

§ 63.21

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for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof. The applicant may file an opposition to any petition to deny within 14 days after the original pleading is filed. The petitioner may file a reply to such opposition within seven days after the time for filing oppositions has expired. Allegations of facts or denials thereof shall similarly be supported by affidavit. These responsive pleadings shall be served on the applicant or petitioner, as appropriate, and other parties to the proceeding.

[61 FR 15732, Apr. 9, 1996, as amended at 64 FR 19065, Apr. 19, 1999; 67 FR 45391, July 9, 2002; 69 FR 29902, May 26, 2004; 70 FR 38798, July 6, 2005]

§ 63.21 Conditions applicable to all international Section 214 authorizations.

International carriers authorized under Section 214 of the Communications Act of 1934, as amended, must follow the following requirements and prohibitions:

(a) Each carrier is responsible for the continuing accuracy of the certifications made in its application. Whenever the substance of any such certification is no longer accurate, the carrier shall as promptly as possible and, in any event, within thirty (30) days, file with the Commission a corrected certification referencing the FCC file number under which the original certification was provided. The information may be used by the Commission to determine whether a change in regulatory status may be warranted under § 63.10. *See also* § 63.11.

(b) Carriers must file copies of operating agreements entered into with their foreign correspondents as specified in § 43.51 of this chapter and shall otherwise comply with the filing requirements contained in that section.

(c) Carriers regulated as dominant for the provision of a particular international communications service on a particular route for any reason other than a foreign carrier affiliation under § 63.10 shall file tariffs pursuant to Section 203 of the Communications Act, 47 U.S.C. 203, and part 61 of this chapter. Except as specified in § 20.15(d) of this chapter with respect to commercial

mobile radio service providers, carriers regulated as non-dominant, as defined in § 61.3 of this chapter, and providing detariffed international services pursuant to § 61.19 of this chapter must comply with all applicable public disclosure and maintenance of information requirements in §§ 42.10 and 42.11 of this chapter.

(d) [Reserved]

(e) Authorized carriers may not access or make use of specific U.S. customer proprietary network information that is derived from a foreign network unless the carrier obtains approval from that U.S. customer. In seeking to obtain approval, the carrier must notify the U.S. customer that the customer may require the carrier to disclose the information to unaffiliated third parties upon written request by the customer.

(f) Authorized carriers may not receive from a foreign carrier any proprietary or confidential information pertaining to a competing U.S. carrier, obtained by the foreign carrier in the course of its normal business dealings, unless the competing U.S. carrier provides its permission in writing.

(g) The Commission reserves the right to review a carrier's authorization, and, if warranted, impose additional requirements on U.S. international carriers in circumstances where it appears that harm to competition is occurring on one or more U.S. international routes.

(h) Subject to the requirement of § 63.10 that a carrier regulated as dominant along a route must provide service as an entity that is separate from its foreign carrier affiliate, and subject to any other structural-separation requirement in Commission regulations, an authorized carrier may provide service through any wholly owned direct or indirect subsidiaries. The carrier must, within thirty (30) days after the subsidiary begins providing service, file with the Commission a notification referencing the authorized carrier's name and the FCC file numbers under which the carrier's authorizations were granted and identifying the subsidiary's name and place of legal organization. This provision shall not be construed to authorize the provision of service by any entity barred by statute

or regulation from itself holding an authorization or providing service.

(i) An authorized carrier, or a subsidiary operating pursuant to paragraph (h) of this section, that changes its name (including the name under which it is doing business) must notify the Commission within thirty (30) days of the name change. Such notification shall reference the FCC file numbers under which the carrier's authorizations were granted.

(j) Subject to the availability of electronic forms, all notifications and other filings described in this section must be filed electronically through the International Bureau Filing System (IBFS). A list of forms that are available for electronic filing can be found on the IBFS homepage. For information on electronic filing requirements, see part 1, §§1.1000 through 1.10018 of this chapter and the IBFS homepage at <http://www.fcc.gov/ibfs>. See also §§ 63.20 and 63.53.

[61 FR 15732, Apr. 9, 1996, as amended at 62 FR 45762, Aug. 29, 1997; 62 FR 64758, Dec. 9, 1997; 64 FR 19065, Apr. 19, 1999; 66 FR 16881, Mar. 28, 2001; 67 FR 45391, July 9, 2002; 67 FR 57344, Sept. 10, 2002; 70 FR 38798, July 6, 2005; 78 FR 15624, Mar. 12, 2013; 82 FR 55331, Nov. 21, 2017]

§ 63.22 Facilities-based international common carriers.

The following conditions apply to authorized facilities-based international carriers:

(a) A carrier authorized under § 63.18(e)(1) may provide international facilities-based services to international points for which it qualifies for non-dominant regulation as set forth in § 63.10, except in the following circumstance: If the carrier is, or is affiliated with, a foreign carrier in a destination market and the Commission has not determined that the foreign carrier lacks market power in the destination market (see § 63.10(a)), the carrier shall not provide service on that route unless it has received specific authority to do so under § 63.18(e)(3).

(b) The carrier may provide service using half-circuits on any U.S. common carrier and non-common carrier facilities that do not appear on an exclusion list published by the Commission. Carriers may also use any necessary non-

U.S.-licensed facilities, including any submarine cable systems, that do not appear on the exclusion list. Carriers may not use U.S. earth stations to access non-U.S.-licensed satellite systems unless the Commission has specifically approved the use of those satellites and so indicates on the exclusion list. The exclusion list is available from the International Bureau's World Wide Web site at <http://www.fcc.gov/ib>.

(c) Specific authority under § 63.18(e)(3) is required for the carrier to provide service using any facilities listed on the exclusion list, to provide service between the United States and any country on the exclusion list, or to construct, acquire, or operate lines in any new major common carrier facility project.

(d) The carrier may provide international basic switched, private line, data, television and business services.

(e) The carrier shall file annual international circuit capacity reports as required by § 43.82 of this chapter.

(f) The terms and conditions of any operating or other agreement relating to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, the allocation of return traffic, or the basis of settlement of traffic balances, entered into by U.S. common carriers authorized pursuant to this part to provide facilities-based switched voice service on the U.S.-Cuba route in correspondence with a Cuban carrier that does not qualify for the presumption that it lacks market power in Cuba, shall be identical to the equivalent terms and conditions in the operating agreement of another carrier providing the same or similar service between the United States and Cuba. Carriers may seek waiver of this requirement. *See International Settlements Policy Reform, Report and Order, IB Docket Nos. 11-80, 05-254, 09-10, RM 11322, FCC 12-145 (rel. November 29, 2012).*

(g) A carrier or other party may request Commission intervention on any U.S. international route for which competitive problems are alleged by filing with the International Bureau a petition, pursuant to this section, demonstrating anticompetitive behavior by foreign carriers that is harmful to U.S.