

**Before the  
Federal Communications Commission  
Washington, D. C. 20554**

In the matter of	)	
	)	
Applications of Bell Atlantic New Zealand	)	File Nos. SES-T/C-20030418-00502,
Holdings, Inc. and Pacific Telecom Inc.	)	SES-T/C-20030418-00501, 0001236852,
	)	SCL-T/C-20030418-00008,
Order Adopting Protective Order	)	ITC-T/C-20030418-00204, and
	)	ISP-PDR-20030418-00012
	)	
	)	IB Docket No. 03-115
	)	

**DISCLOSURE ORDER**

**Adopted: September 30, 2003**

**Released: October 1, 2003**

By the Chief, Policy Division, International Bureau:

**I. INTRODUCTION**

1. In this Order, we direct Bell Atlantic New Zealand Holdings, Inc. (“BANZHI”) and Pacific Telecom Inc. (“PTI”, and together with BANZHI, the “Applicants”), to make available certain documents to the Office of the Governor of the Commonwealth of the Northern Mariana Islands (“Office of the Governor”) pursuant to the Protective Order included as Appendix A to this Order. By this action, we permit the Office of the Governor to review certain documents it requested while protecting the confidentiality of financially sensitive information.

**II. BACKGROUND**

2. On April 18, 2003, BANZHI and PTI filed applications, pursuant to sections 214 and 310(d) of the Communications Act of 1934, as amended,<sup>1</sup> seeking Commission approval of the proposed transfer of control from BANZHI to PTI of certain Commission licenses and authorizations.<sup>2</sup> On May 9, 2003, the International Bureau (the “Bureau”), under delegated authority,<sup>3</sup> issued a Public

<sup>1</sup> 47 U.S.C. §§ 214, 310(d).

<sup>2</sup> These licenses and authorizations include a cellular radiotelephone service license, a non-common carrier earth station license, a common carrier earth station license, a cable landing license, and two international section 214 authorizations held by GTE Pacifica, as well as blanket domestic section 214 authorizations held by GTE Pacifica and Micronesian Telecommunications Corporation (“MTC”). Bell Atlantic New Zealand Holdings, Inc. and Pacific Telecom, Inc., Application for Authority Pursuant to the Cable Landing License Act to Transfer Control of GTE Pacifica, Inc., a Cable Landing Licensee, to Pacific Telecom, Inc., File No. SCL-T/C-20030418-00008; (filed April 18, 2003); Bell Atlantic New Zealand Holdings, Inc. and Pacific Telecom, Inc., Application for Authority Pursuant to Section 214 of the Communications Act of 1932, as amended, to Transfer Control of GTE Pacifica, Inc., an Authorized U.S. International Carrier, to Pacific Telecom, Inc., File No. ITC-T/C-20030418-00204 (filed April 18, 2003); Pacific Telecom, Inc., Petition for Declaratory Ruling under Section 310(b)(4) of the Communications Act of 1934, as amended, to Permit Indirect Foreign Ownership Exceeding 25 Percent in Common Carrier Licensee, GTE Pacifica, Inc., File Nos. SES-T/C-20030418-00502, SES-T/C-20030418-00501, 0001236852, ISP-PDR-20030418-00012 (filed April 18, 2003).

<sup>3</sup> 47 C.F.R. § 0.261 (2002).

Notice that announced that BANZHI and PTI's applications were accepted for filing and established a pleading cycle to provide interested parties an opportunity to comment on the applications.<sup>4</sup> In response to the Public Notice, the Bureau received comments from the Governor of Guam, and petitions to deny the application from the Commonwealth of the Northern Mariana Islands House of Representatives, Mr. Herman Q. DeLeon Guerrero, and the Office of the Governor.<sup>5</sup>

3. On August 18, 2003, Commission staff requested additional information from the parties.<sup>6</sup> In response, on August 27, 2003, PTI submitted a "Pro Forma Balance Sheet of Pacific Telecom Inc. Immediately After Closing" and associated documentation in the form of a bank letter dated August 26, 2003.<sup>7</sup> On August 28, 2003, BANZHI submitted consolidated financial statements for The Micronesian Telecommunications Corporation ("MTC") and GTE Pacifica Inc. for the years ending December 2002 and December 2001.<sup>8</sup> Each letter was filed with a request for confidentiality pursuant to sections 0.457 and 0.459 of the Commission's rules.<sup>9</sup>

4. On September 4, 2003, the Office of the Governor filed a Freedom of Information Act ("FOIA") request<sup>10</sup> that the following documents, submitted in connection with the applications in this case, be made available for copying and inspection: (1) audited consolidated financial statements for MTC and GTE Pacifica Inc. for the years ending December 2002 and December 2001, including a consolidated balance sheet, statement of earnings and retained earnings and statement of cash flows; (2) the "Pro Forma Balance Sheet of Pacific Telecom Inc. Immediately After Closing" and associated documentation in the form of a bank letter dated August 26, 2003; and (3) any other material submitted in response to the *August 18, 2003 Information Request*.<sup>11</sup>

### III. DISCUSSION

5. The Commission has previously determined that parties filing petitions to deny "generally

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<sup>4</sup> See *Commission Seeks Comment on Applications for Consent to Transfer Control filed by Bell Atlantic New Zealand Holdings, Inc. and Pacific Telecom, Inc.; Pleading Cycle Established*, Public Notice, DA 03-1532 (rel. May 9, 2003) (Int'l. Bur. 2003) (*May 9, 2003 Public Notice*).

