this order.

³² See Letter, dated March 9, 1995, from Alfred M. Mamlet, Counsel to TLD, to William F. Caton, Acting Secretary, Federal Communications Commission.

Commission orders affecting TLD was ambiguous as to the type of service it could provide within the United States. In particular, the TLD Cable Order stated in a footnote that TLD's entry into the U.S. mainland market to compete for U.S. international and domestic traffic would require a major expansion of its existing authority.³³

17. The Commission historically has not imposed foreign ownership restrictions on domestic interexchange services, other than the statutory requirements of Section 310 of the Communications Act. Nor have we proposed to change our policy in our Foreign Carrier NPRM, although we have allowed parties the opportunity to comment in that proceeding on our current policy.³⁴ To the extent the Commission's footnote in the TLD Cable Order suggests that TLD should not be permitted to provide U.S. domestic interexchange service on or from the U.S. mainland, we do not believe such a restriction is consistent with our general regulatory scheme for the provision of U.S. domestic interexchange service. Accordingly, we rule that TLD may provide U.S. domestic interexchange service without limitation. It also may do so without specific Section 214 authority from the Commission. TLD is regulated as a nondominant carrier in its provision of domestic off-island interexchange services (e.g., from Puerto Rico to the U.S. mainland).³⁵ So long as TLD conforms with the guidelines specified in the Fifth Report and Order³⁶ governing interexchange services provided by local exchange carrier affiliates,³⁷ TLD need not seek specific Section 214 authority to compete in the U.S. mainland market for domestic interexchange service.

18. We have already imposed nondiscrimination safeguards on the participation of PRTC and TLD in the provision of off-island services.³⁸ These conditions, by their terms, shall also govern

³³ See TLD Cable Order, 9 FCC Rcd 4041 at 4045, n.28.

³⁴ See Foreign Carrier NPRM, *supra* note 9, at ¶¶ 80-81. As we stated in our Foreign Carrier NPRM, the public interest is well served by our open entry standard for competitive domestic interexchange service. Moreover, TLD's foreign carrier affiliates may not use their bottleneck facilities to favor TLD over unaffiliated U.S. interexchange carriers where the affiliated foreign carriers cannot directly interconnect their facilities to TLD's interexchange facilities on the U.S. mainland. *Id.* at ¶ 81.

³⁵ See Puerto Rico Telephone Authority, Memorandum Opinion and Order, 3 FCC Rcd 5675, 5676 (1988). We have previously concluded that, subject to certain safeguards, the public interest would be served by allowing TLD's predecessor-in-interest, Puerto Rico Telephone Company ("PRTC"), to provide domestic interexchange and international service between Puerto Rico and off-island points. See Inquiry into Policies to be followed in the Authorization of Common Carrier Facilities to Provide Telecommunications Service off the Island of Puerto Rico, Report and Order, 2 FCC Rcd 6600 (1987) (Puerto Rico Order), *recon.*, 8 FCC Rcd 63 (1992). See also La Telefonica Larga Distancia de Puerto Rico, Memorandum Opinion, Order and Authorization, 3 FCC Rcd 5937 (1988).

³⁶ Fifth Report and Order, 98 FCC 2d 1191 (1984), *recon. denied*, FCC 85-572 (released Nov. 20, 1985).

³⁷ TLD is owned, in minority part, by the Puerto Rico Telephone Authority ("PRTA"), which owns 100 percent of PRTC. PRTC is the monopoly local exchange carrier in Puerto Rico.

³⁸ See TLD Order, 8 FCC Rcd at 115. In the TLD Order, which authorized Telefonica to acquire control of most of the assets of TLD from PRTA, we concluded that the conditions we previously imposed on the participation of PRTC and TLD in the provision of off-island services should be imposed as a condition of that authorization. *Id.*

PRTC and TLD in their provision of service from the U.S. mainland to Puerto Rico. As we concluded in the TLD Order, applying these safeguards to PRTC to govern its relationship with TLD provides protection against anticompetitive and discriminatory behavior by PRTC against other U.S. interexchange carriers. We emphasize, however, that TLD's authorizations do not include the authority to offer U.S. international service to or from the U.S. mainland.

