

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

In the Matters of

OFFICE DES POSTES ET TELECOMMUNICATIONS
DE POLYNESIE FRANÇAISE,

Application for License to Land and Operate a
Fiber-Optic Submarine Cable System between
the United States and French Polynesia, and

Application for Section 214 Authority to
Construct and Operate a Fiber-Optic
Submarine Cable System on a Common
Carrier Basis Linking the United States and
French Polynesia, for

THE HONOTUA SYSTEM

File No. SCL-LIC-20081008-00017

File No. ITC-214-20081008-00453

**REQUEST FOR EXTENSION OF
SPECIAL TEMPORARY AUTHORITY**

Pursuant to 47 U.S.C. §§ 34-39 and 214, 47 C.F.R. § 63.25, and Executive Order 10,520, Office des postes et télécommunications de Polynésie française (“OPT”) hereby requests extension of the special temporary authority (“STA”) previously granted by the Commission to permit continued commercial operation of the Honotua undersea fiber-optic cable system (“Honotua”), at OPT’s own risk, prior to the Commission’s grant of OPT’s pending applications for a cable landing license and international Section 214 authorization.¹ The Operating STA expires on December 6, 2010.

¹ FCC File Nos. SCL-STA-20100607-00013 and ITC-STA-20100607-00224, Grant Stamps (June 7, 2010) (together, “Operating STA”) (stating “STA to continue testing the Honotua

OPT is very close to completing negotiations with the Departments of Homeland Security and Justice on the Team Telecom network security agreement for Honotua and remains hopeful that the agreement will be executed prior to December 6, 2010. Nevertheless, out of an abundance of caution, OPT is filing these extension requests to ensure that there is no gap between the expiration of the existing STAs and the Commission's licensing of Honotua. OPT therefore seeks STAs beginning no later than December 6, 2010, and ending 60 days from grant, or until such date as the Commission grants OPT's underlying applications, whichever event occurs first.

I. BACKGROUND

On October 8, 2008, OPT applied for authority to construct, land, and operate Honotua, a common-carrier undersea fiber-optic cable system linking the United States and French Polynesia. The Commission placed the applications, as amended, on Public Notice on July 2, 2009.² No party has opposed the grant of the applications, while numerous parties have supported grant of the applications.³

cable system, and to commence commercial operations at its own risk, prior to the Commission's grant of underlying pending applications. OPT acknowledges that grant of this STA will not prejudice action by the Commission on the underlying applications and that this STA is subject to cancellation or modification upon notice. Further, this STA can be revoked by the Commission on its own motion without a hearing.”).

² *Non-Streamlined Submarine Cable Landing License Applications Accepted for Filing, Public Notice Report No. SCL-00089NS, released July 2, 2009; Non-Streamlined International Applications/Petitions Accepted for Filing, Public Notice, Report No. TEL-01371NS (rel. July 2, 2009).*

³ *See Letter from David Lassner, Chairman, Hawaii Broadband Task Force, and Vice President for IT and CIO, University of Hawaii, to FCC Secretary Marlene H. Dortch, FCC File No. SCL-LIC-20081008-00017 (filed Mar. 29, 2010); Letter from John Hibbard, Pacific Telecommunications Council President, to FCC Secretary Marlene H. Dortch, FCC File No. SCL-LIC-20081008-00017 (filed Mar. 23, 2010); Letter from J. Kalani English, Hawaii State Senate, to FCC Secretary Marlene H. Dortch, FCC File No. SCL-LIC-20081008-00017 (filed Mar. 4, 2010); Letter from Phillip L. Spector, Executive Vice President Business Development and General Counsel, Intelsat Ltd., to FCC Secretary Marlene H. Dortch, FCC File No. SCL-*

On December 14, 2009, the International Bureau granted a request by OPT for special temporary authority (valid through June 12, 2010) to construct and test the Honotua system prior to the grant of OPT's underlying applications.⁴ The Bureau granted OPT's request on the condition that OPT not connect the cable on the U.S. end or use the cable to transport traffic absent FCC grant of the underlying cable landing license and associated Section 214 overseas cable construction authority.⁵

By order released April 12, 2010, the Bureau also granted a request by OPT for waiver of the separate subsidiary requirement of Section 63.10(c)(1) of the Commission's rules, 47 C.F.R. § 63.10(c)(1) in connection with OPT's pending application for overseas cable construction Section 214 authorization.⁶ The issuance of the *Waiver Order* permitted OPT to move forward in negotiations with the Team Telecom agencies, which had sought greater certainty about the identity of the licensee entity.

On June 9, 2010, the International Bureau granted a request by OPT for special temporary authority (valid through December 6, 2010) to continue testing of, and commence commercial operations on, Honotua prior to the grant of OPT's underlying applications.⁷ The Operating STA allowed OPT to conclude commercial arrangements relating to the launch of

LIC-20081008-00017 (filed Feb. 4, 2010); Letter from Jeremy Amen, CEO, Wavecom Solutions, to FCC Secretary Marlene H. Dortch, FCC File No. SCL-LIC-20081008-00017 (filed Jan. 27, 2010).