<sup>5</sup> Comments submitted by Governor of Guam (June 9, 2003); Petition to Deny or in the Alternative to Designate for Hearing, submitted by the Office of the Governor of the Commonwealth of the Northern Mariana Islands (June 9, 2003); Letter from Representatives Stanley T. Torres, Martin B. Ada, Joseph P. DeLeon Guerrero, Herman T. Palacios, Oscar M. Babauta, Gloria DLC Cabrera, and Pete P. Reyes, House of Representatives, Northern Marianas Commonwealth Legislature, to Michael K. Powell, Chairman, Federal Communications Commission (June 6, 2003); and Letter from Herman Q. DeLeon Guerrero to Michael K. Powell, Chairman, Federal Communications Commission (May 21, 2003).

<sup>6</sup> Letter from James Ball, Chief, Policy Division, International Bureau to Kenneth D. Patrich and Timothy J. Cooney, Counsel for PTI (August 18, 2003) (*August 18, 2003 Information Request*).

<sup>7</sup> Letter from Kenneth D. Patrich and Timothy J. Cooney, Counsel for PTI, to Marlene H. Dortch, Secretary, Federal Communications Commission (August 27, 2003) (*August 27, 2003 Response*).

<sup>8</sup> Letter from Jennifer D. Hindin, Counsel for BANZHI, to Marlene H. Dortch, Secretary, Federal Communications Commission (August 28, 2003) (*August 28, 2003 Response*).

<sup>9</sup> 47 C.F.R. §§ 0.457, 0.459 (2002).

<sup>10</sup> FOIA No. 2003-557; 5 U.S.C. § 552; 47 C.F.R. § 0.461 (2002).

<sup>11</sup> Letter from Thomas K. Crowe, Counsel for the Office of the Governor of the Commonwealth of the Northern Mariana Islands, to Andrew S. Fishel, Office of Managing Director (September 4, 2003). On September 25, 2003, the Office of the Governor withdrew its FOIA request. See Letter from Thomas K. Crowe, Counsel for the Office of the Governor of the Commonwealth of the Northern Mariana Islands, to Andrew S. Fishel, Office of Managing Director (September 25, 2003).

must be afforded access to all information submitted by licensees that bear upon their applications.”<sup>12</sup> Nevertheless, we recognize that the confidentiality of certain financially sensitive information should be protected.<sup>13</sup> Accordingly, consistent with Commission precedent,<sup>14</sup> we have determined that, pending a determination on the issue of confidentiality, the documents for which the Applicants request confidential treatment should be made available only pursuant to a Protective Order. We conclude that a Protective Order will provide adequate protection to the Applicants.<sup>15</sup> We therefore issue a Protective Order (attached as Appendix A hereto) to facilitate and expedite review of the documents designated by the Applicants as confidential or proprietary in order to avert harm to their interests.<sup>16</sup> These documents are the pro forma balance sheet and associate bank letter submitted by PTI under request for confidentiality dated August 27, 2003; the audited, consolidated financial statements of MTC and GTE Pacifica Inc. for the years ending in December 2002 and December 2001 submitted under request for confidentiality dated August 28, 2003; and any subsequently filed document that bears the legend (or which will otherwise shall have had the legend recorded upon it in a way that brings its attention to a reasonable examiner. We note that this Protective Order does not constitute a determination as to whether any information is exempt from mandatory disclosure under the FOIA or otherwise.

6. The *1998 Confidential Information Policy Order* stated that, if the Commission issued a Protective Order, interested parties generally will be given at least 30 days from the date the protected material becomes available to file or supplement a petition to deny.<sup>17</sup> As the amount of material being released is relatively small, we abbreviate the comment and response times.

#### IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED that the Applicants make available to the Office of the Governor of the Commonwealth of the Northern Mariana Islands the *August 27, 2003 Response* and the *August 28, 2003 Response* pursuant to the terms of the Protective Order attached to this Order. IT IS FURTHER ORDERED THAT this Disclosure Order and the attached Protective Order are effective upon their release.

8. IT IS FURTHER ORDERED that comments with respect to the information filed pursuant to this Protective Order must be filed on or before October 8, 2003 and responses must be filed on or before October 15, 2003.