Delegation of Authority

19. In our TLD Order, we stated that international facilities applications from entities affiliated with foreign carriers would require full Commission review and approval.³⁹ Since that order, the Commission has granted on a case-by-case basis several Section 214 applications by foreign carriers to provide international facilities-based service.⁴⁰ Where warranted, we have imposed safeguards and conditions on the applicants to prevent anticompetitive conduct. We have specific guidelines for determining the dominant or nondominant regulatory status for U.S. international carriers that are affiliated with foreign carriers.⁴¹

20. Given our previous decisions, the International Bureau has sufficient policy guidance to act on Section 214 applications from foreign carriers or their affiliates and to determine their regulatory status.⁴² We therefore remove the requirement that the full Commission review such carriers' Section 214 applications for international facilities, except to the extent particular applications raise matters reserved for Commission review under our general delegation of authority to the International Bureau.⁴³ The Bureau has full authority to act on Section 214 applications filed by foreign carriers or their affiliates under its delegated authority in Section 0.261 of the rules. The Bureau shall also determine the regulatory status of such carriers on particular routes for specific international services.⁴⁴

³⁹ See TLD Order, 8 FCC Rcd at 113.

⁴⁰ See, e.g., TLD Cable Order, *supra* note 7; AmericaTel Corporation, Memorandum Opinion, Order, Authorization and Certificate, 9 FCC Rcd 3993 (1994).

⁴¹ International Services, 7 FCC Rcd 7331 (1992). See also 47 C.F.R. §§ 63.10 and 63.13.

⁴² Our rulemaking on foreign carrier entry will provide interested parties the opportunity to advocate changes to the Commission's current guidelines and precedent for reviewing Section 214 applications for the provision of U.S. international service by foreign carriers.

⁴³ See 60 Fed. Reg. 5322 (1994) (to be codified at 47 C.F.R. § 0.261). Under Section 0.261(b)(1) of our rules, the Bureau does not have the authority to act on an application that:

- (a) presents new or novel arguments not previously considered by the Commission;
- (b) presents facts or arguments which appear to justify a change in Commission policy; or
- (c) cannot be resolved under outstanding precedents and guidelines after consultation with appropriate Bureaus or Offices.

⁴⁴ We did not explicitly require, in the TLD Order, that determinations of regulatory status be made by the full Commission. See, e.g., Petition of Cable & Wireless, Inc. for Nondominant Status on International Private Line Routes, 9 FCC Rcd 6096 (Com. Car. Bur. 1994). To eliminate any doubt, however, we here confirm the authority of the International Bureau to make such determinations.

IV. ORDERING CLAUSES

21. Upon consideration of the subject application, File No. I-T-C-93-091, IT IS HEREBY CERTIFIED that the present and future public convenience and necessity require the authorization of TLD to provide private line services between Puerto Rico or the U.S. Virgin Islands and the Dominican Republic.

22. Accordingly, IT IS ORDERED that application File No. I-T-C-93-091 IS GRANTED, and TLD is authorized to:

- a. use its 30 authorized circuits in Segment G of TCS-1 to provide its authorized international services, including private line services, between Puerto Rico or the U.S. Virgin Islands and the Dominican Republic;
- b. use its 120 authorized circuits in TUPR's Monte del Estado microwave system to provide its authorized international services, including private line services, between Puerto Rico or the U.S. Virgin Islands and the Dominican Republic; and
- c. use its authorized TAINO-CARIB Cable System facilities between Puerto Rico and the U.S. Virgin Islands to transmit private line traffic to and from the U.S. Virgin Islands that originates or terminates in the Dominican Republic.

23. IT IS FURTHER ORDERED that our authorization of TLD to provide private lines is limited to the provision of Puerto Rico/U.S. Virgin Islands-Dominican Republic private line service only -- that is, private lines which originate in Puerto Rico or the U.S. Virgin Islands and terminate in the Dominican Republic or which originate in the Dominican Republic and terminate in Puerto Rico or the U.S. Virgin Islands. In addition, TLD may not -- and TLD's tariff must state that TLD's customers may not -- connect its private lines provided over these facilities to the public switched network at either the Puerto Rico/U.S. Virgin Islands or the Dominican Republic end, for the provision of international switched basic services, unless authorized to do so by the Commission after a finding by the Commission that the Dominican Republic affords resale opportunities equivalent to those available under U.S. law, in accordance with Regulation of International Accounting Rates, Phase II, First Report and Order, 7 FCC Rcd 559 (1991), Order on Reconsideration and Third Further Notice of Proposed Rulemaking, 7 FCC Rcd 7927 (1992), petition for reconsideration pending.

