APPLICATION FOR LICENSE AND REQUEST FOR WAIVER OF TEMPORARY FILING FREEZE

Hawaii Pacific Teleport, L.P. ("HPT") is requesting authorization to operate a 4.8m fixed earth station (the "4.8m station") located at Rota Cable Landing Station in Rota, the southernmost island of the United States Commonwealth of the Northern Mariana Islands, utilizing the C-band.

HPT has already filed a request for Special Temporary Authority ("STA") and is now filing for a license. The STA was granted and expires January 2, 2020 and was made to restore telecommunications services to the area. The current application is being made to obtain authority to continue to provide telecommunications services to the area while they recover from fiber cut and outage to the island.

During a tropical storm, several large boulders rolled onto the main carrier undersea cable connecting to Rota. This caused an island-wide outage for Rota. While the population of Rota is small, with an estimated population of 3,283 (based on census information from 2000), the people there depend on connectivity for their livelihood and educational needs. An island-wide outage of this magnitude affects mobile phone access, as well as, land line telephones, internet, and cable TV service. Since the outage, the carrier has been able to obtain limited access to an alternate cable, but this is not a total solution. HPT would like to erect the 4.8m station on Rota to restore services until the cable can be fixed. HPT would then maintain the antenna as a backup in the future.

HPT is aware of the C-band filing freeze and requests a waiver of the filing freeze. Pursuant to Section 1.925 of the Federal Communications Commission's ("FCC" or

"Commission") rules,[1] HPT respectfully requests that the International Bureau ("Bureau") waive the temporary freeze on new applications for fixed-satellite service ("FSS") earth station licenses in the 3.7-4.2 GHz Band ("Filing Freeze").[2] As described below, granting HPT's waiver request would not undermine the objectives of the Filing Freeze, and it would serve the public interest by promoting national security, public safety, and education.

Section 1.925 of the FCC's rules permits the Commission to waive its rules on its own motion or upon request. The Commission may grant a waiver if "(i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that grant of the requested waiver would be in the public interest; or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative."[3] In this case, both grounds for waiver apply to HPT.

As in this current case, undersea cables connect many of the islands HPT serves, but the remote location of pacific islands make undersea cable outages (as recently occurred here in Rota and previously in Tonga)[4] particularly devastating for these communities. As the Commission is well-aware, many modern services depend on internet or data connectivity. Hospitals rely on internet connected monitoring devices; weather stations (which can be particularly important for costal and island communities) use internet connectivity to produce accurate weather forecasts,

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[1] 47 C.F.R. § 1.925.

[2] *Temporary Freeze on Applications for New or Modified Fixed Satellite Service Earth Stations and Fixed Microwave Stations in the 3.7-4.2 GHz Band, 90 Day Window to File Applications for Earth Stations Currently Operating in 3.7-4.2 GHz Band*, Public Notice, 33 FCC Rcd 3841 (Int. Bur. 2018) ("Filing Freeze PN").

[3] 47 C.F.R. § 1.925(b)(3).

[4] Jon Brodkin, *Undersea cable damage wipes out most Internet access in Tonga islands*, arstechnica.com (Jan. 25, 2019, 1:22 PM), https://arstechnica.com/information-technology/2019/01/undersea-cable-damage-wipes-out-most-internet-access-in-tonga-islands/.

and public safety agencies use IP connected communications devises. Many schools, and their students, also need internet access to complete their daily lesson plans. And, of particular importance here, U.S. military installations on a number of the islands HPT serves use IP/data connectivity to fulfill their vital national security functions.

Because of Rota's remoteness, the Commission should view HPT's waiver request in the overall context of the unique challenges faced by service providers in Rota. In similar contexts, the Commission has identified special conditions associated with building in places like Hawaii or Alaska (albeit without the short construction season Alaska experiences).[5] Among other things, challenges of providing service to Rota include the difficulty in transporting fuel and other necessary infrastructure to the island and its remoteness, lack of road access, limited scalability per community/island, limited satellite and backhaul availability, and susceptibility to extreme weather conditions. These challenges make the provision of service to Rota both challenging and vital.

Moreover, the additional backhaul capacity and redundancy offered by HPT's new FSS earth station in Rota will serve the public interest. As noted above, military installations in the pacific along with local hospitals, weather services, public safety agencies, and schools all rely on the internet access and/or IP connectivity that HPT's satellite transport service will provide. These types of national security, public safety, and educational users are a primary reason the Commission consider dependable broadband access and IP connectivity core public interest policy goals going forward. In addition to these critical users, HPT's satellite services can also support a variety of other commercial and residential services, bringing new competitive service

[5] *See, e.g., Connect America Fund; Universal Service Reform – Mobility Fund; Connect America Fund – Alaska Plan*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 10139, 10162, ¶ 72 (2016).

offerings to Rota. This added competition among internet access and IP backhaul providers further serves the public interest, especially in Rota where capital costs of deployment and barriers to entry are otherwise exceptionally high.

HPT has no viable alternative to its planned satellite service offering. As noted above, undersea cables do service Rota, but repairing the current disabled cables will take significant resources and time. Installing another undersea cable also would not provide the same kind of backup resiliency as HPT's satellite service because multiple undersea cables are similarly susceptible to damage (such as from super typhoons like the one Saipan experienced last year).

Finally, granting HPT's waiver request will not undermine the objectives of the Filing Freeze. The Filing Freeze was implemented to allow the Commission to fully consider the record in its pending C-Band proceeding "while limiting the potential for speculative applications that might be filed in anticipation of potential future actions by the Commission."[6] HPT recognizes the importance of the Commission's ongoing efforts to facilitate the deployment of 5G technology by ensuring the most efficient use of spectrum resources in the United States. However, again, because of Rota's remoteness, HPT's deployment to Rota will not have a meaningful impact on the Commission's C-Band proceeding. For example, a primary concern of the ongoing proceeding is how best to allocate spectrum to support 5G deployment in spectrum constrained areas in the continental United States (and to some extent in Alaska, Hawaii, and Puerto Rico). Deployment of HPT's satellite service to Rota will have no impact on the Commission's decision as to how best to allocate spectrum in those geographic locations. Furthermore, HPT's deployment is not speculative or intended to take advantage of any eventual

[6] Filing Freeze PN at 3.

rule changes because HPT's service to Rota is demand-based and will not change (other than as required by the Commission) based on future C-Band rule changes.

Accordingly, for the reasons described above, HPT respectfully requests that the Commission grant its waiver request and allow HPT to file an application to register or license the operation of its FSS earth station in the 3.7-4.2 GHz band in Rota. Waiver is warranted because (1) HPT's service is in the public interest in allowing telecommunications services to be provided during the repair of the fiber, (2) the provision of that service to Rota would otherwise be infeasible based on the unique difficulties of providing service on the island and the repair requirements for the cable, and (3) granting HPT's waiver request would not undermine the purpose of the Bureau's Filing Freeze.