

ATTACHMENT 1: REQUEST FOR SPECIAL TEMPORARY AUTHORITY

American Samoa License, Inc. (“ASLI,” FRN 0001843432) respectfully requests Special Temporary Authority (“STA”) pursuant to Section 63.25 of the Commission’s rules¹ for continuing provision of facilities-based and resale services between the United States and the Independent State of Samoa (“Independent Samoa”) following the consummation by ASLI’s parent, AST Telecom, LLC, d/b/a Blue Sky Communications (“Blue Sky”), of an acquisition of a controlling interest in SamoaTel Limited (“SamoaTel”) and during the pendency of ASLI’s foreign carrier affiliation notification filed concurrently and pursuant to Section 63.11(a) of the Commission’s rules.² ASLI currently holds both global facilities-based and global resale international Section 214 authority.³

SamoaTel is the incumbent wireline carrier in Independent Samoa, a politically- but not ethnically-distinct nation directly northwest of the Territory of American Samoa. SamoaTel presently has more than 50-percent market share in Independent Samoa’s fixed local access market. Consequently, ASLI does not qualify for post-consummation notification of the foreign carrier affiliation notification pursuant to Section 63.10(b) of the Commission’s rules.⁴

Blue Sky was the winning bidder in an auction conducted by the Government of Independent Samoa for sale of a majority stake in, and privatization of, SamoaTel. On January 21, 2011, Blue Sky entered into an agreement with the Government of Independent Samoa to acquire that controlling stake in SamoaTel. Blue Sky directly owns 68 percent of a special-

¹ 47 C.F.R. § 63.25.

² *Id.* § 63.11(a).

³ *See* FCC File Nos. ITC-214-19981207-00860 (global or limited global facilities-based service) and ITC-214-19980918-00671 (global resale service).

⁴ 47 C.F.R. § 63.10(b).

purpose subsidiary, Blue Sky SamoaTel Investments, Ltd. (“BSI”), which will, upon consummation, directly own 75 percent of SamoaTel’s shares outstanding. The Government of Independent Samoa has consistently stated a preference for immediate consummation of this transaction, and ASLI and Blue Sky remain concerned that further delay in consummation would jeopardize the transaction without providing any corresponding public interest benefits.

As demonstrated at length in the concurrently-filed foreign carrier affiliation notification, ASLI believes that its effective competitive opportunities showing satisfies the requirements of Section 63.18(k)(3) of the Commission’s rules.⁵ Independent Samoa has a well-developed regulatory framework to safeguard competition and allow U.S. carriers and investors to enter the Independent Samoa markets for facilities- and resale-based telecommunications services. Although Independent Samoa is not yet a WTO Member (it has applied and has observer status), its regulatory framework is much more developed and sophisticated than that of many WTO Members.

U.S. carriers have the legal ability to enter the Independent Samoa market to provide facilities-based international services, including international message telephone service (“IMTS”), and resale-based international services, including resale-based international switched services and non-interconnected private line services. Independent Samoa’s telecommunications regulatory framework mandates reasonable and nondiscriminatory charges, terms and conditions for interconnection to a foreign carrier’s domestic facilities for termination and origination of international services or the provision of the relevant resale service. Independent Samoa’s telecommunications regulatory framework establishes competitive safeguards to protect against

⁵ See 47 C.F.R. § 63.11(k)(3). ASLI incorporates this notification by reference and includes as Attachment 2 to this STA request. This notification contains the ownership information required by 47 C.F.R. § 63.18(h).

anticompetitive practices. These safeguards include prohibition on and remedies for the anticompetitive practices specifically enumerated in Section 63.18(k)(3)(iv) of the Commission's rules, as well as a host of other safeguards.⁶ Independent Samoa also has an effective regulatory framework for developing, implementing, and enforcing legal requirements, interconnection arrangements, and other safeguards.

To provide the Commission with further assurance during the pendency of ASLI's foreign carrier affiliation notification, ASLI agrees to comply with the reporting requirements in Section 63.10(c) of the Commission's rules effective *immediately* upon consummation of Blue Sky's acquisition of SamoaTel and throughout the pendency of its foreign carrier affiliation notification.

The public interest will be served by grant of this STA request. Grant of this STA request would avoid jeopardizing Blue Sky's acquisition of SamoaTel, a transaction that Blue Sky believes to be of great commercial and strategic importance. Timely consummation of the transaction will permit private investment in, and renewal of, SamoaTel and improved services between Independent Samoa and American Samoa, island groups that have extremely close familial, cultural, and economic ties. Compliance with the dominant-carrier safeguards in Section 63.10(c) of the Commission's rules and continuing vigorous regulation by the Independent Samoa regulator will safeguard competition, provide transparency, and ensure continuing access by U.S. carriers to the Independent Samoa market.

Accordingly, ASLI respectfully requests grant of this STA request for the interim period until the Commission acts on the underlying foreign carrier affiliation notification. ASLI acknowledges that grant of this request will not prejudice action by the Commission on the

⁶ 47 C.F.R. § 63.11(k)(3)(iv).

underlying notification and that any authority granted pursuant to this request is subject to cancellation or modification upon notice but without a hearing.