

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

In the Matter of)	
)	
UCN, Inc.)	
)	
Transferee,)	WC Docket No. 05-198
)	
Transtel Communications, Inc.)	
Tel America of Salt Lake City, Inc.)	
Extelcom, Inc.)	
)	
Transferors,)	
)	
Joint International and Domestic Application for Authority)	
Pursuant to Section 214 of the Communications Act of)	
1934, as amended, to Transfer Certain Assets of Authorized)	
International and Domestic Carriers)	
)	

**REPLY COMMENTS OF
TEL AMERICA OF SALT LAKE CITY, INC.**

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Dated: June 15, 2005

TABLE OF CONTENTS

TABLE OF CONTENTS.....i

I. INTRODUCTION1

II. APCC SERVICES’ REQUESTS FOR DELAY SHOULD BE REJECTED AS
THEY WOULD SERVE ONLY ITS MEMBERS’ NARROW INTERESTS TO
THE DETRIMENT OF THE BROADER PUBLIC INTEREST.....3

III. IT WOULD BE IMPROPER TO DELAY THIS PROCEEDING ON THE BASIS
OF DISPUTED PRIVATE CLAIMS THAT HAVE NOT YET BEEN
ADJUDICATED IN A PENDING COMMISSION COMPLAINT PROCEEDING.....5

IV. CONCLUSION.....6

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**REPLY COMMENTS OF
TEL AMERICA OF SALT LAKE CITY, INC.**

Tel America of Salt Lake City, Inc. (“Tel America”), through undersigned counsel and pursuant to Section 63.03 of the Commission’s rules,¹ hereby submits the following reply comments in response to the comments filed by APCC Services, Inc. (“APCC Services”) on June 8, 2005 in the above-captioned proceeding.

I. INTRODUCTION

On May 19, 2005, UCN, Inc. (“UCN”) and Transtel Communications, Inc., on behalf of its wholly-owned subsidiaries, Tel America and Extelcom, Inc. d/b/a Express Tel, jointly filed an

¹ 47 C.F.R. § 63.03.

application pursuant to Section 214 of the Communications Act of 1934, as amended,² (hereinafter referred to as the “Section 214 Application”) requesting authority to enable UCN to acquire certain assets of Express Tel and Tel America. The Section 214 Application demonstrated that the proposed transaction would serve the public convenience and necessity by making it possible for the customers of Tel America and Express Tel to receive from UCN improved services and availability of lower rates, thereby promoting competition in the telecommunications market.³ On May 25, 2005, the Commission released a Public Notice accepting the Section 214 Application as a streamlined application.⁴

On June 8, 2005, APCC Services filed comments asking the Commission to deny the Section 214 Application, condition its approval or remove it from streamlined processing⁵. Those comments recklessly and blatantly disregard the substantial harm that would be inflicted upon the customers of Tel America and Express Tel by such a delay in receiving improved service from UCN. Instead of addressing what would be best for customers, APCC Services only concerns itself with how APCC Services and its members can profit by delaying this proceeding. APCC Services’ comments seek to obtain payment of a stale private claim that has been repeatedly disputed by Tel America, has never been adjudicated on the merits, and that is entirely unrelated to the public interest evaluation involved in this proceeding.⁶

For the reasons set forth below, the Commission should reject APCC Services’ self-serving requests for delay, and grant the Section 214 Application on a streamlined basis in furtherance of what is best for consumers. APCC Services’ allegations fall outside the scope of

² 47 U.S.C. § 214.

³ Section 214 Application, p. 5, Exh. A.

⁴ Public Notice, WC Docket No. 05-198, DA 05-1509 (May 25, 2005).

⁵ APCC Services’ Comments, pp. 1-2.

⁶ APCC Services’ Comments, pp. 1, 3, 7.

this proceeding. They have nothing to do with UCN's qualifications as the transferee, nor anything to do with how a grant of the Section 214 Application will affect the public. Furthermore, it would be premature and improper to deny the Section 214 Application or impose conditions merely on the basis of comments raising issues that have not yet been adjudicated in a pending informal complaint proceeding.

II. APCC SERVICES' REQUESTS FOR DELAY SHOULD BE REJECTED AS THEY WOULD SERVE ONLY ITS MEMBERS' NARROW INTERESTS TO THE DETRIMENT OF THE BROADER PUBLIC INTEREST.

Section 214 of the Communications Act requires that the Commission find that the public interest, convenience and necessity will be served by the grant of the Section 214 Application. APCC Services' allegations do not concern UCN as the proposed transferee and, as such, they are not relevant to and will not impact the Commission's analysis of the Section 214 Application. UCN has demonstrated that it satisfies the Commission's qualification requirements and has the financial wherewithal and technical expertise to provide service consistent with the public interest. APCC Services has not challenged UCN's qualifications, and UCN is not implicated by APCC Services' claims.

