

REQUEST FOR WAIVER OF TEMPORARY FILING FREEZE

Pursuant to Section 1.925 of the Federal Communications Commission's ("FCC" or "Commission") rules,¹ Hawaii Pacific Teleport, L.P. ("HPT"), by counsel, 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.

HPT offers satellite and fiber-based communications transport and connectivity around the Pacific Rim. Among other things, HPT's satellite services act as a vital communications link for a number of isolated pacific islands. HPT's services support a variety of communications services, including telephony, IP connectivity, and television broadcasting services. Among the

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).

most critical aspects of HPT's satellite service is the redundancy it provides to remote island communities for internet access and other IP connectivity.

While undersea cables connect many of the islands HPT serves, the remote location of Pacific islands make undersea cable outages (as recently occurred 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 coastal and island communities) use internet connectivity to produce accurate weather forecasts, and public safety agencies use IP connected communications devices. 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.

HPT seeks this waiver for an application for Special Temporary Authority ("STA") for a FSS C-Band earth station located on the island of Guam. HPT also filed a license request for the same facilities as the STA but the license application remains pending (SES-LIC-20190222-00179).

The grant of STA would allow HPT to continue to provide service to Guam. More than 150,000 people live on Guam. The United States Navy and Air Force operate a joint base on the island that has taken on heightened importance in the past decade.⁵ Guam is more than 1,500

⁴ Jon Brodtkin, *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/>.

⁵ Praveen Swami, *US to build £8bn super base on Pacific island of Guam*, The Telegraph (Oct. 25, 2010, 9:00 PM), <https://www.telegraph.co.uk/news/worldnews/australiaandthepacific/guam/8085749/US-to-build-8bn-super-base-on-Pacific-island-of-Guam.html>.

miles east of Manila, Philippines and is more than 3,800 miles west southwest of Honolulu, Hawaii.

Because of Guam's remoteness, the Commission should view HPT's waiver request in the overall context of the unique challenges faced by service providers on Guam. 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).⁶ Among other things, challenges of providing service on Guam 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 Guam both challenging and vital.

Moreover, the additional backhaul capacity and redundancy offered by HPT's new FSS earth station on Guam 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 considers 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 offerings to Guam. This added competition among internet access and IP backhaul providers

⁶ 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).

further serves the public interest, especially on Guam 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 Guam, but installing additional new cables would take years of planning and deployment and cost significantly more than HPT's satellite service. 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 the Mariana Islands 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."⁷ 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 Guam's remoteness, HPT's deployment on the island 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 on Guam 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

⁷ Filing Freeze PN at 3.

rule changes because HPT's service on Guam 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 a request for an STA for operation of an FSS earth station in the 3.7-4.2 GHz band on Guam. Waiver is warranted because (1) HPT's service is in the public interest, (2) the provision of that service on Guam would otherwise be infeasible based on the unique difficulties of providing service on the island, and (3) granting HPT's waiver request would not undermine the purpose of the Bureau's Filing Freeze. Additionally, for the same reasons, it is in the public interest to grant the STA to allow HPT to continue to provide vital services to Guam.