



PUBLIC NOTICE

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MODIFICATION OF PROCESS REGARDING THE LICENSING OF TELECOMMUNICATIONS SERVICES BETWEEN THE UNITED STATES AND CUBA

By the International Bureau:

The Commission has received a letter dated October 26, 2015 from the U.S. Department of State (“State Department”) detailing new policy guidance on the licensing of telecommunications services between the United States and Cuba.¹ The State Department letter rescinds its 2010 policy guidance to the Commission and replaces it with the guidance outlined below. A copy of the letter is attached.

The State Department notes that on December 17, 2014, the President announced that the United States will take historic steps to chart a new course in relations with Cuba to create more opportunities for the American and Cuban people. The State Department recommends that, effective October 26, 2015, coordination regarding section 214 applications for the provision of telecommunications services to Cuba should be treated similarly to all other section 214 applications. Accordingly, the State Department recommends that the Commission take the appropriate steps to:

- 1) remove Cuba from the Commission’s “Exclusion List for International Section 214 Authorizations” and allow carriers to provide telecommunications services between the United States and Cuba pursuant to global Section 214 authority under section 63.18(e)(1) of the Commission rules;
- 2) discontinue application of non-discrimination requirements on the U.S.-Cuba route, including removal of section 63.22(f) of the Commission rules, which codifies the nondiscrimination prong of the International Settlements Policy (ISP) to the U.S.-Cuba route; and
- 3) continue to apply the appropriate benchmark settlement rate for telecommunications services between the United States and Cuba as well as allow waivers of limited duration of the benchmark settlement rate, as appropriate, for telecommunications services with Cuba.

The State Department letter notes that all applications approved by the Commission may also need to be licensed, as relevant, by the Office of Foreign Assets Control (OFAC) at the Treasury Department and/or the Bureau of Industry and Security (BIS) at the Department of Commerce.²

¹ Letter from Ambassador Daniel A. Sepulveda, U.S. Coordinator for International Communications and Information Policy, U.S. Department of State, to Thomas Wheeler, FCC Chairman, dated October 26, 2015.

² On January 16, 2015, BIS and OFAC announced that they are amending the Export Administration Regulations (EAR) and the Cuban Assets Control Regulations (CACR) to implement policy changes announced by the President on December 17, 2014 to engage and empower the Cuban people. *See* “U.S. Department of Treasury Fact Sheet:

(continued...)

To implement the new guidance from the State Department, the Commission will:

- a) no longer coordinate with the State Department section 214 applications to provide facilities-based telecommunications services between the United States and Cuba, effective immediately;
- b) begin the process of removing Cuba from the Exclusion List, consistent with Commission policy and procedures;³
- c) begin the process of removing the non-discrimination requirements that apply to the U.S.-Cuba route, including removal of section 63.22(f);⁴ and
- d) continue to apply the appropriate benchmark settlement rate for telecommunications services between the United States and Cuba⁵ and allow waivers of limited duration of the benchmark settlement rate, as appropriate, for telecommunications services with Cuba.⁶

For further information, contact Denise Coca or David Krech, Policy Division, International Bureau, at (202) 418-1460.

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Treasury and Commerce Announce Regulatory Amendments to the Cuba Sanctions,” <http://treasury.gov/press-center/press-releases/Pages/jl9740.aspx>. The new regulations were published in the Federal Register on January 16, 2015. Department of Commerce, Bureau of Industry and Security, 15 C.F.R. Parts 736, 740, 746 and 748, 80 Fed. Reg. 2286 (Jan. 16, 2015); Department of the Treasury, Office of Foreign Assets Control, 31 C.F.R. Part 515, 80 Fed. Reg. 2291 (Jan. 16, 2015). On September 18, 2015, BIS and OFAC announced further amendments to EAR and CACR to implement the President’s 2014 announcement related to the easing of Cuba sanctions. See “U.S. Department of Treasury Press Center: Treasury and Commerce Announce Further Amendments to the Cuba Sanctions Regulations,” <http://www.treasury.gov/press-center/press-releases/Pages/jl0169.aspx>. The new regulations were published in the Federal Register on September 21, 2015. Department of Commerce, Bureau of Industry and Security, 15 C.F.R. Parts 740, 746, and 772, 80 Fed. Reg. 56898 (Sept. 21, 2015); Department of the Treasury, Office of Foreign Assets Control, 31 C.F.R. Part 515, 80 Fed. Reg. 56915 (Sept. 21, 2015).

³ See *Streamlining the International Section 214 Authorization Process and Tariff Requirements*, IB Docket No. 95-118, Report and Order, 11 FCC Rcd 12884, 12893, ¶ 18 (1996).

⁴ 47 C.F.R. § 63.22(f); see *International Settlement Policy Reform*, IB Docket No. 11-80, Report and Order, 27 FCC Rcd 15521, 15530-32, ¶¶ 17-20 (2012) (“*2012 ISP Reform Order*”).

⁵ Cuba is classified as a lower-middle income country, for which the Commission has established a benchmark termination rate of \$0.19. *International Settlement Rates*, IB Docket No. 96-261, Report and Order, 12 FCC Rcd 19806 (1997) (“*Benchmarks Order*”).

⁶ *ICconnect Wholesale d/b/a TeleCuba Petition for Waiver of the International Settlements Policy and Benchmark Rate for Facilities-Based Telecommunications Services with Cuba*, IB Docket No. 10-95, Memorandum Opinion and Order, 26 FCC Rcd 5217 (Int’l Bur. 2011); *2012 ISP Reform Order*, 27 FCC Rcd at 15530, ¶ 17.