24. IT IS FURTHER ORDERED that neither TLD nor any persons or companies directly or indirectly controlling it or controlled by it, or under direct or indirect common control with it, shall acquire or enjoy any right, for the purposes of handling or interchanging traffic to or from the United States, its territories or possessions, which is denied to any other United States carrier by reason of any concession, contract, understanding, or working arrangement to which TLD or any persons or companies controlling or controlled by TLD are parties. See also 47 C.F.R. § 63.14.

25. IT IS FURTHER ORDERED that TLD shall file with the Commission copies of any operating agreement it enters into with TLD's foreign correspondent in the Dominican Republic within 30 days of the execution of such agreement, and shall otherwise comply with the filing requirements contained in Section 43.51 of the Commission's Rules, 47 C.F.R. § 43.51.

26. IT IS FURTHER ORDERED that TLD shall file tariff provisions pursuant to Section 203 of the Act, 47 U.S.C. §203, and Part 61 of the Commission's Rules, 47 C.F.R. Part 61, for the service authorized in this Order.

27. IT IS FURTHER ORDERED that TLD shall file the annual reports of overseas telecommunications traffic required by Section 43.61 of the Commission's Rules, 47 C.F.R. §43.61.

28. IT IS FURTHER ORDERED, pursuant to Section 63.10(a)(1) and (4) of the Commission's Rules, that Applications File Nos. I-S-P-93-002-ND, I-S-P-93-003-ND, I-S-P-93-004-ND, and I-S-P-93-005-ND ARE GRANTED, and TLD shall be regulated as nondominant for the countries listed in the Appendix to this order.

29. This order is effective upon adoption. Petitions for reconsideration under Section 1.106, 47 C.F.R. § 1.106, may be filed within 30 days of public notice of this order (see Section 1.4(b)(2), 47 C.F.R. § 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary

APPENDIX
 COUNTRIES FOR WHICH
 TELEFONICA LARGA DISTANCIA DE PUERTO RICO, INC.
 IS GRANTED NONDOMINANT STATUS

Afghanistan
 Algeria
 American Samoa
 Andorra
 Angola
 Anguilla
 Antarctica
 Antigua
 (including
 Barbuda)
 Armenia
 Aruba
 Ascension Island
 Australia (includ-
 ing Tasmania)
 Austria
 Bahamas
 Bahrain
 Bangladesh
 Barbados
 Belarus
 Belgium
 Belize
 Benin
 Bermuda
 Bhutan
 Bolivia
 Botswana
 Brazil
 British Virgin
 Islands
 Brunei
 Bulgaria
 Burkina Faso
 Burma
 Burundi
 Cameroon
 Canada
 Cape Verde
 Islands
 Cayman Island

Central African
 Republic
 Chad Republic
 China
 Christmas &
 Cocos Islands
 Comoros, Federal
 and Islamic
 Republic of
 Congo Republic
 Cook Island
 Costa Rica
 Croatia
 Curacao
 Cyprus
 Czech
 Denmark
 Dominica
 Dominican
 Republic
 Djibouti,
 Republic of
 Easter Island
 Ecuador
 Egypt
 El Salvador
 Equatorial
 Guinea,
 Republic of
 Estonia
 Ethiopia
 Falkland Islands
 Faroe Islands
 Fiji Islands
 Finland
 France
 French Antilles:
 (St. Marteen,
 Guadalupe, St.
 Bartholomy,
 Martinique)

French Guiana
 French Polynesia
 (Moorea &
 Tahiti)
 Gabon Republic
 Gambia
 Germany
 Ghana
 Gibraltar
 Georgia
 Greece
 Greenland
 Grenada
 Guam
 Guantanamo Bay
 Guatemala
 Guinea-Bissau
 Guinea, People's
 Revolutionary
 Republic
 Guyana
 Haiti
 Honduras
 Hong Kong
 Hungary
 Iceland
 India
 Indonesia
 Iran
 Iraq
 Ireland
 Israel
 Italy
 Ivory Coast
 Jamaica
 Japan
 Jordan
 Kazakahstan
 Kenya
 Kiribati
 Korea

