

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

FILED/ACCEPTED
SEP - 3 2008
Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Pacific Networks Corp.)
) File No. ITC-214-20070907-00368
Application for Authority to Provide)
Switched Resale Service between the United)
States and Permissible International Points)
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**PETITION TO ADOPT CONDITIONS TO
AUTHORIZATIONS AND LICENSES**

The Department of Homeland Security (“DHS”) and the Department of Justice (“DOJ”) (collectively, the “Agencies”), submit this Petition to Adopt Conditions to Authorizations and Licenses (“Petition”), pursuant to Section 1.41 of the Federal Communications Commission (“Commission”) rules.¹ Through this Petition, the Agencies advise the Commission that they have no objection to the Commission approving the authority sought in the above-referenced proceeding, provided that the Commission conditions its approval on the agreement of Pacific Networks Corp. to abide by the commitments and undertakings set forth in its September 2, 2008 letter to Mr. Stewart Baker, Assistant Secretary for Policy, DHS, and Mr. Patrick Rowan, Acting Assistant Attorney General for National Security, National Security Division, DOJ (the “Letter”), which is attached hereto.

In the above-referenced proceeding, Pacific Networks Corp. has petitioned the Commission for authorization to provide international resold services to all permissible

¹ 47 C.F.R. § 1.41.

international points under Section 214 of the Communications Act of 1934, as amended.

The Commission has long recognized that law enforcement, national security, and public safety concerns are part of its public interest analysis, and has accorded deference to the views of other U.S. government agencies with expertise in those areas. *See In the Matter of Comsat Corporation d/b/a Comsat Mobile Communications, etc.*, 16 FCC Rcd. 21,661, 21707 ¶ 94 (2001).

After discussions with representatives of Pacific Networks Corp. in connection with the above-referenced proceeding, the Agencies have concluded that the commitments set forth in the Letter will help ensure that the Agencies and other entities with responsibility for enforcing the law, protecting national security, and preserving public safety can proceed appropriately to satisfy those responsibilities. Accordingly, the Agencies advise the Commission that they have no objection to the Commission granting the application in the above-referenced proceeding, provided that the Commission conditions its consent on compliance by Pacific Networks Corp. with the commitments set forth in the Agreement.

The Agencies are authorized to state that Pacific Networks Corp. does not object to the grant of this Petition.

Respectfully submitted,

/s/ Charles M. Steele
Charles M. Steele
Chief of Staff
National Security Division
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

/s/ Stewart A. Baker
Stewart A. Baker
Assistant Secretary for Policy
U.S. Department of Homeland Security
3801 Nebraska Avenue, N.W.
Washington, DC 20528

September 3, 2008

Pacific Networks Corp.

September 2, 2008

Mr. Stewart A. Baker, Assistant Secretary for Policy
U.S. Department of Homeland Security
3801 Nebraska Avenue, N.W.
Washington, DC 20528
ip-fcc@dhs.gov

Patrick Rowan, Acting Assistant Attorney General for National Security
National Security Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
ttelecom@usdoj.gov

Re: Pending FCC application for authority to provide switched resale service
between the United States and permissible international points,
ITC-214-20070907-00368

Dear Mr. Baker and Mr. Rowan:

This letter outlines the commitments made by Pacific Networks Corp. ("Pacific Networks"), a Delaware corporation, to the U.S. Department of Homeland Security ("DHS") and U.S. Department of Justice ("DOJ"), in order to address national security, law enforcement and public safety concerns regarding Pacific Networks' above-referenced application to the Federal Communications Commission ("FCC").

Pacific Networks seeks to provide telecommunications services to Hong Kong and China and is affiliated with CITIC Telecom 1616 Limited, a Hong Kong telecommunications provider. The Chinese Government holds a 29% attributable interest in Pacific Networks, and therefore Pacific Networks is affiliated indirectly with all Chinese carriers owned or controlled by the government, including China Telecom. Pacific Networks will offer resale service solely through the resale of unaffiliated U.S. facilities-based carriers' international switched services.

Pacific Networks agrees that, for all customer billing records, subscriber information, or any other related information used, processed, or maintained in the ordinary course of business relating to the service offered relating to communications services offered to U.S. persons ("U.S. Records"), Pacific Networks will make such U.S. Records available in the U.S. in response to lawful U.S. process. For these purposes, U.S. Records shall include information subject to disclosure to a U.S. Federal or state governmental entity under the procedures specified in Sections 2703(c) and (d) and Section 2709 of Title 18 of the United States Code.

