

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

AT&T CORP.)

AT&T ALASCOM)

AT&T PUERTO RICO)

AT&T VIRGIN ISLANDS)

File No. ITC-214-19981118-00820

Hong Kong Telecommunications (Pacific) Ltd.)

File No. ITC-214-19980930-00689

Applications for authority, pursuant to Section 214 of)
the Communications Act of 1934, as amended, to)
provide switched services using international private)
lines interconnected with the public switched network)
at one or both ends between the United States)
and Hong Kong)

ORDER, AUTHORIZATION AND CERTIFICATE

Adopted: December 31, 1998

Released: January 4, 1999

By the Chief, Telecommunications Division:

I. INTRODUCTION

1. With this order, we add Hong Kong to the list of countries for which U.S. carriers may provide switched, basic telecommunications services over international private lines (also known as international simple resale or "ISR"). We find that two major U.S. carriers' settlement rates for Hong Kong are below the Commission's benchmark settlement rate and have good reason to believe that other U.S. carriers will soon negotiate the same rate. We therefore conclude that the public interest in cost-based telecommunications services would be served by permitting the above-referenced applicants, and other authorized private line carriers, to interconnect their private lines between the United States and Hong Kong for the provision of switched, basic services, at such time as U.S. carriers that handle 50 percent of the U.S.-Hong Kong traffic are able to exchange traffic at rates at or below the applicable benchmark settlement rate. Our action today will permit U.S. carriers to route traffic between the United States and Hong Kong outside the traditional settlements system, enabling them to offer U.S. international service at reduced rates. We expect that such activity will, in turn, exert increased pressure to lower settlement rates further and reduce consumer prices.

II. BACKGROUND

2. Hong Kong Telecommunications (Pacific) Ltd. (HKTP) filed an application seeking to provide switched basic service over private lines between the United States and Hong Kong. AT&T Corp., AT&T Alascom, AT&T Puerto Rico, and AT&T Virgin Islands (collectively, AT&T) filed a joint

application requesting Section 214 authority to provide switched, basic telecommunications services using their authorized international facilities-based private lines between the United States and Hong Kong. We placed both applications on public notice.¹ AT&T and MCI WorldCom filed comments on HKTP's application, and no party opposed AT&T's application or submitted comments.

III. DISCUSSION

3. HKTP is a corporation organized and existing under the laws of Hong Kong. Cable & Wireless, plc holds approximately 54 percent of HKTP's parent, Hong Kong Telecom. HKTP is affiliated, through Cable and Wireless, plc, with carriers in 39 countries, including the international carrier in Hong Kong, Hong Kong Telecommunications International (HKTI).² HKTP has agreed to be subject to dominant carrier regulation on the U.S.-Hong Kong route.³ AT&T is an authorized facilities-based private line carrier on the United States-Hong Kong route. AT&T certifies that it is not affiliated with any foreign carrier in Hong Kong.

4. HKTP seeks conditional authorization to provide switched, basic service over resold private lines effective on the date on which the Hong Kong regulator, OFTA, commences granting applications for licenses to provide international telecommunications service that will allow licensees to engage in voice ISR on the U.S.-Hong Kong route, or upon the date on which the settlement rate on the route drops to the applicable benchmark rate, whichever comes first. AT&T seeks authority to use its authorized facilities-based private lines for the provision of switched services between the United States and Hong Kong, as of January 1, 1999.

5. Under the Commission's rules, the provision of service via ISR to Hong Kong is subject to the condition that the settlement rate for at least 50 percent of the settled U.S.-billed traffic between the United States and Hong Kong is at or below the benchmark settlement rate adopted in the *Benchmarks*

¹ HKTP's application was placed on public notice on October 16, 1998. Report No. TEL-00019NS. AT&T's application was placed on public notice on December 4, 1998. Report TEL-00039NS.