Kuwait
Kyrgyzstan
Laos
Latvia
Lebanon
Lesotho
Liberia
Libya
Liechtenstein
Lithuania
Luxembourg
Macao
Macedonia,
 Former Rep.
 of Yugoslavia
Madagascar,
 Dem. Republic
 of
Malawi
Malaysia
Maldives, Rep
of
Mali Republic
Malta
Marshall Islands
Mauritania,
 Islamic Rep. of
Mauritius
Mexico
Micronesia
Midway
Moldova
Monaco
Mongolia,
 Peoples Rep.
 of
Morocco
Mozambique
Namibia
Nauru
Nepal
Netherlands
Netherlands
 Antilles
 (Bonaire, Saba,
 St. Eustatius,
 St. Maarten)
Nevis

New Calendonia
New Zealand
Nicaragua
Niger Republic
Nigeria
Niue
Norfolk Islands
Norway
Oman
Pakistan
Palau, Rep. of
Panama
Papua New
 Guinea
Paraguay
Philippines
Portugal
Qatar
Reunion Island
Romania
Russia
Rwanda
Saipan
San Marino
Sao Tome
Saudi Arabia
Senegal
Serbia and
 Herzegovenia
Seychelles
Sierra Leone
Singapore
Slovakia
Solomon Islands
Somali Republic
South Africa
Spanish Sahara
Sri Lanka
St. Helena
St. Kitts
St. Lucia
St. Pierre/
 Miquelon
St. Vincent/
 Grenadines

Sudan
Suriname
Swaziland
Sweden
Switzerland
Syrian Arab
 Republic
Taiwan
Tajikistan
Tanzania
Thailand
Togo
Tonga Islands
Trinidad &
 Tobago
Tunisia
Turkey
Turkmenistan
Turks & Caicos
 Islands
Tuvalu
Uganda
Ukraine
United Arab
 Emirates
United Kingdom
 (including
 Northern
 Ireland)
Uruguay
Uzbekistan
Vanuata,
 Republic of
Vatican City
Venezuela
Wake Island
Western Samoa
Yemen Arab
 Republic
Yemen, People's
 Democratic
 Public
Zaire
Zambia
Zimbabwe

SEPARATE STATEMENT

OF

COMMISSIONER ANDREW C. BARRETT

RE: Telefonica Larga Distancia de Puerto Rico, Inc. Application for Section 214 Authority to Provide International Private Line Services Between Puerto Rico, the U.S. Virgin Islands, and the Dominican Republic; Application for Modification of Regulatory Status from Dominant to Nondominant for International Communications Services to Various Countries; to Portugal; to Romania; to Venezuela.

As a result of this Memorandum Opinion and Order, Authorization and Certificate, the Commission grants Telefonica Larga Distancia de Puerto Rico, Inc. authority to provide international private line service via submarine cable and microwave facilities between Puerto Rico, the U.S. Virgin Islands and the Dominican Republic. Moreover, the Order eliminates the requirement for full Commission review and delegates authority for the International Bureau to approve all Section 214 applications for international facilities.

In the past, I have indicated that international facilities-based applications involve important and complicated issues and that these applications warrant full Commission review.¹ Since that time, the Commission has granted, on a case-by-case basis, several Section 214 applications subject to various safeguards and conditions to discourage anticompetitive conduct by foreign carriers and their affiliates.²

As a result, I feel comfortable that, given the Commission's previous decisions, the International Bureau has sufficient precedent to review and act on Section 214 applications from foreign carriers or their affiliates in accordance with established Commission policy. To the extent that these applications raise novel issues, or present facts which appear to justify a change in Commission policy or cannot be resolved under

¹ *Telefonica Larga Distancia de Puerto Rico et al.*, 8 FCC Rcd 106 (1992).

² See *Americatel Corporation Application for Transfer of Control and Pro Forma Assignment of Section 214 Authorizations*, 9 FCC Rcd 3993 (1994) (authorizing ENTEL's acquisition of Americatel subject to safeguards); *Request of MCI Communications Corporation Joint Petition for Declaratory Ruling Concerning Section 310(b)(4) and (d) of the Communications Act of 1934*, 9 FCC Rcd 3960 (1994), Separate Statement of Commissioner Andrew C. Barrett.

existing Commission precedent, I am confident that the Bureau will reserve such applications for full Commission review.