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Federal Communications Commission (F.C.C.)

Order and Authorization

*1 IN THE MATTER OF PCI COMMUNICATIONS, INC.

Application for authority to acquire and operate facilities in the TPC-5 Cable System for service between the United States and overseas points.

File No. I-T-C-95-394

Application for modification of a License to Land and Operate a High Capacity Digital Submarine Cable Network Between and Among the United States Mainland, the State of Hawaii, the Island of Guam and Japan.

File No. S-C-L-92-005(M)-2

INTERNATIONAL TELECOMMUNICATIONS CORPORATION

Application for authority to acquire and operate facilities in the PTAT-1, CANTAT-3, CANUS-1, COLUMBUS-11, AMERICAS-1 and TPC-5 Cable Systems for service between the United States and overseas points.

File No. I-T-C-95-408

Application for modification of a License to Land and Operate a High Capacity Digital submarine Cable Network Between and Among the United States Mainland, the State of Hawaii, the Island of Guam and Japan.

File No. S-C-L-92-005(M)

DA 96-870

Adopted: May 29, 1996

Released: June 21, 1996

****12148** By the Chief, Telecommunications Division:

****12149** 1. The Commission is considering two applications, filed by PCI Communications, Inc. (PCI) and International Telecommunications Corporation (ITC), respectively, pursuant to Section 214 of the Communications Act of 1934, as amended. PCI requests authority to acquire and operate facilities in the TPC-5 Cable System. ITC requests authority to acquire and operate facilities in the PTAT-1, CANTAT-3, CANUS-1 COLUMBUS-II, AMERICAS-1 and TPC-5 Cable Systems. PCI and ITC also filed applications to modify the Cable Landing License for the TPC-5 Cable System to include PCI and ITC as owners. The applications were placed on public notice on June 23, June 30, July 29, and August 8, 1995, respectively. No comments were

received.

2. PCI, a Guam corporation and ITC, a Delaware corporation, are in the business of providing common carrier communications services between the United States and overseas points. PCI seeks to acquire on an ownership basis facilities in the TPC-5 Cable System. ITC seeks to acquire on an ownership basis facilities in the TPC-5 Cable System, and on an Indefeasible Right of User (IRU) basis facilities in the other Cables Systems set forth in paragraph 1, above. Since they are seeking to acquire the TPC-5 facilities on an ownership basis, they must additionally seek modification of the Cable Landing License to add themselves as owners.

3. In the matter before us, the Department of State, in coordination with the National Telecommunications and Information Administration and the Department of Defense, has advised the Commission that it has no objection to the issuance of an amended TPC-5 Cable Landing License. [FN1]

***2** 4. Upon consideration of the applications and in view of the foregoing, we find that the present and future public convenience and necessity require a grant of the instant applications.

5. Accordingly, IT IS ORDERED that applications File Nos. I-T-C-95-394, I-T-C-95-408, S-C-L-92-005(M) and S-C-L-92-005(M)-2 ARE GRANTED, and

a. PCI Communications, Inc. (PCI) is authorized to acquire on an ownership basis a one-half interest in and operate one E-1 circuit in the TPC-5 Cable System between the United States and Hawaii and between Hawaii and Guam, and to lease and operate any necessary domestic or overseas connecting facilities, for the provision of PCI's regularly authorized services between the United States and Guam;

****12150** b. ITC is authorized to:

i. acquire on an ownership basis a one-half interest in and operate one E-1 circuit in the TPC-5 Cable System between the United States and Hawaii and between Hawaii and Guam, for the provision of ITC's regularly authorized services between the United States, on the one hand, and Taiwan, Guam, and Japan, on the other hand;

ii. acquire on an Indefeasible Right of User (IRU) basis a one-half interest in and operate the cable circuits listed in the Appendix hereto, for the provision of ITC's regularly authorized services between the United States and the points listed in the Appendix hereto; and

iii. lease and operate any necessary domestic connecting facilities and a one-half interest in any necessary overseas connecting facilities.

c. the TPC-5 cable landing license is amended to include PCI and ITC as owners and licensees under the provisions of "An Act Relating to the Landing and Operation of Submarine Cables in the United States", [47 U.S.C. Sections 34-39](#) and [Executive Order 10530](#), dated May 10, 1954, 3 C.F.R. 1954-58 (Comp., p. 189(1961)), reprinted in [3 U.S.C.A. Section 301 at 1052 \(1985\)](#).