Pacific Networks agrees to ensure that U.S. Records are not made subject to mandatory destruction under any foreign laws. Pacific Networks agrees to take all

Office Address:
615 South DuPont Highway, Dover, Delaware 19901, Kent County, the United States of America

Pacific Networks Corp.

practicable measures to prevent unauthorized access to, or disclosure of the content of, communications or U.S. Records, in violation of any U.S. Federal, state, or local laws or of the commitments set forth in this letter. If Pacific Networks learns of any unauthorized disclosure with respect to U.S. Records, it will deliver a written notification containing all the known details concerning each such incident to DHS and DOJ within five (5) business days.

Pacific Networks agrees that it will not, directly or indirectly, disclose or permit disclosure of or access to U.S. Records, Domestic Communications (as defined below), or to any information (including the content of communications) pertaining to a wiretap order, pen/trap order, subpoena or other lawful demand by a U.S. law enforcement agency for U.S. Records, to any person if the purpose of such disclosure or access is to respond to the legal process or request on behalf of a non-U.S. government without first satisfying all pertinent requirements of U.S. law and obtaining the express written consent of DHS and DOJ or the authorization of a court of competent jurisdiction in the United States. The term "non-U.S. government" means any government, including an identified representative, agent, component or subdivision thereof, that is not a local, state or federal government in the United States. Any such requests or legal process submitted by a non-U.S. government to the Companies shall be referred to DHS and DOJ as soon as possible, and in no event later than five (5) business days after such request or legal process is received by or known to Pacific Networks, unless the disclosure of the request or legal process would be in violation of U.S. law or an order of a court in the United States.

Pacific Networks also agrees that it will continue to maintain one or more points of contact within the United States with the authority and responsibility for accepting and overseeing compliance with a wiretap order, pen/trap order, subpoena or other lawful demand by U.S. law enforcement authorities for the content of communications or U.S. Records. Commencing thirty (30) business days after the FCC's approval of the above-referenced license application, Pacific Networks shall ensure that the point(s) of contact are resident U.S. citizens, and will promptly notify DHS and DOJ of any change in the point(s) of contact. Pacific Networks shall cooperate with any request by DHS or DOJ that a background check or security clearance process be completed for a designated point of contact.

Pacific Networks acknowledges and agrees that the obligations in this letter apply not only to itself, but also to any subsidiary or affiliate of Pacific Networks that provides Domestic Communications. For the purposes of this letter, "Domestic Communications" means: (a) Wire Communications or Electronic Communications (whether stored or not) from one U.S. location to another U.S. location; and (b) the U.S. portion of a Wire Communication or Electronic Communication (whether stored or not) that originates or terminates in the United States. "Electronic Communication" has the meaning given it in 18 U.S.C. § 2510(12). "Wire Communication" has the meaning given it in 18 U.S.C. § 2510(1).

Pacific Networks agrees that it will notify DHS and DOJ promptly if it seeks to commence the sale (or resale) of any services not described in this letter, or if there are any material changes in any of the facts as represented in this letter. Pacific Networks agrees to notify DHS and DOJ promptly of any new customers it may acquire, and of any material changes it makes to its ownership structure or facilities infrastructure, attached hereto as

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Pacific Networks Corp.

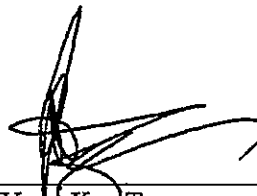
Exhibits A and B, respectively. Material changes to its ownership structure are those that would require a substantive transfer of control application or *pro forma* notification to the FCC, and those that would involve any increase or decrease in foreign government control. Pacific Networks agrees to negotiate in good faith with DHS and DOJ to resolve any national security, law enforcement and public safety concerns that DHS or DOJ may raise. All notices to be provided to DHS and DOJ shall be directed to the named addressees of this letter.

Pacific Networks agrees that, in the event the commitments set forth in this letter are breached, in addition to any other remedy available at law or equity, DHS or DOJ may request that the FCC modify, condition, revoke, cancel, or render null and void any relevant license, permit, or other authorization granted by the FCC to the Pacific Networks or any successor-in-interest to it.

Nothing in this letter is intended to excuse Pacific Networks or its subsidiaries from any obligation it may have to comply with U.S. legal requirements for the retention, preservation, or production of information, records or data, or from any applicable requirements of the Communications Assistance for Law Enforcement Act, 47 U.S.C. 1001, et seq., nor shall it constitute a waiver of: (a) any obligation imposed by any U.S. Federal, state or local laws on Pacific Networks or its subsidiaries; (b) any enforcement authority available under any U.S. or state laws; (c) the sovereign immunity of the United States; or (d) any authority the U.S. government may possess (including without limitation authority pursuant to International Emergency Economic Powers Act) over the activities of Pacific Networks or its subsidiaries located within or outside the United States. Nothing in this letter is intended to or is to be interpreted to require Pacific Networks to violate any applicable U.S. law. Likewise, nothing in this letter limits the right of the United States Government to pursue criminal sanctions or charges against Pacific Networks or its subsidiaries, and nothing in this letter provides the Pacific Networks or its subsidiaries with any relief from civil liability.

