

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In re Applications of)	
)	FCC IBFS # ITC-T/C 20190128-0003;
Clarity Telecom, LLC DBA Vast)	ITC-T/C 20190128-0004;
Broadband, T3 North Intermediate)	ITC-T/C 20190128-0005;
Holdings, Inc., Python Intermediate II,)	ITC-T/C-20190128-00006;
LLC, and PC III CTH Holdings, L.P.)	ITC-T/C-20190128-00007;
)	WC Docket No. 19-7;
for authority pursuant to Section 214 of the)	WC Docket No. 19-16
Communications Act of 1934, as amended, to)	
transfer control of international Section 214		
authorizations.		

**PETITION TO ADOPT CONDITIONS TO
AUTHORIZATIONS AND LICENSES**

The U.S. Department of Justice (“DOJ”) submits this Petition to Adopt Conditions to Authorizations and Licenses (“Petition”) pursuant to Section 1.41 of the Federal Communications Commission (“Commission”) rules.¹ Through this Petition, DOJ advises the Commission that it has no objection to the Commission approving the authority sought in the above-referenced proceedings, provided that the Commission conditions its approval on the assurances of Clarity Telecom, LLC DBA Vast Broadband (“Clarity”) and NTS, Inc. (“NTSI”)² to abide by the commitments and undertakings set forth in the **August 16, 2019** Letter of Agreement (“LOA”), a copy of which is attached to this filing.

Pursuant to Section 214(a) of the Communications Act, as amended, no carrier may

¹ 47 C.F.R. § 1.41 (2017).

² NTSI includes wholly owned NTSI subsidiaries NTS Communications, Inc. (“NTS-Comm”), PRIDE Network (“PRIDE”), NTS Telephone Company, LLC (“NTS-Tel”) and XFone USA, LLC (“XFone”) (collectively, “NTS Licensees”).

provide service until it obtains from the Commission a certificate that the present or future public convenience and necessity require such services. 47 U.S.C. § 214(a). Section 63.18 of the Commission rules, which implements Section 214 of the Communications Act, requires that an application for international section 214 authority “include information demonstrating how the grant of the application will serve the public interest, convenience, and necessity.” 47 C.F.R. § 63.18. As part of the Commission’s public interest analysis, the Commission considers whether such an application raises national security, law enforcement, foreign policy, or trade policy concerns related to the applicant’s foreign ownership. *See In the Matter of China Mobile International (USA) Inc.*, FCC 19-38, 2019 WL 2098511, ¶ 2 (May 10, 2019) (denying an international Section 214 application and finding that grant of the application would raise substantial and serious national security and law enforcement risks that could not be addressed through a mitigation agreement). With regard to these concerns, the Commission has long sought the expertise of the relevant Executive Branch agencies and has accorded deference to their expertise when they have identified such a concern in a particular application. *Id.*

DOJ, with the Departments of Defense (“DoD”) and Homeland Security (“DHS”) (collectively, “Team Telecom”), leads the Executive Branch reviews of international Section 214 carrier authorizations for national security and law enforcement concerns. In *China Mobile*, Team Telecom publicly disclosed a multifactor analysis it applies when making a recommendation based on national security and law enforcement concerns. *Id.* at ¶ 8; *see also* Redacted Executive Branch Recommendation to Deny China Mobile International (USA) Inc.’s Application for an International Section 214 Authorization, FCC No. ITC-214-20110901-00289, at 6-7 (filed July 2, 2018) (China Mobile Ex. Br. Recommendation). These factors include whether the carrier has a past criminal history. *See* China Mobile Ex. Br. Recommendation at 6.

As relevant to the review of the above-referenced matters, DOJ has considered the prior criminal history of NTS-Comm, a subsidiary of NTSI that currently holds one of the international Section 214 authorizations at issue in the above-referenced applications. On March 2002, NTS-Comm pleaded guilty to mail fraud in violation of 18 U.S.C. § 1341. *United States v. NTS Communications, Inc.*, Case No. 02-cr-00083, ECF No. 51, Unopposed Motion for Early Termination of Probation (W.D. Tex. Aug. 8, 2006). NTS-Comm was sentenced to five (5) years' probation and paid \$22 million in restitution. *Id.* at 1. It is unclear whether the Commission ever reviewed NTS-Comm's federal conviction under its rules, regulations, and policy statements.³

After discussions with representatives of Clarity and NTSI in connection with the above-referenced applications, DOJ has concluded that the additional commitments set forth in the LOA will help ensure that those agencies with responsibility for enforcing the law, protecting the national security, and preserving public safety can proceed appropriately to satisfy those responsibilities.

DOJ's determination is limited to its review of the above-referenced applications for national security and law enforcement concerns. This determination is independent of the Commission's separate analysis for determining whether any applicant holds the "requisite character qualifications to hold Commission licenses." *Applications Granted for the Transfer of Control of Sti Prepaid, LLC & Sti Telecom Inc. to Angel Americas LLC*, 29 F.C.C. Rcd. 7956,

³ See, e.g., *Policy Regarding Character Qualifications in Broadcast Licensing; Amendment of Rules of Broadcast Practice and Procedure Relating to Written Responses to Commission Inquiries and the Making of Misrepresentations to the Commission by Permittees and Licensees*, Report, Order and Policy Statement, 102 FCC 2d 1179 (1986) (*Character Policy Statement*); Policy Statement and Order, 5 FCC Rcd 3252 (1990), as modified, and pertinent precedent; *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23915, para. 53 & n.90 (1997).

7958 (June 27, 2014). Therefore, DOJ defers to the Commission whether NTS-Comm meets the character qualifications set forth in its rules, regulations, and policy statements.

Accordingly, DOJ advises the Commission that it has no objection to the Commission granting the application in the above-referenced proceeding, provided that the Commission conditions its consent on compliance with the **August 16, 2019** LOA attached to this filing.

August 19, 2019

Respectfully submitted,

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