

1993 WL 757146 (F.C.C.), 8 F.C.C.R. 4706, 8 FCC Rcd. 4706

DA 93-794

FEDERAL COMMUNICATIONS COMMISSION (F.C.C.)

***1** IN THE MATTER OF
PCI COMMUNICATIONS, INC.
APPLICATION FOR AUTHORITY TO LEASE AND OPERATE SATELLITE CIRCUITS FOR SERVICE
BETWEEN THE U.S. AND VARIOUS OVERSEAS POINTS.

File No. **I-T-C-93-047**

Adopted: June 29, 1993; Released: July 12, 1993

****4706** MEMORANDUM OPINION, ORDER, AUTHORIZATION AND CERTIFICATE

By the Chief, International Facilities Division:

I. INTRODUCTION

1. The above captioned application, as supplemented, requests authority to lease circuits from Comsat to provide switched voice service between the U.S. and the points listed in the Appendix hereto and to lease IBS and Datanet service from Comsat for the provision of IBS, video and private line services between the U.S. and points listed in Comsat's Tariff FCC No. 103. [FN1] The Guam Telephone Authority (GTA) filed an Opposition to the subject application on January 22, 1993. PCI Communications, Inc. (PCI) filed a Reply to the Opposition on February 2, 1993.

II. DISCUSSION

2. In its Opposition, GTA asserts that the Commission should not permit PCI to expand its services while the matter of PCI's interconnection with GTA's local exchange network is under consideration by the Commission. [FN2] GTA notes that it requested clarification of certain aspects of the Commission's June 2, 1992 Order, [FN3] renewed that request by letter dated January 15, 1993 and has not yet received a response to that request other than the condition in the Commission's July 10, 1992 Order [FN4] that it provide PCI the same lineside service at the same rates received by PCI on May 6, 1992. GTA states that PCI presently pays \$35 per month for lineside connection at business rates while its competitors pay 20.5 percent of gross revenues for trunkside connections under the Standard Terms and Conditions. GTA contends that PCI enjoys a "virtual 'free ride' with respect to the amounts it pays for interconnection." GTA asserts that PCI should not be allowed to greatly expand its services under these conditions. Therefore, the Commission should not act on the subject PCI application until it has resolved the question of the rates to be charged PCI for interconnection with GTA's local network.
3. PCI asserts that, under Commission precedent, the GTA Opposition constitutes nothing more than a strike petition. PCI states that it "strongly disputes" GTA's statement that PCI "presently enjoys a 'virtual free ride' with respect to the amount PCI pays GTA for interconnection. However, according to PCI, "there is no question that GTA would benefit enormously if left to its own devices." PCI urges the Commission to dismiss GTA's Opposition and grant PCI's application.
4. Nothing in the Commission's June 2, 1992 Memorandum Opinion and Order or its July 10, 1992 Order Extending Time in the proceeding pertain to IT & E's Petition for Emergency Relief and Expedited Declaratory Ruling suggests that the Commission intended to prohibit existing or new common carriers from providing new services from Guam during the pendency of that proceeding. To the contrary, the Commission required GTA to provide interconnection and other exchange access services to interexchange carriers in accordance with reasonable requests therefor. Therefore, we shall deny GTA's request and dismiss its Opposition.
- *2 5. Upon consideration of the foregoing, IT IS HEREBY CERTIFIED that the present and future public convenience and necessity requires the lease by PCI Communications, Inc. of facilities from Comsat for the provision of switched services between the U.S. and the points listed in the Appendix hereto and the lease of IBS and Datanet facilities from Comsat for the provision of IBS, video and private line services between the U.S. and points listed in Comsat's tariff FCC No. 103.