Pacific Networks understands that, upon execution of this letter by authorized representatives or attorneys for Pacific Networks, DHS and DOJ shall promptly notify the FCC that it has no objection to the FCC's grant of the above-referenced application.

Sincerely,

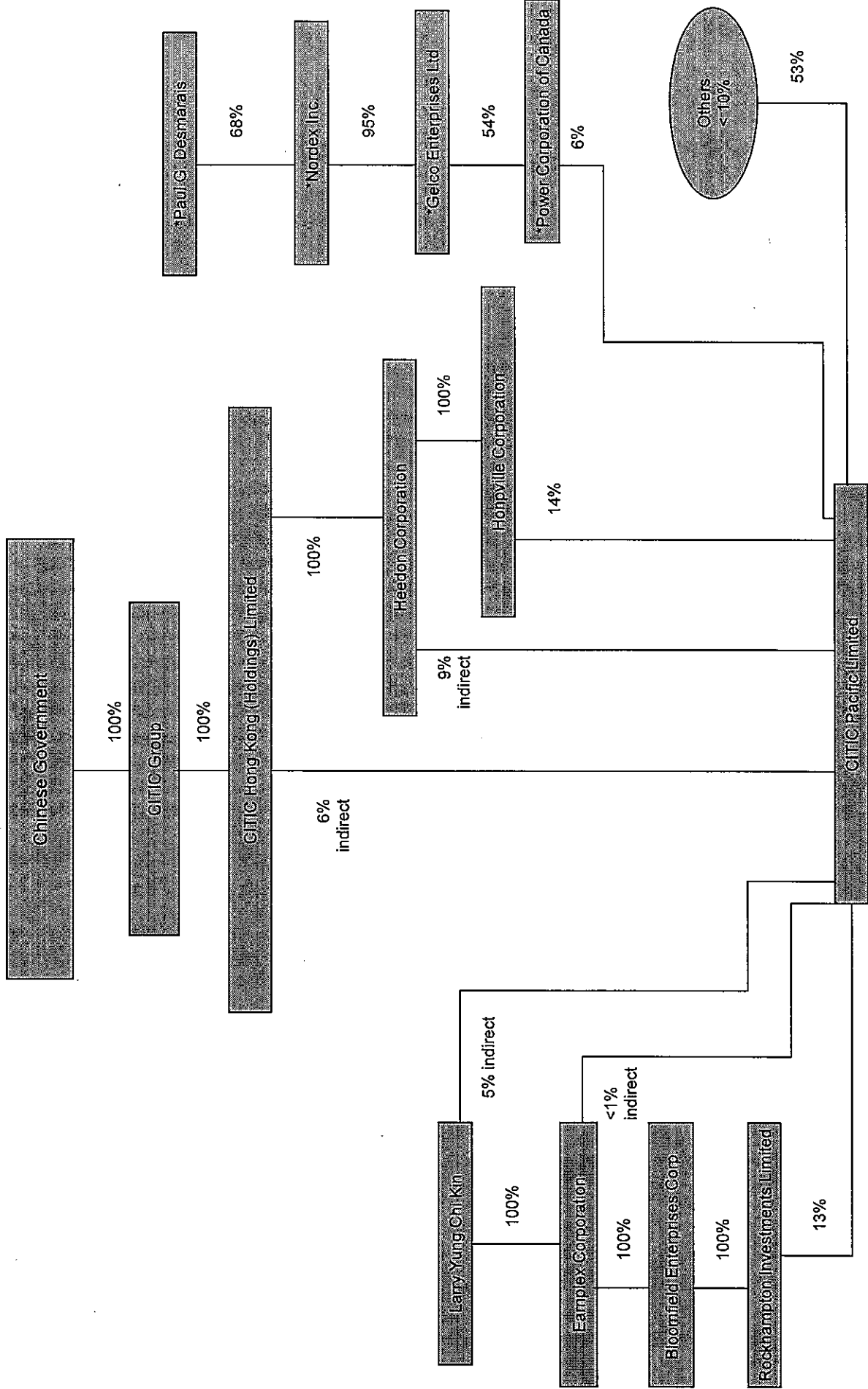


Yuen Kee Tong
Chairman, Pacific Networks Corp.