⁴ See FCC File Nos. SCL-STA-20091201-00035 and ITC-STA-20091203-00528, Grant Stamps (Dec. 14, 2009) (together, "Construction STA").

⁵ See *id.*

⁶ See *Office des Postes et télécommunications de Polynésie française, Waiver Order*, 25 FCC Rcd. 3651 (Int'l Bur. 2010) ("Waiver Order").

⁷ See Operating STA.

Honotua and avoid substantial costs associated with continued use of satellite circuits to provide French Polynesia with international Internet connectivity.⁸

As indicated in the attached certificate of service, OPT has served copies of the instant STA extension request on the Executive Branch agencies. Moreover, the Team Telecom agencies have been notified that OPT would file this request.

II. THE GRANT OF AN STA WILL SERVE THE PUBLIC INTEREST

OPT respectfully submits that grant of this request will serve the public interest, convenience, and necessity. As the Commission is aware, Honotua is the first fiber-optic cable network linking the United States and French Polynesia. Designed to provide faster, more reliable, and more affordable international broadband internet connectivity, it will furnish vital services critical to the economic development in French Polynesia, and to planned initiatives in scientific research, distance learning, and telemedicine.

Relying on the authority in the Operating STA, OPT commenced limited commercial operations on Honotua on September 1, 2010. OPT presently uses Honotua solely for Internet backbone connectivity. It will launch transmission services only upon licensing by the Commission. Grant of OPT's STA extension request will ensure that OPT will be able to provide Internet backbone connectivity without interruption.

III. THE FCC HAS AUTHORITY TO GRANT AN STA

As evidenced by the Bureau's grant of the Operating STA, the Commission has ample authority to issue an STA for operational authority prior to the grant of a cable landing license

⁸ See Office des Postes et télécommunications de Polynésie française, Request for Special Temporary Authority, FCC File Nos. SCL-STA-20100607-00013 and ITC-STA-20100607-00224, at 3-4 (filed June 7, 2010) (explaining financial consequences of a lack of operating authority).

and associated Section 214 authority. It has exercised that authority on numerous occasions and should also do so in this case. Neither the Cable Landing License Act nor Executive Order 10,520 (delegating submarine cable licensing authority from the President to the Commission, subject to Executive Branch review) nor Section 214 of the Communications Act of 1934, as amended, limits the Commission's ability to issue an STA for operational authority prior to grant of a cable landing license and associated Section 214 authority.⁹ The Commission has previously granted STAs in analogous situations upon a showing of good cause.¹⁰

OPT seeks the same authority here to continue limited operations on Honotua. OPT acknowledges that grant of this request will not prejudice action by the Commission on OPT's underlying applications, that any authority granted pursuant to this request is subject to cancellation or modification upon notice, and that the Commission may revoke any authority without a hearing.

IV. CERTIFICATIONS

By the signature below, OPT certifies to the following:

- Consistent with the requirements of 47 C.F.R. § 63.18(i), OPT is a foreign carrier in French Polynesia, a *pays d'outre mer* of France.
- Consistent with the requirements of 47 C.F.R. § 63.18(j), OPT seeks to operate Honotua between French Polynesia and the United States

⁹ See 47 U.S.C. §§ 34-39; Executive Order 10,520; 47 U.S.C. § 214.

¹⁰ See, e.g., Application for Special Temporary Authority, *Cedar Cable Ltd.*, File No. SCL-STA-20081209-00020 (granted December 18, 2008) (granting STA to test and operate the CB-1 Cable System given the financial imperatives of that system); *In re Williams Communications, Inc. et al.*, 15 FCC Rcd. 19,610 (Int'l Bur. 2000) (granting special temporary authority for WilTel's continued participation in operation of undersea cable systems, prior to formal approval being given by the Executive Branch, in light of WilTel's dire financial circumstances).

- Consistent with the requirements of 47 C.F.R. § 63.18(k), France is a World Trade Organization member.
- Consistent with the requirements of 47 C.F.R. § 63.18(m), OPT does not seek regulation as a non-dominant carrier on the U.S.-French Polynesia route.

CONCLUSION

As demonstrated above, Commission extension of the Operating STA is consistent with the Cable Landing License Act and the Communications Act and will serve the public interest, convenience, and necessity. OPT respectfully requests that the Commission grant this request as soon as possible and no later than December 6, 2010.

Respectfully submitted,

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DE POLYNESIE FRANÇAISE



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*Counsel for Office des Postes et
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29 November 2010

CERTIFICATE OF SERVICE

I, Kent D. Bressie, hereby certify that I have served copies of the foregoing Request for Extension of Special Temporary Authority, by overnight delivery or e-mail on this 29th day of November 2010, to the following:

Ambassador Philip Verveer
U.S. Coordinator
Int'l Communications & Information Policy
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A handwritten signature in black ink, appearing to read "Kent D. Bressie", is written over a horizontal line. The signature is cursive and somewhat stylized.

Kent D. Bressie