² Those countries are: Anguilla, Antigua, Ascension Island, Australia, Barbados, Bermuda, British Virgin Islands, Bulgaria, Canada, Cayman Islands, China, Diego Garcia, Dominica, Falkland Islands, Fiji, Grenada, Hong Kong, Indonesia, Jamaica, Japan, Macao, Maldives, Montserrat, Pakistan, Panama, Philippines, Russia, Seychelles, Solomon Islands, St. Kitts & Nevis, St. Lucia, St. Vincent, Tonga, Trinidad & Tobago, Turks & Caicos, United Kingdom, Vanuatu, Yemen.

³ A carrier that is affiliated with a foreign carrier that possesses market power in the foreign market it seeks to serve may be subject to the Commission's dominant carrier safeguards pursuant to Section 63.10 of the Commission's rules. See 47 C.F.R. § 63.10. See also *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market and Market Entry and Regulation of Foreign-Affiliated Entities*, Report and Order in IB Docket No. 97-142 and Order on Reconsideration in IB Docket No. 95-22, 12 FCC Rcd 23,891, 23,988-24,023, ¶¶ 215-292 (1997) (*Foreign Participation Order*).

Order or that Hong Kong afford U.S. carriers equivalent opportunities to provide ISR.⁴ The Commission's benchmark settlement rate for Hong Kong is 15 cents.

6. AT&T filed an International Settlements Policy Notification of a change in the accounting rate for International Message Telephone Service (IMTS) with Hong Kong on November 13, 1998. AT&T notified the Commission that the accounting rate for IMTS service between AT&T and HKTI would decrease from .52 SDR to .10 SDR, effective January 1, 1999. Employing the exchange rate on November 11, 1998, AT&T states that an accounting rate of .10 SDR equates to an accounting rate of 13.8 cents and a settlement rate of 6.9 cents. MCI WorldCom also filed an International Settlements Policy Notification of a change in the accounting rate for IMTS with Hong Kong for the same rate negotiated by AT&T on December 31, 1998. We note that, according to the Commission's Section 43.61 traffic data, AT&T and MCI WorldCom collectively handle more than 50 percent of U.S. billed traffic on the U.S.-Hong Kong route.⁵

7. Because AT&T and MCI WorldCom collectively handle more than 50 percent of U.S. billed traffic on the U.S.-Hong Kong route, we find that Hong Kong will satisfy the benchmark condition for ISR as of the effective date of those agreements, January 1, 1999. Accordingly, we grant the applications of AT&T and HKTP to provide switched services using international private lines between the United States and Hong Kong, effective on January 1, 1999. At that time, we will also add Hong Kong to the list of destinations for which U.S. carriers may provide switched services over their authorized facilities-based or resold private lines on that date.⁶

8. AT&T and MCI filed comments in response to HKTP's application. AT&T argues that HKTP has not satisfied the equivalency test, but states that it supports the authorization of ISR for service to Hong Kong as of January 1, 1999. MCI also states that Hong Kong does not, at the time of its

⁴ *International Settlement Rates*, IB Docket No. 96-21, Report and Order, 12 FCC Rcd 19806 (1997), recon. pending, appeal filed, *Cable & Wireless v. FCC*, No. 97-1612 (D.C. Cir. filed Sept. 25, 1997) (*Benchmarks Order*). See 47 C.F.R. § 63.18(e)(4) (as amended in the *Foreign Participation Order* ¶ 79 & App. C. See also *Foreign Participation Order* ¶ 85 (concluding that, in the case of a World Trade Organization market that does not meet the benchmark condition, carriers would have the option of demonstrating that the market affords U.S. carriers equivalent opportunities to provide ISR).

⁵ See 1996 Section 43.61 International Telecommunications Data, January 1998 (available at <http://www.fcc.gov/ccb/stats>).