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**Pacific Networks Corp.
 Ownership Structure**

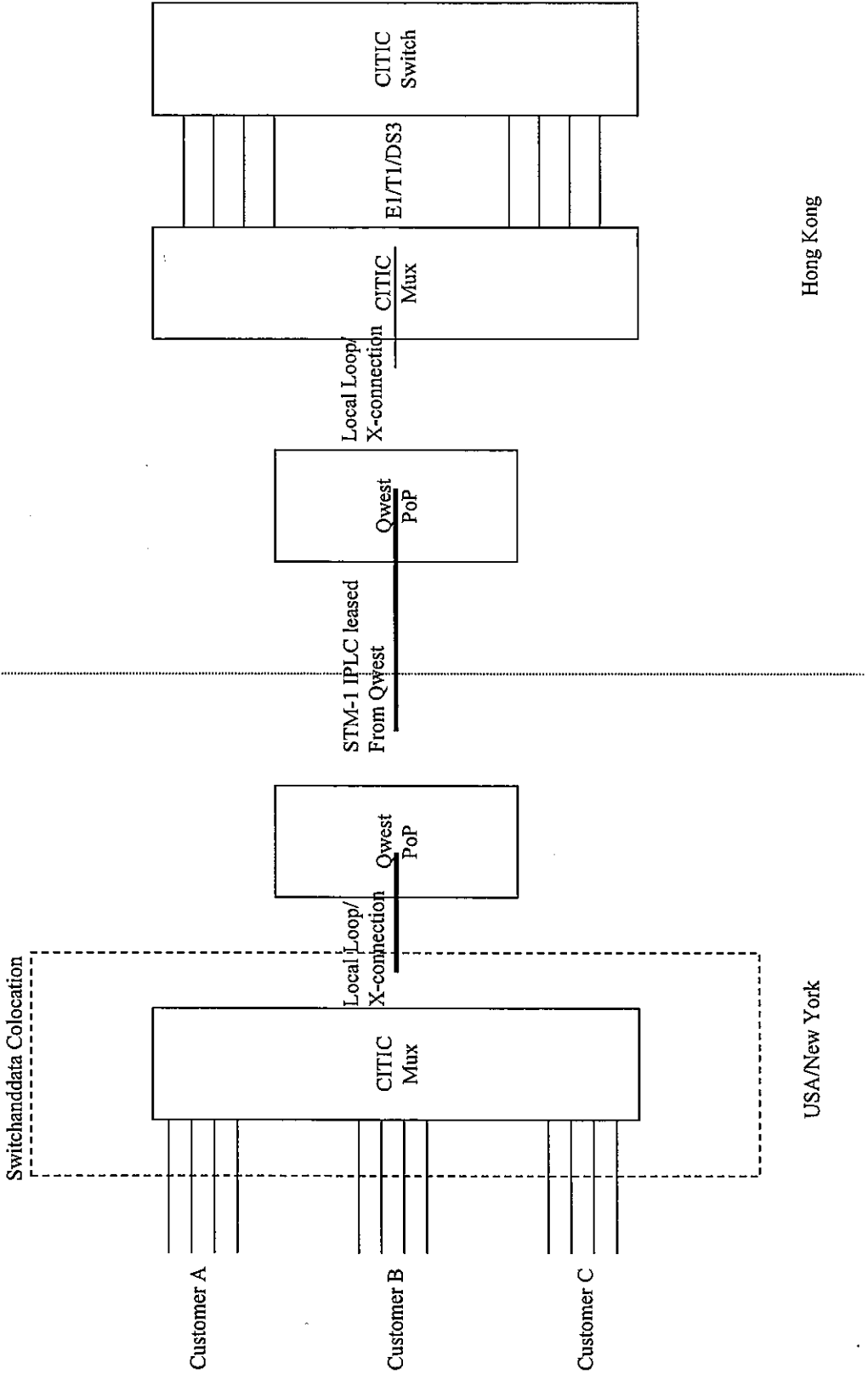
(*Not required to be disclosed by the FCC's rules, but requested by DHS)