The issue in the instant proceeding is whether the transfer of certain assets to UCN is in the public interest, not whether the narrow interests of APCC Services' and its members would be served by delaying that transaction. SBC Communications Inc. v. FCC, 56 F.3d 1484, 1492-1493 (DC Cir. 1995). "The purpose of the Act is to protect the public interest rather than to provide a forum for the settlement of private disputes." United Telephone Co. of the Carolinas, Inc. v. FCC, 559 F.2d 720, 723 (D.C. Cir. 1977). The interests of American consumers will not be furthered if they can be used as pawns in a private dispute.

APCC Services seeks to delay Tel America's customers from receiving improved service from UCN in order to obtain money from Tel America. Under similar circumstances, the DC Circuit has rejected the imposition of conditions on a transaction that serve only the narrow interests of private service providers, like APCC Service' members, at the expense of consumers and the broader public interest.⁷ SBC Communications Inc. v. FCC, 56 F.3d at 1492-1493. In the instant proceeding, APCC Services' requests for delay would also not serve the public interest and should be rejected.

The grant of the Section 214 Application would result in pro-competitive efficiencies, savings and economies that would not be otherwise achievable. Tel America's customers will immediately have access to a whole new set of advanced call handling services from UCN, such as IVR, skills-based routing/ACD, the ability to integrate customer databases with call handling applications, and inNetwork® on-hold. The significant efficiencies and economies of scale will further improve service to customers by promoting technological innovation and new or improved service offerings for consumers. Such improvements in UCN's services will stimulate competitors to improve their services in a like degree. APCC has not disputed these public interest benefits.

Granting the Section 214 Application will also strengthen UCN's competitive position. UCN now faces direct competition from large, well-capitalized companies like the former Bell Operating Companies. To compete effectively in today's telecommunications market, carriers are required to offer a wide array of innovative, high-quality, reliable transmission services and provide such services to a broad range of geographic markets. The instant transaction will substantially advance UCN's efforts to meet these market requirements. Efficiencies will lower

⁷ Id.

UCN's operating costs, allowing it to offer services at more competitive rates. APCC Services also does not dispute these public interest benefits.

III. IT WOULD BE IMPROPER TO DELAY THIS PROCEEDING ON THE BASIS OF DISPUTED PRIVATE CLAIMS THAT HAVE NOT YET BEEN ADJUDICATED IN A PENDING COMMISSION COMPLAINT PROCEEDING.

The claims alleged by APCC Services have never been adjudicated by the FCC or any court. They are still pending in a Commission informal complaint proceeding, and APCC Services has never found sufficient merit in them to file a formal complaint. As there has been no determination of whether these claims have any merit, there is no legal basis upon which to include them in any analysis of UCN's qualifications or the public interest inquiry under Section 214.

It is well-settled that the grant of a Section 214 application will not be delayed on the basis of private claims that have not yet been adjudicated in a pending complaint proceeding.⁸ The grant of the Section 214 Application will not affect whatever relief APCC Services' and its members are entitled to, if any, through the Commission's complaint processes.

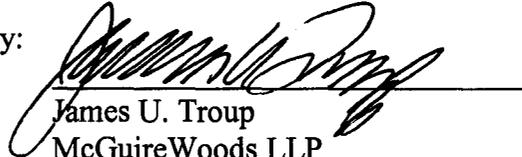
⁸ Application of General Electric Co., Memorandum Opinion and Order, 3 FCC Rcd 2803, 2809-2810 (1988) ("It would be premature for us to deny the proposed transfer of control or impose conditions merely on the basis of pleadings raising issues that have not yet been adjudicated"); See also, Bell Atlantic Mobile Systems, Inc. and NYNEX Mobile Communications Company Application for Transfer of Control of Eighty-two Cellular Radio Licenses to Celco Partnership, Order, 10 FCC Rcd 13368, 13380-13381 (1995) ("the proper forum for specific complaints against common carriers is a Section 208 complaint proceeding, not a license assignment/transfer of control proceeding"), aff'd, 12 FCC Rcd 22280, 22292 (1997) (holding that the proper forum for adjudicating claims of isolated misconduct is the section 208 complaint process, not a license/transfer of control proceeding); Communications Satellite Corp., Memorandum Opinion and Order, 3 FCC Rcd 7277, 7278 (1988) (the Commission's complaint procedure is the appropriate vehicle to redress alleged unlawful practices, not a transfer of control proceeding); Applications of Craig McCaw, Memorandum Opinion and Order, 9 FCC Rcd 5836, 5911 (1994) (the allegations against the transferor in a pending complaint proceeding do not concern the transferee and are not relevant to the Commission's analysis in a transfer of control proceeding).

IV. CONCLUSION.

Clearly, the public interest, convenience and necessity would be furthered and the interests of Tel-America's customers would be best protected and promoted by granting the Section 214 Application on a streamlined basis.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2005, I caused a copy of the foregoing Reply Comments to be served by electronic mail on the following:

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