6. IT IS FURTHER ORDERED that our authorization of PCI and ITC to provide

private lines as part of its authorized services is limited to the provision of such private lines only between the United States and one of the countries listed in the Appendix hereto -- that is, private lines which originate in the United States and terminate in one of the countries listed in the Appendix hereto or which originate in one of the countries listed in the Appendix hereto and terminate in the United States. In addition, PCI and ITC may not-- and PCI and ITC's tariffs must state that their 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 switched services, unless authorized to do so by the Commission upon a finding that the destination country affords resale opportunities equivalent to those available under U.S. law, in accordance with [Foreign Carrier Entry Order, 11 FCC Rcd 3873 \(1995\)](#). The limitations in this paragraph are subject to the exceptions contained in Sections 63.01(k)(6)(i) and 63.17 of the Commission's Rules, [47 C.F.R. §§63.01\(k\)\(6\)\(i\) and 63.17](#). See also [Cable & Wireless, et al., 11 FCC Rcd 1766 \(1996\)](#), para. 36.

***3 **12151** 7. IT IS FURTHER ORDERED that applicants shall file copies of any operating agreements they enter into with their foreign correspondents with the Commission within 30 days of its execution, and shall otherwise comply with the filing requirements contained in Section 43.51 of the Commission's Rules, [47 C.F.R. §43.51](#).

8. IT IS FURTHER ORDERED that the applicants shall file tariffs pursuant to Section 203 of the Communications Act, [47 U.S.C. §203](#), and Part 61 of the Commission's Rules, [47 C.F.R. Part 61](#), for the service authorized in this Order.

9. IT IS FURTHER ORDERED that the applicants 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](#).

10. IT IS FURTHER ORDERED that the applicants shall file annual circuit status reports in accordance with the requirements set forth in Rules for Filing of International Circuit Status Reports, CC Docket No. 93-157, Report and Order, [FCC 95-280](#), released August 9, 1995.

11. IT IS FURTHER ORDERED that the applicants shall file applications pursuant to Section 214 of the Communications Act of 1934, as amended, before adding any circuits or channels of communication for the provision of service via the PTAT-1 or CANUS-1 Cable System.

12. IT IS FURTHER ORDERED that ITC shall comply with any Department of Treasury licensing which may be required.

13. IT IS FURTHER ORDERED that AT&T shall file with the Commission all necessary amendments and adjustments to the C&MA of the TPC-5 Cable system, as required by the authorization herein to ITC.

14. IT IS FURTHER ORDERED that AT&T is authorized to conform the assignment of capacity in the TPC-5 Cable System as summarized herein.

****12152** 15. This order is issued under Section 0.261 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

Diane J. Cornell

Chief

Telecommunications Division

International Bureau

FN1. Letter from Richard C. Beaird, Senior Deputy U.S. Coordinator, International Communications and Information Policy, United States Department of State, to Scott B. Harris, Chief, International Bureau, Federal Communications Commission, dated April 5, 1996.

****12153** APPENDIX

PTAT-1 Cable system--two DS-2 circuits to each point:

| | | |
|----------------|------------|----------------|
| Austria | Greece | Netherlands |
| Belgium | Hungary | Norway |
| Cyprus | | Poland |
| Czech Republic | Iceland | Portugal |
| Denmark | Ireland | Slovakia |
| Finland | Israel | Sweden |
| France | Italy | Switzerland |
| Germany | Luxembourg | Turkey |
| Gibraltar | Monaco | United Kingdom |

***4** CANUS-1/CANTAT-3 Cable Systems--two DS-2 circuits to each point:

| | | |
|----------------|-----------|-------------|
| Austria | Gibraltar | Netherlands |
| Belgium | Greece | Norway |
| Canada | Hungary | Poland |
| Cyprus | Iceland | Portugal |
| Czech Republic | Ireland | Slovakia |

| | | |
|---------|------------|----------------|
| Denmark | Israel | Sweden |
| Finland | Italy | Switzerland |
| France | Luxembourg | Turkey |
| Germany | Monaco | United Kingdom |

COLUMBUS-II Cable System-two DS-2 circuits to each point:

| | | |
|-------------|-----------|----------|
| Costa Rica | Israel | Portugal |
| El Salvador | Italy | Spain |
| Greece | Mexico | Turkey |
| Guatemala | Nicaragua | |
| Honduras | Panama | |

AMERICAS-1 Cable System-two DS-2 circuits to each point:

Dominican Republic
Puerto Rico
St. Thomas

1996 WL 339151 (F.C.C.), 11 F.C.C.R. 12,148, 11 FCC Rcd. 12,148

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