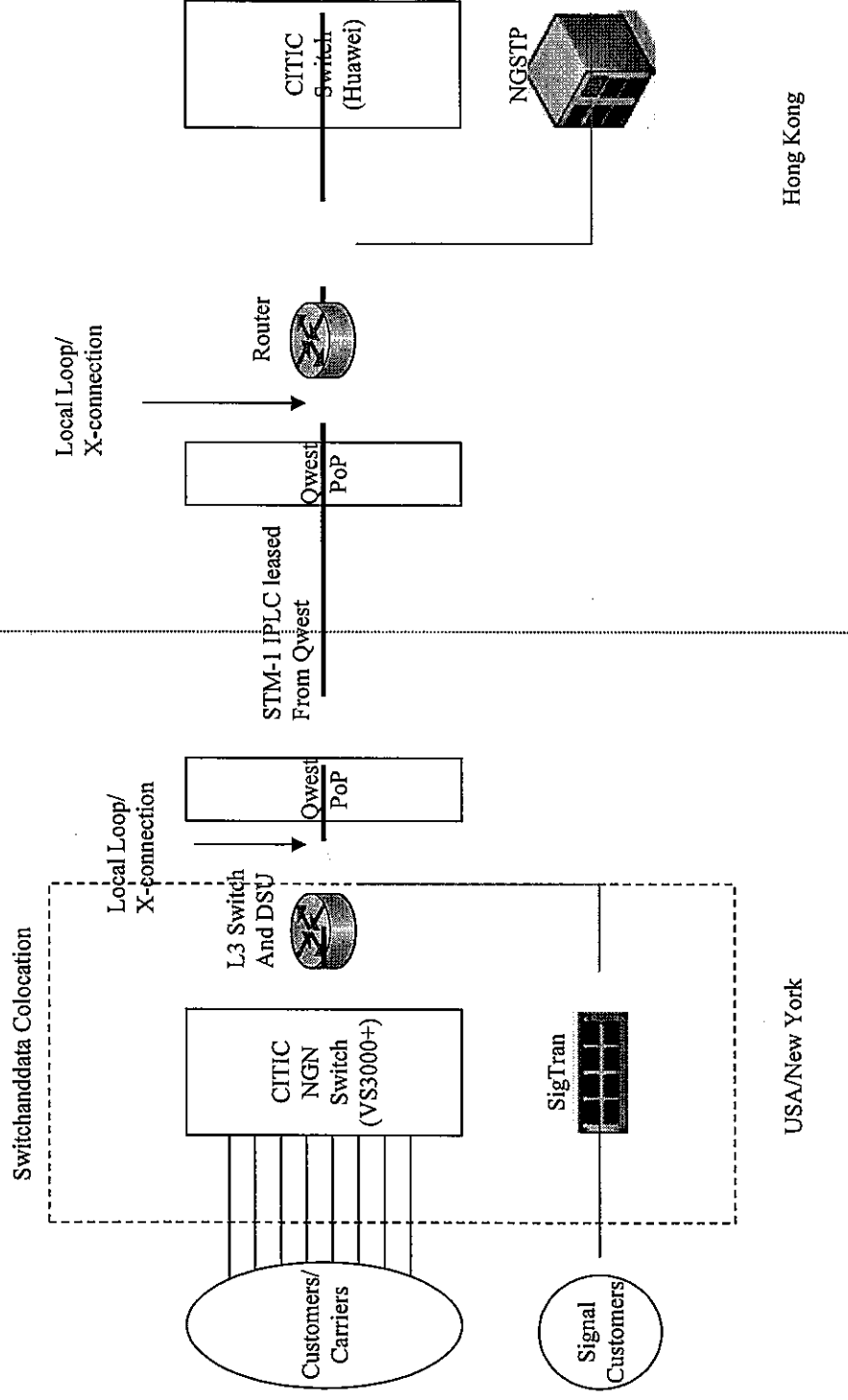
Pacific Networks Corp.
 Ownership Structure



