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Federal Communications Commission
Office of the Secretary

9 May 2008

BY HAND DELIVERY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

*Re: Joint Cable Landing License Application of PPC 1 Limited and PPC 1 (US), Inc.,
FCC File No. SCL-LIC-20080213-00001*

Dear Ms. Dortch:

By their counsel, PPC 1 Limited and PPC 1 (US), Inc. ("PPC 1 US") (together, "Applicants"), hereby respond to questions from International Bureau staff regarding the Applicants' cable landing license application for the PPC 1 System.¹

1. Waiver of Section 1.767(h)(1) of the Commission's Rules

In the Application, the Applicants have asserted that under Commission precedent, VSNL International (Guam) LLC ("VSNL Guam")—as owner of the cable station building in Piti, Guam—need not be a joint applicant for the cable landing license for the PPC 1 System.² Consistent with that assertion, the Applicants hereby request a waiver of Section 1.767(h)(1) of the Commission's rules so that VSNL Guam need not be a joint applicant for the PPC 1 System cable landing license.

¹ See Joint Application of PPC 1 Limited and PPC 1 (US), Inc., for a Cable Landing License for the PPC 1 System, FCC File No. SCL-LIC-20080213-00001 (filed Feb. 11, 2008) ("Application").

² See Application at 10-11.

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“The purpose of [Section 1.767(h)(1)] is to ensure that entities having a significant ability to affect the operation of the cable system become licensees so that they are subject to the conditions and responsibilities associated with the license.”³ VSNL Guam, however, will not have the ability to affect significantly the operation of the PPC 1 System. Moreover, the addition of VSNL Guam as a joint applicant would not be necessary to ensure compliance by the applicants/licensees with the Cable Landing License Act, the Commission’s cable landing license rules, or the terms of any cable landing license.

For the Guam landing of the PPC 1 System, VSNL Guam will provide certain limited services that would not provide it with any ability to affect significantly the operation of the PPC 1 System. PPC 1 US will enter into an agreement with VSNL Guam giving PPC 1 US a long-term lease in VSNL Guam’s ducts and conduits connecting the PPC 1 System’s Guam beach landing with the Piti cable station and a long-term lease in the collocation space in the Piti cable station building. The lease will have a term of fifteen (15) years or the life of the PPC 1 System, whichever is longer. Neither party may assign the agreement without first obtaining the other party’s written consent; except, however, that either party may assign the agreement to an affiliate or as part of a corporate reorganization, consolidation, merger or sale of substantially all of its assets by providing advance written notice to the other party of any such proposed assignment. Moreover, the lease agreement will not allow VSNL Guam to relocate unilaterally the termination of the PPC 1 System to another point. Any such relocation would require the express consent of PPC 1 US.

PPC 1 US will have exclusive control over and access to PPC 1 System terminal equipment, which it will collocate in the Piti cable station building. Equipment for the PPC 1 System will be separately caged and controlled exclusively by the Applicants from their network operations center in the Cromer cable station in suburban Sydney, Australia. The Applicants will retain operational authority over their PPC 1 System facilities and provide direction to VSNL Guam in all matters relating to the PPC 1 System. Pursuant to a collocation agreement between the Applicants and VSNL Guam, VSNL Guam might—but only at the Applicants’ request—perform certain limited “remote hands” maintenance services on the Applicants’ equipment, which would be performed in accordance with the Applicants’ directions. But the Applicants are not certain at this time that they would ever even request such services from VSNL Guam.

As the Applicants noted in their Application,⁴ since the adoption of Section 1.767(h)(1) in late-2001, the International Bureau has often declined to require owners of existing and separately-licensed cable stations to be joint applicants or licensees for new undersea cable

³ See *Actions Taken Under the Cable Landing License Act, Public Notice*, FCC File SCL-LIC-20070222-00002, 23 FCC Rcd. 227, 229 (2008) (“*TPE Cable Landing License*”) (citing *Review of Commission Consideration of Applications under the Cable Landing License Act, Report and Order*, 16 FCC Rcd. 22,167, 22,194-95 ¶¶ 53-54 (2001)).

⁴ See Application at 10.