⁶ Our rules automatically expand the Section 214 authority of carriers authorized to resell interconnected private lines to include an additional country at the time the Commission determines that the country satisfies the Commission's requirements for providing switched services over private lines. This rule is subject to one exception: if the carrier is affiliated with a carrier in the country at the foreign end of the private line, and the Commission has not determined that the foreign carrier lacks sufficient market power to affect competition adversely in the U.S. market. In such a case, the U.S. carrier must seek specific Section 214 authority to resell private lines for the provision of switched service to that country. See *Streamlining the International Section 214 Authorization Process and Tariff Requirements*, Report and Order, 11 FCC Rcd 12884, 12898-12900 (1996); see also 47 C.F.R. § 63.18(e)(2)(ii)(A)(2) (as amended by the *Foreign Participation Order*, Appendix C). The rules also permit U.S. facilities-based private line carriers to use their authorized private lines to provide switched, basic services to designated countries subject to the same exception. 47 C.F.R. § 63.18(e)(4) (as amended by the *Foreign Participation Order*, Appendix C).

comments, satisfy the Commission's conditions to provide ISR. Because we find that Hong Kong will meet the Commission's *Benchmarks* condition on the effective date of this Order, we do not reach the issue of whether Hong Kong satisfies the equivalency test and therefore find that neither AT&T nor MCI WorldCom raises issues that would bar granting HKTP's authorization.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED that the applications of AT&T Corp., AT&T Alascom, AT&T Puerto Rico, and AT&T Virgin Islands, File No. ITC-214-19981118-00820 and Hong Kong Telecommunications (Pacific) Ltd., File No. ITC-214-19980930-00689 ARE GRANTED, and AT&T Corp., AT&T Alascom, AT&T Puerto Rico, and AT&T Virgin Islands are authorized, pursuant to Section 63.18(e)(4) of the Commission's Rules, 47 C.F.R. § 63.18(e)(4), to provide switched, basic telecommunications services using their authorized international facilities-based private lines interconnected to the public switched network at one or both ends between the United States and Hong Kong; Hong Kong Telecommunications (Pacific) Ltd. is authorized, pursuant to Section 63.18(e)(3) of the Commission's rules, 47 C.F.R. § 63.18(e)(3), to provide switched, basic telecommunications service using resold international private lines interconnected to the public switched network at one or both ends between the United States and Hong Kong;

10. IT IS FURTHER ORDERED that the authority granted herein to provide switched, basic telecommunications services using international private lines between the United States and Hong Kong for the provision of switched services is limited to the provision of such services between the United States and Hong Kong. This restriction is subject to the following exceptions: (a) the applicants may engage in "switched hubbing" through Hong Kong consistent with Section 63.17 of the Commission's Rules, 47 C.F.R. § 63.17; and (b) the applicants may provide U.S. inbound or outbound switched, basic services over their authorized resold and facilities-based private lines extending between the United States and Hong Kong, as well as the United Kingdom, Sweden, New Zealand, Australia, the Netherlands, Luxembourg, Norway, Denmark, France, Germany, Belgium, Austria, Switzerland, Japan, Italy, and Ireland, provided the applicants are authorized to provide switched services over private lines between the United States and those countries;

11. IT IS FURTHER ORDERED that Hong Kong Telecommunications (Pacific) Ltd. will be regulated as a dominant carrier on the U.S.-Hong Kong route, pursuant to Section 214 of the Act, 47 U.S.C. § 214, and Section 63.10 of the Commission's rules, 47 C.F.R. § 63.10, and will comply with the requirements of paragraph (c) of that section. The quarterly traffic reports filed pursuant to Section 63.10(c) must include the information required by Section 43.61 of the Commission's rules, 47 C.F.R. § 43.61, for "facilities resale" on the U.S.-Hong Kong route;

12. IT IS FURTHER ORDERED that Hong Kong Telecommunications (Pacific) Ltd. AT&T Corp., AT&T Alascom, AT&T Puerto Rico, and AT&T Virgin Islands will comply with Sections 63.21 of the Commission's rules, 47 C.F.R. § 63.21;

13. This Order is issued under Section 0.261 of the Commission's rules, 47 C.F.R. § 0.261, and is effective on January 1, 1999. Petitions for reconsideration under Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106 (1996), or applications for review under Section 1.115 of the Commission's rules, 47 C.F.R. § 1.115 (1996), may be filed within 30 days of the date of public notice of this Order, Authorization and Certificate (see 47 C.F.R. § 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

Diane J. Cornell
Chief, Telecommunications Division
International Bureau