

PUBLIC VERSION



IDT Domestic Telecom, Inc.  
520 Broad Street  
Newark, New Jersey 07102

**FILED VIA ECFS**

March 1, 2018

Mr. Tom Sullivan  
Chief, International Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Re: Notification of Acceptance of Terms and Conditions for Waiver of the  
Benchmark Rate for Cuba, IB Docket No. 10-95;  
IDT Telecom, Inc., International Telecommunications Certificate ITC-214-  
20100804-00318**

Dear Bureau Chief Sullivan:

On behalf of IDT Domestic Telecom, Inc. ("IDT Domestic"), attached hereto for review by the Federal Communications Commission ("Commission") is IDT Domestic's Confidential version of its request to extend the previously-granted waiver of the benchmark policy applicable to U.S. carriers seeking to provide telecommunications services on a direct basis to Cuba as specified in the Commission's April 8, 2011 *TeleCuba Waiver Order*,<sup>1</sup> as revised by the Commission's *International Settlements Policy Reform Order*.<sup>2</sup>

The request contains sensitive financial and proprietary business information that should be protected from public disclosure. Pursuant to Section 0.459 of the Commission's Rules, IDT Domestic hereby requests confidential treatment of such information (the "Information"). Such information is necessary for the Commission<sup>3</sup> – but not the public – to review the Service Agreement.

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<sup>1</sup> *Iconnect Wholesale, Inc., 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, IBFS File No. ISP-WAV-20100412-00007, Memorandum Opinion and Order, 26 FCC Rcd 5217 at ¶ 31 (2011) ("*TeleCuba Waiver Order*").

<sup>2</sup> *International Settlements Policy Reform*, IB Docket Nos. 11-80, 05-254, 09-10, RM 11322, Report and Order, 27 FCC Rcd 15521 (rel. Nov. 29, 2012) (eliminating the International Settlements Policy and applying a modified version to Cuba) ("*International Settlements Policy Reform Order*").

<sup>3</sup> IDT Domestic understands that the Commission may coordinate its review of its request with the State Department, as appropriate.

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IDT Domestic is simultaneously submitting, under separate covers, a non-redacted and a redacted version of the Service Agreement. The non-redacted version is marked "DO NOT RELEASE - NOT FOR INCLUSION IN THE PUBLIC RECORD." The fully redacted version is marked "PUBLIC VERSION." This cover letter does not contain any confidential information.

As required by Section 0.459(b)<sup>4</sup> and in support of its request, IDT Domestic provides the following information:

1. *Identification of the specific information for which confidential treatment is sought.*

IDT Domestic requests that certain information in the Service Agreement be treated as confidential pursuant to Exemption 4 of FOIA<sup>5</sup> and Section 0.459, which protect confidential commercial and other information not routinely available for public inspection. The Information includes competitively sensitive, business confidential and proprietary commercial information that would not routinely be made available to the public and has been carefully guarded from IDT Domestic's competitors. If the Information were disclosed, other parties could use it to determine information relative to IDT Domestic's business plans, operations and performance.

2. *Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.*

The Information for which confidentiality is requested concerns the *TeleCuba Waiver Order* as revised by the Commission's *International Settlements Policy Reform Order*.

3. *Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged.*

The Information contains competitively sensitive, business confidential and proprietary commercial information that would not routinely be made available to the public and has been carefully guarded from other parties.

4. *Explanation of the degree to which the information concerns a service that is subject to competition.*

The Information includes information about IDT Domestic's operations and routing of international calls. If the Information is not protected, competitors and would-be competitors could be able to use the Information to their competitive advantage.

5. *Explanation of how disclosure of the information could result in substantial competitive harm.*

Because the Information generally would not be subject to public inspection and would

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<sup>4</sup> 47 C.F.R. § 0.459(b).

<sup>5</sup> See 5 U.S.C. § 552(b)(4).

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customarily be guarded from competitors, the Commission's rules acknowledge that release of the Information to the public is likely to produce competitive harm and therefore adversely affect IDT Domestic's deployment objectives and competitive position.

6. *Identification of any measures taken by the submitting party to prevent unauthorized disclosure.*

IDT Domestic maintains strict security concerning its financial information. Only IDT Domestic, the counterparty to the Service Agreement, and persons directly authorized by each party have access to the data required to produce the Information.

7. *Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties.*

The information is not available to the public and has not previously been disclosed to third parties.

8. *Justification of the period during which the submitting party asserts that material should not be available for public disclosure.*

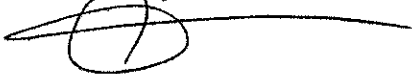
IDT Domestic requests that the Information be treated as confidential indefinitely because it is not possible at this time to determine any date certain by which the Information could be disclosed without risk of competitive harm to IDT Domestic.