****4707** III. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED that application File No. **I-T-C-93-047** IS GRANTED, and PCI is authorized to:
- a. lease from Comsat and operate 24 64-kbps satellite circuits to each point between appropriately licensed U.S. earth stations and appropriate Intelsat satellites over the Atlantic and Pacific Oceans, connecting with similar circuits between the satellite and earth stations at the points listed in the Appendix hereto furnished by PCI's correspondents;
 - b. lease from Comsat and operate IBS and Datanet channels of communications between appropriately licensed U.S. earth stations and appropriate Intelsat satellites over the Atlantic and Pacific Oceans, connecting with similar channels of communications between the U.S. and those countries which are or hereafter will be listed in provisions of Comsat's Tariff FCC No. 103 pertaining to the space segment components of IBS and Datanet services;
 - c. lease and operate facilities in the appropriately licensed U.S. earth stations;
 - d. lease and operate necessary domestic connecting facilities;
 - e. use the facilities in a, c and d above to provide switched services between the U.S. and the points listed in the Appendix hereto; and
 - f. use the facilities in b, c, and d, above to provide IBS, video and private line services between the U.S. and those countries which are or hereafter will be listed in provisions of Comsat's Tariff FCC No. 103 pertaining to the space segment components of IBS and Datanet services. [FN5]
7. IT IS FURTHER ORDERED that the Commission retains jurisdiction over this matter to reallocate circuits in the satellite system among the various international common carriers and other authorized users as required to ensure nondiscriminatory use of, and equitable access to, the communications satellite system.
8. IT IS FURTHER ORDERED that no material changes inconsistent with this or any other relevant Commission order shall be made before final execution of operating agreements between PCI and its correspondents in any of the points listed in the Appendix hereto, and copies of the agreements, including the applicable accounting rate, shall be filed with the Commission within 30 days of their execution and shall otherwise comply with the filing requirement contained in § 43.51 of the Commission's Rules, 47 C.F.R. § 43.51.
9. IT IS FURTHER ORDERED that our authorization of applicant to provide private lines is limited to the provision of such private lines only between the U.S. and those point listed in Comsat's Tariff FCC No. 103--that is, private lines which originate in the U.S. and terminate in one of the points listed in Comsat's Tariff FCC No. 103 or which originate in one of the points listed in Comsat's Tariff FCC No. 103 and terminate in the U.S. In addition, applicant may not--and applicant's tariff must state that applicant's customers may not--connect private lines provided over these facilities to the public switched network at either the U.S. or foreign end, or both, for the provision of international basic communications services, including switched voice services, unless authorized to do so by the Commission upon a finding that the foreign administration affords resale opportunities equivalent to those available under U.S. law, in accordance with Regulation of International Accounting Rates, Phase II, First Report and Order, 7 FCCRcd 559 (1991), Order on Reconsideration and Third Further Notice of Proposed Rulemaking, 7 FCCRcd 7927 (1992), petition for reconsideration pending.
- *3 10. IT IS FURTHER ORDERED that neither PCI nor any persons or companies directly or indirectly controlling or controlled by PCI, or under direct or indirect common control with it, shall acquire or enjoy any right, for the purposes of handling or interchanging traffic to or from the United States, its territories or possessions, which is denied to any other United States carrier by reason of any concession, contract, understanding, or working arrangement to which PCI or any persons or companies controlling or controlled by PCI are parties.
11. IT IS FURTHER ORDERED that the applicant shall file a tariff pursuant to Section 203 of the Communications Act, 47 U.S.C. Section 203, and Part 61 of the Commission's Rules, 47 C.F.R. Part 61, for the service authorized in this Order.
12. IT IS FURTHER ORDERED that the applicant shall file the annual reports of overseas telecommunications traffic required by Section 43.61 of the Commission's Rules, 47 C.F.R. § 43.61.
13. IT IS FURTHER ORDERED that:
- a. PCI shall file publicly any contracts entered into with other carriers or a contract summary in accordance with Section 203 of the Communications Act, 47 U.S.C. § 203 and the Interexchange Order, [FN6] and
 - b. the services obtained by PCI shall be made generally available to similarly situated customers at

the some terms, conditions and rates.

14. IT IS FURTHER ORDERED that this Order may be subject to future modification pursuant to the outcome of the Phase II Third Further Notice and any related proceedings.

15. IT IS FURTHER ORDERED that the applicant shall file semi-annual circuit reports pursuant to Section 63.15(b) of the Commission's Rules, 47 C.F.R. Section 63.15(b).

****4708** 16. IT IS FURTHER ORDERED that GTA's Opposition IS HEREBY DISMISSED.

17. This order is issued under Section 0.291 of the Commission's Rules and is effective upon adoption. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's Rules may be filed within 30 days of the date of public notice of this order (see Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

George S. Li

Chief, International Facilities Division

Common Carrier Bureau

FN1. The application was filed on December 11, 1992 and supplemented by letters dated April 27, May 13 and May 28, 1993.

