PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: http://www.fcc.gov
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DA No. 14-914
Friday June 27, 2014

ACT Telecommunications, Inc. Required to Respond to Request to Terminate Its International Section 214 Authorization

File ITC-214-20081201-00519

By this Public Notice, the International Bureau ("Bureau") affords ACT Telecommunications, Inc. ("ACT") additional notice and opportunity to respond to the attached letter submitted by the Department of Justice, with the concurrence of the Department of Homeland Security (collectively the "Agencies"), requesting that the FCC terminate, declare null and void and no longer of effect and/or revoke the international section 214 authorization issued to ACT under file number **ITC-214-20081201-00519**. The Agencies state that ACT has failed to comply with commitments and undertakings with the Agencies to which ACT agreed, and compliance with which is a condition to the authorization.[1] The Agencies further state that ACT has failed to respond to inquiries from them.

The Bureau served this letter on ACT at its address of record[2] and received no response.[3] ACT may respond to this Public Notice **no later than July 11, 2014**. In the response, ACT should address the allegations in the Agencies' letter and describe any steps that it is taking or will take with the Agencies to resolve their concerns. A failure to respond to this Public Notice will be deemed an admission of the facts alleged by the Agencies and could result in the issuance of an order to show cause as to why ACT's section international 214 authorization should not be subject to termination.

ACT should address its response to the Chief, International Bureau and file it in File No. **ITC-214-20081201-00519** via IBFS at http://licensing.fcc.gov/myibfs/pleading.do. It should also copy the Chief and Associate Chief of the Policy Division, International Bureau at James.Ball@fcc.gov and David.Krech@fcc.gov, respectively.

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[1] International Authorizations Granted, Report No. TEL-01393, Public Notice, 24 FCC Rcd 13364 (Int'l Bur. 2009).

[2] Carriers with international section 214 authorizations are responsible for the continuing accuracy of the information provided to the Commission in their applications and must promptly file corrected information where a certification is no longer accurate. *See* 47 C.F.R. 63.21(a).

[3] Letter from James L. Ball, Chief, Policy Division, to Mr. Salomon Doumith, dated May 19, 2014. A copy of the letter may be viewed on the FCC web-site through the International Bureau Filing System (IBFS) by searching for ITC-214-20081201-00519 and accessing "Other filings related to this application" from the Document Viewing area.

The proceeding in this Notice shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules.[4] Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b).[5] Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

For further information, please contact David Krech, Policy Division, International Bureau, (202) 418-7443.

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[4] 47 C.F.R. §§ 1.1200 *et seq.*

[5] 47 C.F.R. § 1.1206(b)

U.S. Department of Justice

National Security Division

Foreign Investment Review Staff *Washington, D.C. 20530*

May 9, 2014

By Electronic Filing

Ms. Marlene H. Dortch
Secretary of the Federal Communications Commission
Federal Communications Commission
445 l2th St. SW, Room TW-B204
Washington, DC 20554

Re: **ACT Telecommunications, Inc., File No. ITC-214-20081201-00519 (DA No. 09-2331 (October 27, 2009))**

Dear Ms. Dortch:

The Department of Justice, with the concurrence of the Department of Homeland Security (collectively, the "Agencies"), hereby notifies the Federal Communications Commission (FCC) of the non-compliance of ACT Telecommunications, Inc. (ACT) with the FCC's terms in granting an international telecommunications certificate on October 27, 2009 (authorization file number **ITC-214-20081201-00519**) (DA No. 09-2331). Given such failure, the Agencies request that the FCC terminate, declare null and void and no longer in effect, and/or revoke ACT's current authorization, file number **ITC-214-20081201-00519**.

Prior to ACT receiving the above-identified certificate, the Agencies expressly conditioned their non-objection to ACT receiving any correlating authorities on "the [FCC] condition[ing] its approval on the assurance of [ACT] to abide by the commitments and undertakings set forth in [an] October 29, 2009, Letter of Assurances," which was attached to the Agencies' petition. (*See* Attachment 1 (Pet. To Adopt Cond. To Auth. and Licenses at 1 (Oct. 27, 2009) (including LOA)).) As stated in the public notice disclosing the grant of the above-referenced certificate (DA No. 09-2331), the FCC concurred with the Agencies' request and conditioned ACT's authority to provide facilities-based service in accordance with Section 63.18(e)(1) of the FCC's rules, and also to provide resale service in accordance with Section 63.18(e)(2) of the FCC's rules, on ACT "abiding by the commitments and undertakings set forth in [an] October 20, 2009 Letter of Assurances (LOA)." (*See* Attachment 2 at 1 (Public Notice, DA No. 09-2331) (Oct. 29, 2009).)

In that LOA, ACT agreed to submit to the Agencies a yearly certification, due by October 20th of each year, reaffirming the commitments in the LOA and describing any violation of such commitments and ACT's technical capabilities for complying with the Communications Assistance for Law Enforcement Act, 47 U.S.C. § 1001, *et. seq.* ACT has failed to submit either

its 2012 or 2013 certifications to the Agencies, and ACT has failed to respond to all attempts by the Agencies (telephone and electronic mail (e-mail)) to inquire as to the status of those certifications.

Further, in the LOA ACT also agreed to establish and maintain one or more points of contact (POCs) within the United States with the authority and responsibility for accepting and overseeing compliance with judicial orders authorizing U.S. law enforcement collection, as well as subpoenas or other lawful demands by U.S. law enforcement authorities for the content of communications or U.S. Records. Upon the POC changing, ACT was to notify the Agencies within ten days of such change. In a September 23, 2013, e-mail message, Mr. Eric Fishman, ACT's previously designated POC (and one-time legal counsel), advised the Agencies that in September 2013 he had attempted, and failed, to communicate with ACT. Mr. Fishman also advised that he had moved to a new law firm and had not been re-engaged as ACT's attorney following that move. Mr. Fishman further informed the Agencies that they would need to communicate with ACT directly, thus implying that his legal relationship with ACT was over and that he no longer could serve as ACT's designated POC for purposes of the LOA. Mr. Fishman also copied his September 23, 2013, e-mail message to an ACT representative. Although more than 228 days have passed since the Agencies received Mr. Fishman's e-mail message, the Agencies have not received a new POC designation from ACT.

ACT has therefore failed to comply with the LOA's terms in the following material ways: (1) ACT failed to submit its yearly certification in 2012; (2) ACT failed to submit its yearly certification in 2013; (3) ACT failed to maintain a current designated POC; and (4) ACT failed to provide timely notice of a change in ACT's POC status.

In the LOA, ACT agreed that, in the event the commitments set forth therein were breached, the Agencies could request that the FCC modify, condition, revoke, cancel, or render null and void any relevant license, permit, or other authorization granted by the FCC to the Company.

Since ACT has failed to comply with the LOA, and given that such compliance was an express condition of both the Agencies' non-objection to the granting of authority and of the FCC's grant of authority to ACT, the Agencies request that the FCC terminate, declare null and void and no longer in effect, and/or revoke the international telecommunications certificate issued to ACT, authorization file number **ITC-214-20081201-00519**.

Thank you for your consideration.

Sincerely,

__s/Richard Sofield_____
Richard Sofield
Director, Foreign Investment Review Staff
National Security Division
U.S. Department of Justice

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