9. *Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.*

If publicly disclosed, the Information may be harmful to IDT Domestic's plans to deploy direct telecommunications services to Cuba.

Should you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,



Senior Regulatory Counsel  
IDT Domestic Telecom, Inc.

Attachment

- c: David Krech, Associate Division Chief, Telecommunications and Analysis Division,  
International Bureau (via email)  
Jodi Cooper, Attorney, Telecommunications and Analysis Division, International Bureau  
(via email)

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Benchmark Rate for Cuba, IB Docket No. 10-95;  
IDT Telecom, Inc., International Telecommunications Certificate ITC-214-  
20100804-00318**

Dear Bureau Chief Sullivan:

March 2, 2015 was the effective date of IDT Domestic Telecom, Inc.'s ("IDT Domestic") authorization by Federal Communications Commission ("Commission")<sup>1</sup> to operate under a three-year waiver of the benchmark rate for telecommunications transmitted between the United States and Cuba. By this letter, and in accordance with paragraph 32 of the *TeleCuba Waiver Order*,<sup>2</sup> IDT Domestic reaffirms its acceptance of the terms and conditions of the waiver and requests that the Commission extend its initial three-year waiver an additional three years and issue an "Informative" as part of the Commission's Public Notice indicating as such. Should the Commission extend IDT Domestic's waiver, IDT Domestic's commercial relationship with Empresa de Telecomunicaciones de Cuba S.A. ("ETECSA") would continue under the Agreement presently on file with the Commission.

As detailed below, good cause<sup>3</sup> exists to extend the waiver, as IDT Domestic's provision

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<sup>1</sup> See generally, IConnect Wholesale, Inc., 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, IBFS File No. ISP-WAV-20100412-00007, Memorandum Opinion and Order, 26 FCC Red 5217 (2011) ("*TeleCuba Waiver Order*").

<sup>2</sup> *TeleCuba Waiver Order* at ¶ 32 ("[Carrier] may request an extension of the initial three-year period of the waiver. Commission confidence that progress is being made toward a reduction of termination rates will be an important factor in considering any request for extension of the waiver after the initial three-year period.")

<sup>3</sup> 47 C.F.R. § 1.3.

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of direct services to Cuba has served the public interest. In the *TeleCuba Waiver Order*, the International Bureau (“Bureau”) concluded that the public interest would be served by TeleCuba “establish[ing] a working relationship with ETECSA that would enable it to provide a direct ‘single path’ to Cuba in order to offer customers improved call quality (in terms of reduced latency and post-dial delay) and an alternative to currently available indirect services involving multiple hops at higher cost and lower quality.”<sup>4</sup> IDT’s experience in offering direct services to Cuba affirms the Bureau’s anticipated benefits:

- Prior to IDT Domestic’s establishing a direct route to Cuba, IDT Domestic was sending approximately [REDACTED] minutes per month to Cuba: all minutes were sent *via* third party, non-U.S. telecommunications carriers. Immediately upon establishing a direct route, this figure increased: IDT Domestic presently sends an average of [REDACTED] minutes to Cuba per month.
- Minutes from IDT Domestic’s end user consumers are up [REDACTED] since the establishment of a direct route to Cuba.

IDT asserts that its increase in both end-user (retail) and wholesale traffic is due in part to the fact that IDT’s direct connection to Cuba provides a better-quality connection with greater reliability than other carriers who are transmitting traffic *via* multiple carriers or who are using gray routes.

The Commission also stated that “re-establishing direct links should be done in a way that benefits consumers ... [and] lower[] international calling rates for services to Cuba.”<sup>5</sup> Again, IDT’s experience affirms the Commission’s anticipated benefits as it has found that another key component in IDT Domestic’s success (and further support that its request to extend its waiver should be granted) is on the reduced rates U.S. consumer and wholesale carriers have seen as a result of IDT Domestic’s provision of direct services to Cuba:

- The majority of IDT Domestic’s end user consumers<sup>6</sup> have seen considerable rate reductions: prior to the establishment of a direct route to Cuba, approximately [REDACTED] of IDT end-user customers paid [REDACTED] or more per minute. Subsequent to the establishment of the direct route, approximately [REDACTED] of IDT Domestic’s end-user customers pay as little as [REDACTED] per minute.
- IDT Domestic has not only passed along savings to our end-user customers, it also has reduced its wholesale rates by approximately [REDACTED]: not only does this save US carriers money, but based on information and observation, we have seen other US carriers reduce rates to their end-users as well.

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<sup>4</sup> *TeleCuba Waiver Order* at ¶ 21.

