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September 6, 2017

Marlene Dortch  
Secretary  
Federal Communications Commission  
445-12th Street SW  
Washington, DC 20554

Via ECFS

Re: **Notice of Global Connection Inc. of America of Oral *Ex Parte* Presentation;  
WC Docket No. 17-170**

Dear Ms. Dortch:

On September 1, 2017, John J. Heitmann and Winafred Brantl of Kelley Drye & Warren LLP participated in a telephone call with Jodie May, Assistant Division Chief of the Competition Policy Division of the Wireline Competition Bureau on behalf of Global Connection Inc. of America (Global). The purpose of the call was to discuss aspects of a dispute that has arisen between Global and Tele Circuit Network Corporation (Tele Circuit and, together with Global, the Parties) in connection with the Parties' customer transfer application, the approval of which by the Federal Communications Commission (Commission) had been sought in this docket.<sup>1</sup>

In the course of the call, we described the proposed transaction for transfer of a wireline customer base from Global to Tele Circuit. The details of this transaction are provided in the Parties' application.<sup>2</sup> We also described the steps that the Parties have taken to obtain necessary

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<sup>1</sup> *Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Global Connection Inc. of America by Tele Circuit Network Corporation, Non-Streamlined Pleading Cycle Established*, WC Dkt. 17-170, DA17-674 (rel. Jul. 13, 2017). For the reasons discussed herein, the Parties jointly filed a notice of withdrawal of the customer transfer application with the Commission on August 23, 2017. See Letter of John J. Heitmann and Henry M. Walker to Marlene Dortch, WC Dkt. 17-170 (Aug. 23, 2017).

<sup>2</sup> *Id.* The description of the transaction is located on pages 4-5 of the application. In addition to the elements of the transaction provided in the application, we discussed the Parties' agreement that between the signing of the agreement and transfer of the customers (pursuant to receipt of regulatory approvals), Tele Circuit would provide unregulated support services (*e.g.*, customer service, billing) to the customer base.

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approvals from the Commission and state regulators and to comply with related federal and state customer transfer notice requirements. In addition to the section 214 asset assignment application in this docket, the Parties submitted a notice of customer transfer in WC Docket 00-257 pursuant to 47 C.F.R. § 64.1120(e). With a few exceptions, applications for approval or notices of the transaction were filed, as appropriate, with each of the state regulatory agencies having jurisdiction over the customers in question.<sup>3</sup>

We then discussed subsequent developments regarding the transaction that are of concern to Global. These include Tele Circuit's transfer in July 2017 of 6,505 wireline customers, including 2,073 customers receiving Lifeline discounts, from Global to Tele Circuit prior to receipt of Commission approval for such transfer. Global estimates that approximately 85 percent of these customers (over 5,600) were transferred by Tele Circuit prior to completion of the customer notice period required pursuant to Commission rule 47 C.F.R. § 64.1120(e). When this unauthorized customer transfer occurred, Global informed Tele Circuit that the transfer was unauthorized and that the customers had to be returned to Global until such time as the Commission approved the Parties' application. Tele Circuit has refused to do so.<sup>4</sup>

We also noted actions taken by Tele Circuit to temporarily completely block Global's access to the customer service database necessary for Global to properly serve its customers, including a large number of wireline customers still on Global's network. Global similarly discovered that Tele Circuit had taken steps to interfere with Global's customer invoicing -

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<sup>3</sup> At the time the transaction was negotiated, Tele Circuit did not yet hold all of the intrastate telecommunications and eligible telecommunications carrier (ETC) authority necessary to serve certain customers. The Parties' intention was that Tele Circuit would expeditiously pursue grant of this authority and that the notices to these customers, and to regulators regarding the transfer of these customers, would be delayed until Tele Circuit held the necessary authority. To Global's knowledge, Tele Circuit has made no discernible progress toward obtaining the necessary authority to serve the remaining customers and therefore the transaction cannot be completed. This was among the reasons for the Parties' filing to withdraw the customer transfer application.

<sup>4</sup> One important point of contention is Tele Circuit's incorrect position that a transaction involving only wireline customer assets does not require Commission approval pursuant to section 63.04 of the Commission's rules. *See* 47 C.F.R. § 63.04. Tele Circuit has taken this position despite its agreement to file the customer transfer application. That application clearly states that "consummation of the Transaction will be contingent upon Commission approval and the receipt of all other required regulatory approvals." That application also includes a notarized Certification signed by Ashar Syed on June 16, 2017 that states, under penalty of perjury, that "I have reviewed the foregoing Application and know the contents thereof, and that the statements made therein are true and correct to the best of my knowledge and belief."

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instructing Global's billing company to re-brand invoices and change the payment instructions on invoices for both the transferred customers and for a significant number of customers still on Global's network, in order to direct payment to Tele Circuit. Global has received a growing number of complaints, both directly from customers and forwarded by state regulatory agencies, in connection with the transfer of customers to Tele Circuit and concerning service and billing issues arising as a result of Tele Circuit's actions. Global is concerned both by the complaints and by the level of confusion expressed by these customers; however, in the current circumstances, it has limited ability to resolve their concerns.

Finally, we described Global's extensive efforts to rectify the situation, including repeated requests to Tele Circuit to undo its actions and, a proposed rescission of the Parties' agreement, as well as the eventual failure of those efforts. In conclusion, we communicated Global's belief that the Commission's assistance is needed in order to resolve the impasse between the Parties in a manner that will protect the affected customers and compel Tele Circuit's compliance with the Commission's rules.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Sincerely,



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