Federal Communications Commission

§ 63.22 Facilities-based international common carriers.

The following conditions apply to authorized facilities-based international carriers:

(a) A carrier authorized under §63.18(e)(1) may provide international facilities-based services to international points for which it qualifies for non-dominant regulation as set forth in §63.10, except in the following circumstance: If the carrier is, or is affiliated with, a foreign carrier in a destination market and the Commission has not determined that the foreign carrier lacks market power in the destination market (see §63.10(a)), the carrier shall not provide service on that route unless it has received specific authority to do so under §63.18(e)(3).

(b) The carrier may provide service using half-circuits on any U.S. common carrier and non-common carrier facilities that do not appear on an exclusion list published by the Commission. Carriers may also use any necessary non-U.S.-licensed facilities, including any submarine cable systems, that do not appear on the exclusion list. Carriers may not use U.S. earth stations to access non-U.S.-licensed satellite systems unless the Commission has specifically approved the use of those satellites and so indicates on the exclusion list. The exclusion list is available from the International Bureau’s World Wide Web site at http://www.fcc.gov/ib.

(c) Specific authority under §63.18(e)(3) is required for the carrier to provide service using any facilities listed on the exclusion list, to provide service between the United States and any country on the exclusion list, or to construct, acquire, or operate lines in any new major common carrier facility project.

(d) The carrier may provide international basic switched, private line, data, television and business services.

(e) The carrier shall file annual international circuit capacity reports as required by §43.62 of this chapter.

Effective Date Note: At 78 FR 15623, Mar. 12, 2013, §63.21 was amended by revising paragraph (d). 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.
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(f) The terms and conditions of any operating or other agreement relating to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, the allocation of return traffic, or the basis of settlement of traffic balances, entered into by U.S. common carriers authorized pursuant to this part to provide facilities-based switched voice service on the U.S.-Cuba route in correspondence with a Cuban carrier that does not qualify for the presumption that it lacks market power in Cuba, shall be identical to the equivalent terms and conditions in the operating agreement of another carrier providing the same or similar service between the United States and Cuba. Carriers may seek waiver of this requirement. See International Settlements Policy Reform, Report and Order, IB Docket Nos. 11–80, 05–254, 09–10, RM 11322, FCC 12–145 (rel. November 29, 2012).

(g) A carrier or other party may request Commission intervention on any U.S. international route for which competitive problems are alleged by filing with the International Bureau a petition, pursuant to this section, demonstrating anticompetitive behavior by foreign carriers that is harmful to U.S. customers. The Commission may also act on its own motion. Carriers and other parties filing complaints must support their petitions with evidence, including an affidavit and relevant commercial agreements. The International Bureau will review complaints on a case-by-case basis and take appropriate action on delegated authority pursuant to §6.261 of this chapter. Interested parties will have 10 days from the date of issuance of a public notice of the petition to file comments or oppositions to such petitions and subsequently 7 days for replies. In the event significant, immediate harm to the public interest is likely to occur that cannot be addressed through post facto remedies, the International Bureau may impose temporary requirements on carriers authorized pursuant to §63.18 of this chapter without prejudice to its findings on such petitions.

(h) The authority granted under this part is subject to all Commission rules and regulations and any conditions or limitations stated in the Commission’s public notice or order that serves as the carrier’s Section 214 certificate. See §§63.12, 63.21 of this part.

Note 1 to §63.22: For purposes of this section, foreign carrier is defined in §63.09 of this chapter.

Note 2 to §63.22: For purposes of this section, a foreign carrier shall be considered to possess market power if it appears on the Commission’s list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points. This list is available on the International Bureau’s World Wide Web site at http://www.fcc.gov/ib. The Commission will include on the list of foreign carriers that do not qualify for the presumption that they lack market power in particular foreign points any foreign carrier that has 50 percent or more market share in the international transport or local access markets of a foreign point. A party that seeks to remove such a carrier from the Commission’s list bears the burden of submitting information to the Commission sufficient to demonstrate that the foreign carrier lacks 50 percent market share in the international transport and local access markets on the foreign end of the route or that it nevertheless lacks sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market. A party that seeks to add a carrier to the Commission’s list bears the burden of submitting information to the Commission sufficient to demonstrate that the foreign carrier has 50 percent or more market share in the international transport or local access markets on the foreign end of the route or that it nevertheless has sufficient market power to affect competition adversely in the U.S. market.


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§ 63.23 Resale-based international common carriers.

The following conditions apply to carriers authorized to resell the international services of other authorized carriers:

(a) A carrier authorized under §63.18(e)(2) may provide resale international services to international