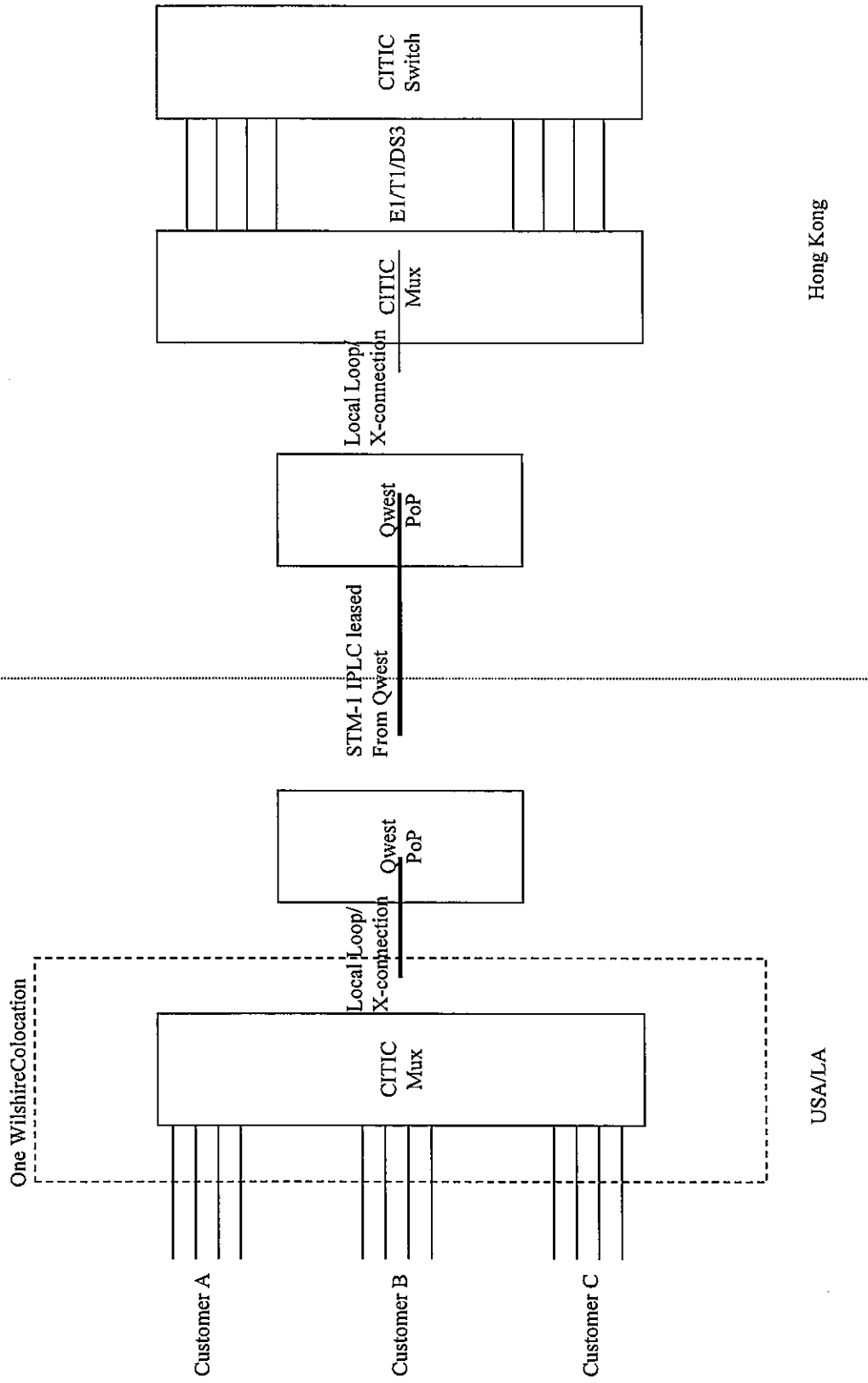
Interconnection Diagram between CITIC and USA/NY S&D (Current)



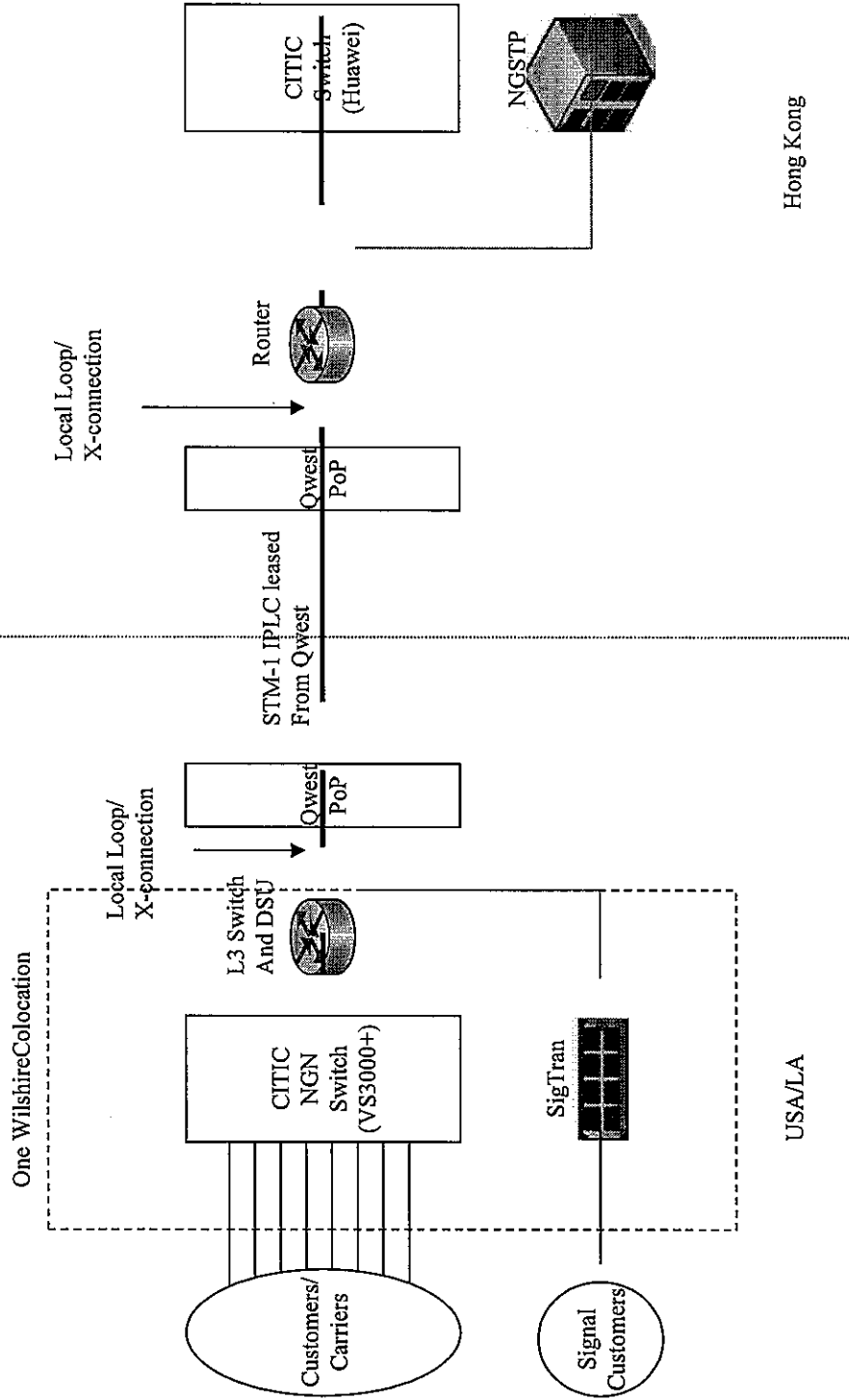
Interconnection Diagram between CITIC and USA/NY S&D (Final)