<sup>5</sup> *Id.* at ¶ 15.

<sup>6</sup> [REDACTED] of US-Cuba traffic originates from Florida (with a large percentage of that traffic originating from Miami NPA-NXXs), strongly indicating that IDT’s high-quality connection and reduced rates are helping Cuban-Americans stay in touch with friends and family in Cuba.

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- While difficult to quantify, IDT Domestic believes that the availability of its high-quality route and reduced rates have displaced bad actors in the telecommunications industry that would offer low rates because of poor quality “gray” routes and dubious practices such as low per-minute rates with (often unadvertised) high connection fees and “mysterious” disconnections prior to the conclusion of a call’s first minute.

Critical to IDT Domestic’s ability to offer lower rates is the return traffic it receives from ETECSA as a result of the two carriers’ direct commercial relationship. While the nature of the differences in population and telecommunications density between the U.S. and Cuba ensures that more minutes will always go *to* Cuba than *from* Cuba, the high cost of Cuba-originated/US terminated traffic (which IDT Domestic receives in accordance with its agreement with ETECSA) allows for IDT Domestic to reduce its retail and wholesale rates. Absent this return traffic, which IDT Domestic only receives *but for* its Agreement, IDT Domestic would be compelled to raise both its retail and wholesale rates. Moreover, if IDT ceased receiving the return traffic it presently receives, the minutes would likely be handed off to a foreign carrier, therefore benefitting foreign telecommunications service providers and harming U.S. providers.

The *TeleCuba Waiver Order* also noted the policy to “facilitate greater contact between separated family members in the United States and Cuba and increase the flow of information to the Cuban people ....”<sup>7</sup> Again, IDT Domestic’s provision of direct services to Cuba has borne fruit in ways beyond its (and possibly even the Commission’s) expectations: IDT Domestic has been able to provide International Mobile Top Up services in partnership with ETECSA, thereby allowing US consumers to pay for the wireless phone service of Cuban friends and family. Moreover, IDT Domestic is in negotiations to expand its Top Up services to include Internet access, thereby allowing Cubans to receive Internet access, expanding their access to news and information that might not otherwise be available to them. Both agreements, which would not exist *but for* the commercial relationship established with ETECSA because of the waiver further the goal of expanding access to information for the Cuban people.

Perhaps notable by its absence listed above is the fact that IDT Domestic has not yet been able to secure a reduction in termination rates paid to ETECSA. However, we respectfully remind the Commission that the condition of paragraph 32 is not that a reduction in rates has been secured, but rather, that the Commission be confident that “progress is being made toward the reduction of termination rates.”<sup>8</sup> IDT Domestic takes this opportunity to assure the Commission that we have engaged ETECSA in good-faith negotiations and have made progress toward a mutual understanding of the need to reduce termination rates. As we hope the Commission will understand, such negotiations proceed at their own pace and are sensitive in nature and neither IDT Domestic nor any other US carrier can expect to quickly achieve that which has been unattainable by the U.S. government and telecommunications industry for decades. Moreover, we believe that the ongoing negotiations we have had may at some point in the future bear fruit, whereas such negotiations would rot on the vine should IDT Domestic not receive an additional waiver and lose its commercial relationship with ETECSA.

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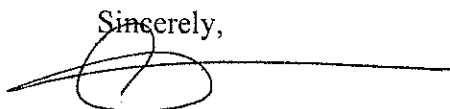
<sup>7</sup> *TeleCuba Waiver Order* at ¶ 23.

<sup>8</sup> *Id.* at ¶ 32.

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Should you have any questions with respect to this notification or require additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a horizontal line.

Carl Billek  
Senior Regulatory Counsel  
IDT Domestic Telecom, Inc.

Attachment

- c: David Krech, Associate Division Chief, Telecommunications and Analysis Division,  
International Bureau (*via email*)  
Jodi Cooper, Attorney, Telecommunications and Analysis Division, International Bureau  
(*via email*)

## CERTIFICATION

I, Marcelo Fischer am the CFO of IDT Domestic Telecom, Inc. ("IDT Domestic"). The factual statements and representations made in the letter submitted to Thomas Sullivan, Chief of the International Bureau of the Federal Communications Commission on March 1, 2018 in IB Docket No. 10-95 and File No. ITC-214-20100804-00318 concerning IDT Domestic's notification that it agrees to accept the terms and conditions of the waiver of the benchmark policy applicable to U.S. carriers seeking to provide telecommunications services on a direct basis to Cuba are true, complete, and accurate to the best of my knowledge, information and belief.

Dated: March 1, 2018



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Marcelo Fischer  
CFO  
IDT Domestic Telecom, Inc.



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