FN2. On June 2, 1992, the Commission released a Memorandum Opinion and Order in the matter of a Petition for Emergency Relief and Expedited Declaratory Ruling filed by IT & E Overseas, Inc. (IT & E) and joined in by PCI. See IT & E Overseas, Inc., 7 FCCRcd 4023 (Com.Car.Bur.1992). The Commission there, inter alia, ordered GTA to show cause why: (1) it should not file interstate and foreign exchange access tariffs that comply with Sections 201 and 202 of the Act by January 1, 1993; and (2) if it does not file lawful interstate and foreign exchange access tariffs by January 1, 1993, why this Commission should not prescribe interstate and foreign exchange access tariffs for GTA. The Commission further ordered, inter alia, that GTA: (1) shall not disconnect, or otherwise impair or degrade service to any interstate or foreign interexchange common carrier; (2) shall not alter the grade of service received by any interstate or foreign interexchange common carrier in the absence of a duly acknowledged, written request therefor; (3) shall not increase any charge for any interstate or foreign exchange access service without prior FCC approval; and (4) shall provide interconnection and other exchange access services to interexchange carriers in accordance with reasonable requests therefor. On July 10, 1992, the Commission released an Order Extending Time in this proceeding in which it included a condition that GTA shall continue to provide to PCI the same lineside service, at the same rates, received by PCI on May 6, 1992. See IT & E Overseas, Inc. 7 FCCRcd 4670 (Com.Car.Bur.1992).

FN3. Id.

FN4. Id.

FN5. We note that should the applicant obtain any interest in facilities beyond the authorized international points for the purpose of providing common carrier services, including private line service, between the U.S. and other international points, such action would constitute an extension of line under Section 214 of the Act. Therefore, under the provisions of the Commission's International Competitive Carrier Policies, 102 FCC2d 812 (1985), recon. denied, 60 R.R.2d 1435 (1986), it would be necessary for applicant to file additional applications for a certificate of public convenience and necessity under Section 214 to begin service to each additional country and for authority to acquire any facilities needed to provide service to such additional points.

FN6. See Competition in the Interstate Interexchange Marketplace, 6 FCCRcd 5880, 5902 (1991) (Interexchange Order).

****4709 APPENDIX**

(A) Atlantic Ocean Area Regions

Latin America

Europe

Middle/Near East and Africa and Other

 Europe

Antigua	Austria	Algeria
Argentina	Belgium	Angola
Aruba	Cyprus	Ascension Island
Bahamas	Denmark	Azores
Barbados	Finland	Bahrain
Belize	France	Benin
Bermuda	Germany	Botswana
Bolivia	Greece	Bulgaria
Brazil	Iceland	Burkina Faso
Cayman Islands	Ireland	Burma
Chile	Italy	Cameroon
Colombia	Liechtenstein	Canary Islands
Costa Rica	Luxembourg	Cape Verde
Curacao	Malta	Central African Republic
Dominican Republic	Monaco	Chad
Ecuador	Netherlands	Congo
El Salvador	Norway	Congolese Republic of Independent States (each Republic formerly member of U.S.S.R.)
French Guiana	Portugal	Czechoslovakia
Grenada	San Marino	Diego Garcia
Guantanamo Bay	Spain	Egypt
Guatemala	Sweden	Estonia
Guyana	Switzerland	Ethiopia
Haiti	Turkey	Gabon
Honduras	United Kingdom	Gambia
Jamaica	Vatican	Ghana
Martinique	Yugoslavia	Gibraltar
Netherlands Antilles		Guinea
Nicaragua		Hungary
Panama		Iran
Paraguay		Iraq
Peru		Israel
St. Lucia		Ivory Coast
St. Vincent		Jordan
Surinam		Kenya
Trinidad & Tobago		Kuwait
Turks & Caicos Isles		Latvia
Uruguay		Lebanon
Venezuela		Lesotho
		Liberia
		Libya

(B) Pacific Ocean Region

Lithuania	American Samoa
Madagascar	Australia
Malagasy Republic	Brunei
Malawi	China (Peoples Republic)
Mali	Christmas Is.
Mauritania	Cook Island
Morocco	Ebeye
Mozambique	Fiji Islands
Niger	French Polynesia
Nigeria	Hong Kong
Oman	India
Pakistan	Japan
Poland	Kiribatti
Qatar	Korea
Romania	Kosrae

Saudi Arabia	Majuro
Senegal	Malaysia
Sierra Leone	Mariana Is.
South Africa	Nauru
Sri Lanka	New Caledonia
Sudan	New Guinea
Swaziland	New Zealand
Syria	Palau
Tanzania	Papua New Guinea
Togo	Philippines
Tunisia	Ponape
Uganda	Saipan
United Arab Emirates	Singapore
Yemen	Solomon Is.
Zaire	Sri Lanka
Zambia	Taiwan
Zimbabwe	Thailand
	Tonga
	Truk
	Vanuatu
	Western Samoa
	Yap

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