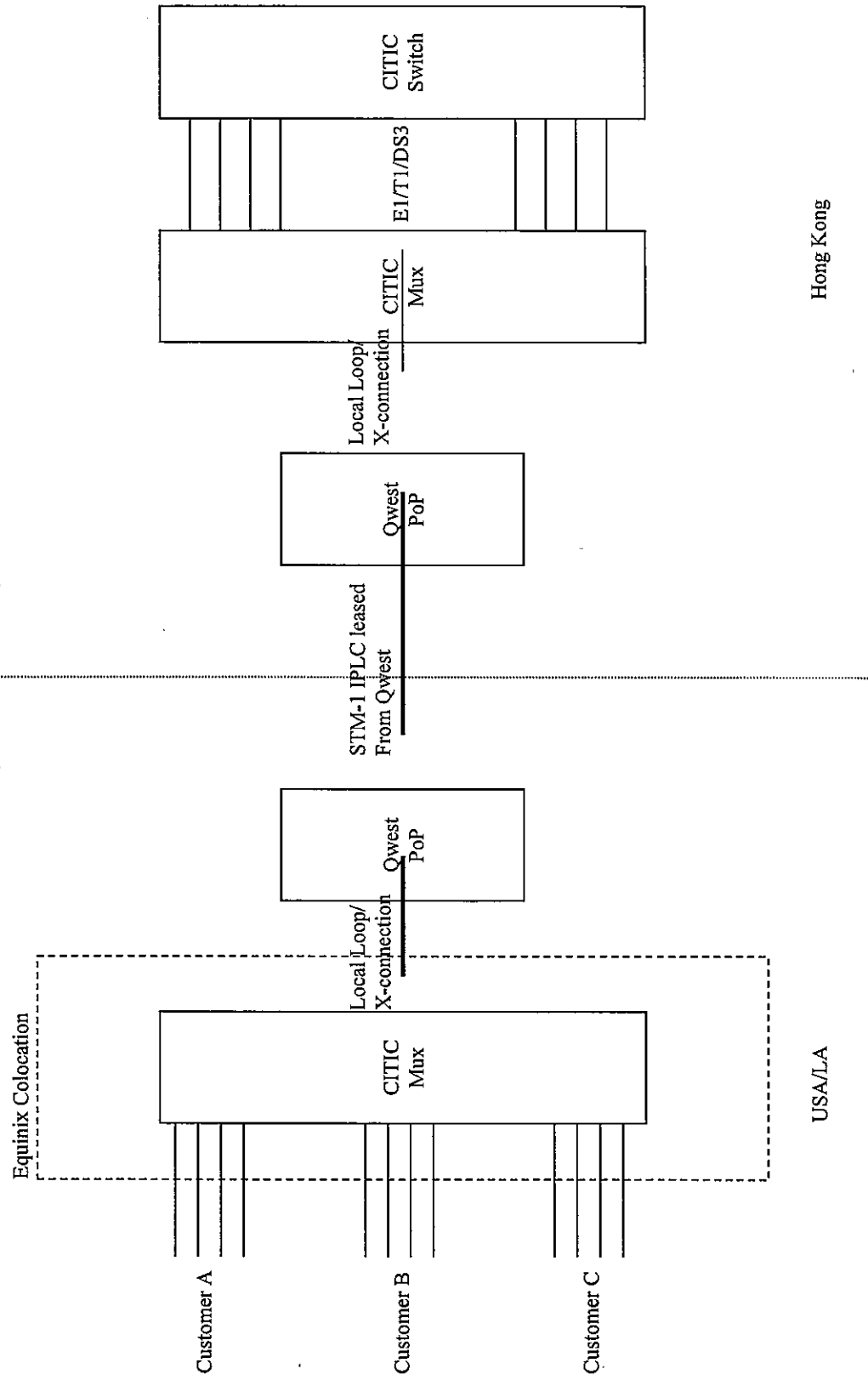
Interconnection Diagram between CITIC and USA/LA One Wilshire (Current)



