

## § 63.12

## 47 CFR Ch. I (10–1–14 Edition)

EFFECTIVE DATE NOTE: At 79 FR 31877, June 3, 2014, § 63.11 was amended by revising paragraph (g)(2). This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### § 63.12 Processing of international Section 214 applications.

(a) Except as provided by paragraph (c) of this section, a complete application seeking authorization under § 63.18 of this part shall be granted by the Commission 14 days after the date of public notice listing the application as accepted for filing.

(b) The applicant may commence operation on the 15th day after the date of public notice listing the application as accepted for filing, but only in accordance with the operations proposed in its application and the rules, regulations, and policies of the Commission. The public notice of the grant of the authorization shall represent the applicant's Section 214 certificate.

(c) The streamlined processing procedures provided by paragraphs (a) and (b) of this section shall not apply where:

(1) The applicant is affiliated with a foreign carrier in a destination market, unless the applicant clearly demonstrates in its application at least one of the following:

(i) The Commission has previously determined that the affiliated foreign carrier lacks market power in that destination market;

(ii) The applicant qualifies for a presumption of non-dominance under § 63.10(a)(3);

(iii) The affiliated foreign carrier owns no facilities, or only mobile wireless facilities, in that destination market. For this purpose, a carrier is said to own facilities if it holds an ownership, indefeasible-right-of-user, or leasehold interest in bare capacity in international or domestic telecommunications facilities (excluding switches);

(iv) The affiliated destination market is a WTO Member country and the applicant qualifies for a presumption of non-dominance under § 63.10(a)(4) of this part;

(v) The affiliated destination market is a WTO Member country and the ap-

plicant agrees to be classified as a dominant carrier to the affiliated destination country under § 63.10, without prejudice to its right to petition for reclassification at a later date; or

(vi) An entity with exactly the same ultimate ownership as the applicant has been authorized to provide the applied-for services on the affiliated destination route, and the applicant agrees to be subject to all of the conditions to which the authorized carrier is subject for its provision of service on that route; or

(2) The applicant has an affiliation with a dominant U.S. carrier whose international switched or private line services the applicant seeks authority to resell (either directly or indirectly through the resale of another reseller's services), unless the applicant agrees to be classified as a dominant carrier to the affiliated destination country under § 63.10 (without prejudice to its right to petition for reclassification at a later date); or

(3) The Commission has informed the applicant in writing, within 14 days after the date of public notice listing the application as accepted for filing, that the application is not eligible for streamlined processing.

(d) If an application is deemed complete but, pursuant to paragraph (c) of this section, is deemed ineligible for the streamlined processing procedures provided by paragraphs (a) and (b) of this section, the Commission will issue public notice indicating that the application is ineligible for streamlined processing. Within 90 days of the public notice, the Commission will take action upon the application or provide public notice that, because the application raises questions of extraordinary complexity, an additional 90-day period for review is needed. Each successive 90-day period may be so extended. The application shall not be deemed granted until the Commission affirmatively acts upon the application. Operation for which such authorization is sought may not commence except in accordance with any terms or conditions imposed by the Commission.

[62 FR 64753, Dec. 9, 1997, as amended at 64 FR 19063, Apr. 19, 1999; 64 FR 22903, Apr. 28, 1999; 64 FR 43095, Aug. 9, 1999; 69 FR 23154, Apr. 28, 2004]