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systems that connect, or will connect, to those existing cable stations and has generally declined to require a waiver of Section 1.767(h)(1).⁵ Most recently, the International Bureau granted an express waiver to the joint applicants for the Trans-Pacific Express Network (“TPE”), declining to require that WCI Cable, Inc.—which owns an existing cable station at Nedonna Beach, Oregon—be a joint applicant or licensee for TPE, which will land at the Nedonna Beach cable station⁶

Consistent with these licensing precedents and the purpose of Section 1.767(h)(1) of the Commission’s rules, the Applicants believe they have made a sufficient showing in support of a waiver of Section 1.767(h)(1). VSNL Guam’s inability to affect significantly the operation of the PPC 1 System obviates any need to include VSNL Guam as a joint applicant or licensee for PPC 1 System. Moreover, the addition of VSNL Guam as a joint applicant would not be necessary to ensure the licensees’ compliance with the Cable Landing License Act, the Commission’s cable landing license rules, or the terms of any cable landing license.

2. Papua New Guinea Market

In the Application, the Applicants asserted that under existing judicial and Commission precedent, the Commission should not subject PPC 1 Spur—which will connect Madang, Papua New Guinea, to an underwater branching unit on the Australia-Guam Trunk—to common carrier

⁵ See *Actions Taken Under the Cable Landing License Act, Public Notice*, FCC File No. SCL-LIC-20060413-00004, 21 FCC Rcd. 6380 (Int’l Bur. 2006) (declining to require that AT&T—which owned an existing cable station at Seward, Alaska—be a joint applicant or licensee for the Kodiak-Kenai Cable System, which landed at the Seward cable station); *Actions Taken Under the Cable Landing License Act, Public Notice*, FCC File No. SCL-LIC-20050418-00010, 20 FCC Rcd. 14,639 (Int’l Bur. 2005) (declining to require that AT&T and Global Crossing St. Croix, Inc.—which owned existing cable stations in Puerto Rico and St. Croix, respectively—be joint applicants or licensees for the Global Caribbean Network, which landed at the Puerto Rico and St. Croix cable stations); *Actions Taken Under the Cable Landing License Act, Public Notice*, FCC File No. SCL-LIC-20031125-00032, 19 FCC Rcd. 446 (Int’l Bur. 2004) (declining to require that Global Crossing St. Croix, Inc.—which owned the existing cable station in St. Croix, USVI—be a joint applicant or licensee for the Antilles Crossing system, which landed at the St. Croix cable station); *Actions Taken Under the Cable Landing License Act, Public Notice*, FCC File No. SCL-LIC-20031209-00033, 19 FCC Rcd. 8564 (Int’l Bur. 2003) (declining to require that Telecomunicaciones Ultramarinas de Puerto Rico, Inc.—which owned an existing Puerto Rico cable station—be a joint applicant or licensee for the SMPR-1 system, which landed at the Puerto Rico cable station), *aff’d Order on Review*, 20 FCC Rcd. 18,732 (2005).

⁶ See *TPE Cable Landing License*, 23 FCC Rcd. at 229 (finding that “WCIC will not have the ability to affect the operation of the TPE Network. Verizon will retain effective operational authority and provide direction to WCIC in all matters relating to the TPE Network”).

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regulation because there is no legal compulsion or other public interest reason for the Applicants to operate PPC 1 in such a manner.⁷ The Applicants provide the following additional information to support non-common-carrier status for the entire PPC 1 System, including the PNG Spur.

In describing alternative international facilities service Papua New Guinea, the Applicants neglected to describe the Australia-Papua New Guinea 2 undersea cable system ("A-PNG2"), which provides significant high-speed international connectivity for telephone, data, and Internet traffic originating and terminating in Papua New Guinea. A-PNG2 connects Port Moresby, Papua New Guinea, with Sydney, Australia, and entered into commercial service in 2006. A-PNG2 is jointly owned by Telikom PNG Ltd., Telstra, and Telecom New Zealand. It provides Papua New Guinea with onward connectivity to New Zealand, Guam, Hawaii, and the continental United States via the Southern Cross Cable Network (connecting Australia, New Zealand, Fiji, Hawaii, and the continental United States), the Australia-Japan Cable (connecting Australia, Guam, and Japan), VSNL Transpacific (connecting Guam, the continental United States, and Japan), and the Japan-U.S. Cable Network (connecting Hawaii, the continental United States, and Japan). A-PNG2 currently has significant excess capacity that is not expected to be exhausted in the near future. Consequently, the PNG Spur will not function as a bottleneck facility so as to warrant common-carrier regulation, as A-PNG2 and satellite circuits provide competitive alternatives to the PNG Spur.⁸

* * * * *

Should you have any questions regarding this letter or require additional information, please contact me by telephone at +1 202 730 1337 or by email at kbressie@harriswiltshire.com.

Respectfully submitted,



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cc: Imani Ellis-Cheek (IB)
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⁷ See Application at 6.

⁸ See *id.* at 7.