Interconnection Diagram between CITIC and USA/LA One Wilshire (Final)



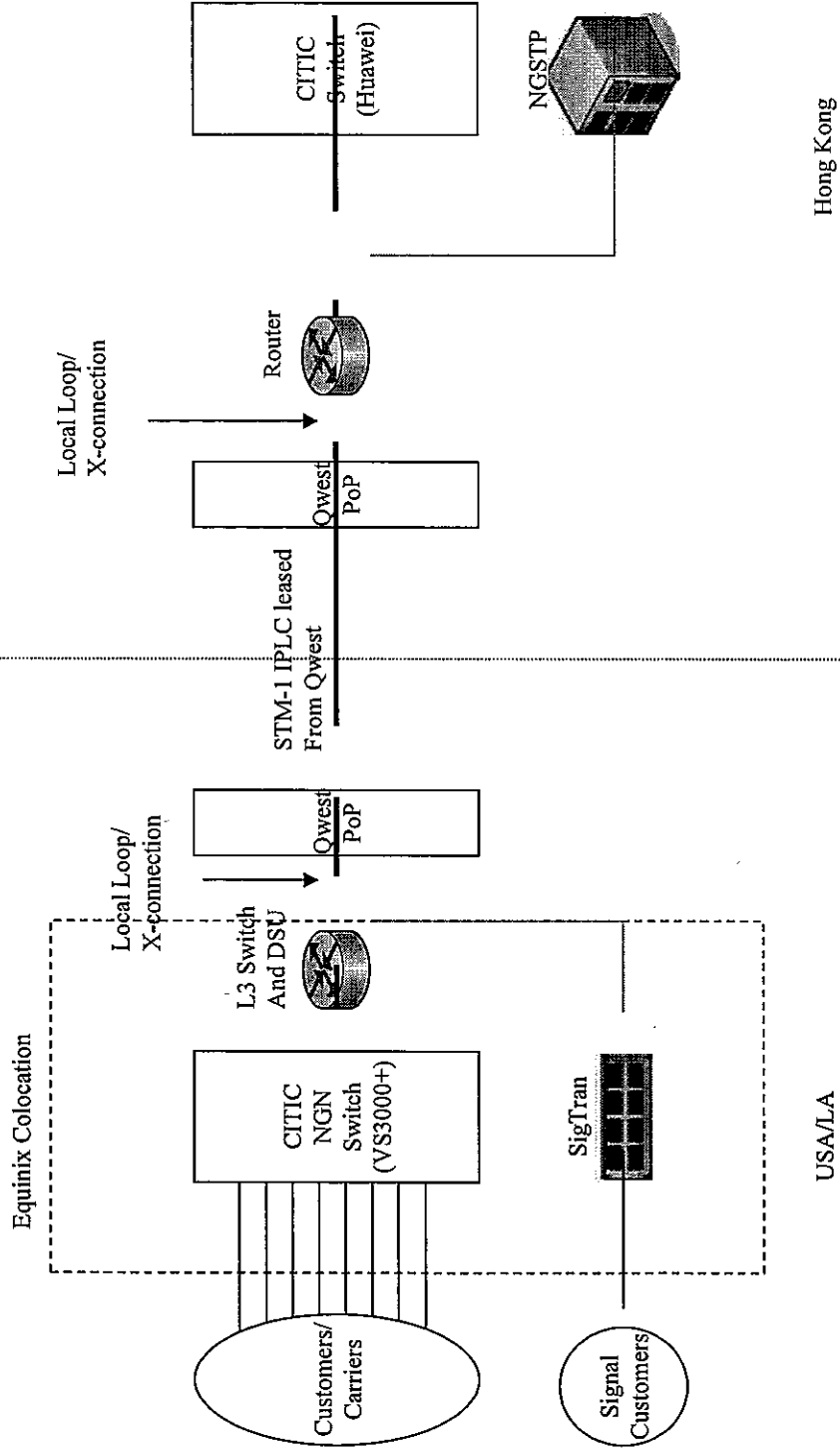
Interconnection Diagram between CITIC and USA/LA Equinix (Current)



Hong Kong

USA/LA

Interconnection Diagram between CITIC and USA/LA Equinix (Final)



Hong Kong

USA/LA