

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

In re

Request of

HAWAIIAN TELCOM, INC.,

For Special Temporary Authority to
Operate a Submarine Cable Landing
Station

File No. SCL-STA-_____

**APPLICATION FOR SPECIAL TEMPORARY AUTHORITY TO CONTINUE
TO OPERATE A SUBMARINE CABLE FACILITY**

Pursuant to Section 1.767 of the Commission’s Rules, Hawaiian Telcom, Inc. (“HTI”) hereby requests special temporary authority (“STA”) to continue to operate the Hawaii Interisland Cable System (File No. SCL-LIC -19921015-00008 (redesignated from S-C-L-93-003)) for a six-month period.¹ Contemporaneous with the filing of this STA request, Verizon Communications Inc. (“Verizon”), Hawaiian Telcom Communications, Inc. (“HTCI”), and HTI have submitted applications for authority to transfer control of the submarine cable landing License with respect to this same submarine cable from Verizon to HTCI and from HTCI to HTI. This License was inadvertently omitted from transfer applications filed and granted in 2004 for a transaction that was consummated in 2005. Grant of an STA will permit HTI to continue

¹ Hereinafter, the Hawaii Interisland Cable System will be referred to as the “submarine cable” and the FCC license associated with this system will be referred to as “the License.”

to operate the submarine cable, which is critical to its provision of voice and data services, during the pendency of the transfer applications.

Background

The instant submarine cable system was licensed in 1993 to GTE Hawaiian Telephone Co.² As part of a larger transaction in which Bell Atlantic Corporation and GTE Corporation merged and were renamed Verizon, control of GTE Hawaiian Telephone Co. and its assets was transferred to Bell Atlantic Co. in 1999,³ and GTE Hawaiian Telephone Co. was renamed Verizon Hawaii. Verizon later agreed to transfer control of Verizon Hawaii and related assets to Paradise MergerSub (later renamed HTCI), which was owned and controlled by Carlyle Partners III Hawaii, L.P., CP III Coinvestment, L.P. and Carlyle Hawaii Partners, L.P. (collectively, “The Carlyle Group”). The FCC granted consent for license transfers associated with this transaction,⁴ and the transfer to The Carlyle Group was completed on May 2, 2005. The license for the Hawaii Interisland Cable System was inadvertently omitted from these transfer

² *GTE Hawaiian Telephone Co.; Application for a License to Land and Operate a High Capacity Digital Submarine Cable System wholly within the State of Hawaii, linking the islands of Kauai, Oahu, Maui and Hawaii*, 8 FCC Rcd 7605 (Com. Car. Bur. 1993).

³ *Applications of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, For Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, CC Docket No. 98-184, Memorandum Opinion and Order, 15 FCC Rcd 14032, ¶ 440 (2000) (“Bell Atlantic/GTE Merger Order”).

⁴ *International Authorizations Granted*, Public Notice, Report No. TEL-00821, DA No. 04-2520, IBFS File Nos. ITC-ASG-20040630-00255 and ITC-ASG-20040630-00256 (rel. Aug. 12, 2004); *Streamlined Domestic Section 214 Granted*, Public Notice, DA 04-2451, WC Docket No. 04-234 (rel. Aug. 17, 2004); *Wireless Telecommunications Bureau Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, De Facto Transfer Lease Applications and Spectrum Manager Lease Notifications*, Public Notice, Report No. 1921 (Aug. 25, 2004).

applications. The License was similarly omitted from later bankruptcy-related applications filed by HTI at the FCC.⁵ Since 2005, HTI has been operating the submarine cable in the conduct of its retail and wholesale businesses, and it has leased capacity in the cable to third parties.

STA Request

HTI seeks special temporary authority for six months to continue to operate the submarine cable, consistent with the ownership changes that occurred since it has emerged from Chapter 11 bankruptcy, while the related transfer of control applications are pending with the FCC. Grant of the STA is in the public interest because it will permit the continued provision of telecommunications and broadband services to the existing customers of HTI. It would be extremely disruptive to HTI's customers if HTI were unable to use this facility to transmit telecommunications services until the applications for transfer of control are granted. In addition, wholesale customers rely on

⁵ On December 1, 2008, HTI's parent company, Hawaiian Telcom Holdco, Inc. ("Holdco"), and its affiliates filed for voluntary bankruptcy protection pursuant to Chapter 11 of the United State Bankruptcy Code. On December 30, 2009, the court approved a Plan of Reorganization that would transfer ownership of Holdco from Carlyle to HTI's secured creditors. *In re Hawaiian Telcom Communications, Inc., et al.*, Ch. 11, Case No. 08-02005 (Bankr. D. Haw. Dec. 30, 2009) (Order Confirming the Joint Chapter 11 Plan of Reorganization of Hawaiian Telcom Communications, Inc. and its Debtor Affiliates). On September 15, 2010, the FCC authorized the transfer of control of Holdco pursuant to the Plan of Reorganization, including all of the assets of HTI, to this widely-held group of shareholders, no one of which controls the company. *Domestic Section 214 Authorization Granted; Domestic Section 214 Application Filed for the Transfer of Control of Hawaiian Telcom, Inc. and Hawaiian Telcom Services Company, Inc., Debtors-In-Possession*, WC Docket No. 10-41, DA 10-1746 (Wir. Comp. Bur., Sept. 15, 2010). HTI and its affiliates emerged from bankruptcy on October 28, 2010. Debtors and Debtors in Possession Notice of Occurrence of Effective Date of Chapter 11 Plan of Reorganization, *In re Hawaiian Telcom Communications, Inc., et al.*, Ch. 11, Case No. 08-02005 (Bankr. D. Haw. Oct. 28, 2010), available at <http://www.kccllc.net/documents/0802005/08020051010280000000000008.pdf>.

the submarine facility to provide their own telecommunications and other services to their customers. HTI submits that terminating service to these wholesale customers would risk violating HTI's contractual and tariff obligations and be unnecessarily disruptive to these providers. An STA is appropriate under these circumstances.

Further, as discussed above, the omission of the submarine cable License from the FCC applications to transfer the licenses associated with the Verizon Hawaii assets to The Carlyle Group and the subsequent HTI bankruptcy-related applications was entirely inadvertent.⁶ The Applicant acknowledges that the grant of this STA will not prejudice any action the Commission may take on the underlying applications seeking Commission consent to the transfer. The Applicant further acknowledges that this STA may be revoked by the Commission upon its own motion without a hearing.

For the foregoing reasons, the Commission should grant HTI special temporary authority for six months to allow it to continue to operate the Hawaii Interisland Cable System while the related transfer applications are pending.

Respectfully submitted,

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⁶ No fees are owed for this particular submarine cable license because it is specifically exempt by Commission rule. *See, e.g., Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, MD Docket No. 08-65, 24 FCC Rcd 4208, at 1 n.1 (2009). The cable is primarily used for domestic telecommunications and other services.