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<sup>12</sup> *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, GC Docket No. 96-55, Report and Order, 13 FCC Rcd 24816, 24837, ¶ 33 (1998) (*1998 Confidential Information Policy Order*) (citing *Bilingual Bicultural Coalition on Mass Media, Inc. v. FCC*, 595 F. 2d 621, 634 (D.C. Cir. 1978) (en banc)); see also *Amendment of Subpart H, Part I of the Commission's Rules and Regulations Concerning Ex Parte Communications and Presentations in Commission Proceedings*, 2 FCC Rcd 6053, 6054 (1987), amended, 3 FCC Rcd 3995 (1988).

<sup>13</sup> See *1998 Confidential Information Policy Order*, 13 FCC Rcd 24816.

<sup>14</sup> See, e.g., *Application of Visionstar, Inc., Licensee, Shant Hovnanian, Transferor, and EchoStar Visionstar Corp., Transferee, For Consent to Transfer of Control Over Authorization to Construct, Launch and Operate a Ka-Band Satellite System in the Fixed-Satellite Service at the 113° W.L. Orbital Location, Order Adopting Protective Order*, Order, 16 FCC Rcd 16967 (2001).

<sup>15</sup> *1998 Confidential Information Policy Order*, 13 FCC Rcd 24816.

<sup>16</sup> We note that PTI does not object to providing petitioners in this proceeding with access to its August 27, 2003 submission, subject to an appropriate protective order that limits the number of individuals who may have access to the documents and prohibits use of the documents for any purpose other than for use in this proceeding. See *August 27, 2003 Response*.

<sup>17</sup> *Id.* at 24838-39, ¶ 34.

9. This Order is issued pursuant to sections 4(i) and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 310(d), and section 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), under delegated authority pursuant to section 0.261 of the Commission's rules, 47 C.F.R. § 0.261.

FEDERAL COMMUNICATIONS COMMISSION

James Ball  
Chief, Policy Division  
International Bureau

## APPENDIX A

**Before the  
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Holdings, Inc. and Pacific Telecom Inc.	)	SES-T/C-20030418-00501, 0001236852,
	)	SCL-T/C-20030418-00008,
	)	ITC-T/C-20030418-00204, and
Order Adopting Protective Order	)	ISP-PDR-20030418-00012
	)	
	)	IB Docket No. 03-115
	)	

## PROTECTIVE ORDER

1. On April 18, 2003, Bell Atlantic New Zealand Holdings, Inc. (“BANZHI”) and Pacific Telecom Inc. (“PTI”, and together with BANZHI, the “Applicants”), filed applications, pursuant to sections 214 and 310(d) of the Communications Act of 1934, as amended,<sup>1</sup> seeking Commission approval of the proposed transfer of control from BANZHI to PTI of certain Commission licenses and authorizations.<sup>2</sup> On May 9, 2003, the International Bureau (the “Bureau”), under delegated authority,<sup>3</sup> issued a Public Notice that announced that BANZHI and PTI’s applications were accepted for filing and established a pleading cycle to provide interested parties an opportunity to comment on the applications.<sup>4</sup> In response to the Public Notice, the Bureau received comments from the Governor of Guam, and petitions to deny the application from the Commonwealth of the Northern Mariana Islands House of Representatives, Mr. Herman Q. Deleon Guererro, and the Office of the Governor.<sup>5</sup>

<sup>1</sup> 47 U.S.C. §§ 214, 310(d).

<sup>2</sup> These licenses and authorizations include a cellular radiotelephone service license, a non-common carrier earth station license, a common carrier earth station license, a cable landing license, and two international section 214 authorizations held by GTE Pacifica, as well as blanket domestic section 214 authorizations held by GTE Pacifica and Micronesian Telecommunications Corporation (“MTC”). Bell Atlantic New Zealand Holdings, Inc. and Pacific Telecom, Inc., Application for Authority Pursuant to the Cable Landing License Act to Transfer Control of GTE Pacifica, Inc., a Cable Landing Licensee, to Pacific Telecom, Inc., File No. SCL-T/C-20030418-00008; (filed April 18, 2003); Bell Atlantic New Zealand Holdings, Inc. and Pacific Telecom, Inc., Application for Authority Pursuant to Section 214 of the Communications Act of 1932, as amended, to Transfer Control of GTE Pacifica, Inc., an Authorized U.S. International Carrier, to Pacific Telecom, Inc., File No. ITC-T/C-20030418-00204 (filed April 18, 2003); Pacific Telecom, Inc., Petition for Declaratory Ruling under Section 310(b)(4) of the Communications Act of 1934, as amended, to Permit Indirect Foreign Ownership Exceeding 25 Percent in Common Carrier Licensee, GTE Pacifica, Inc., File Nos. SES-T/C-20030418-00502, SES-T/C-20030418-00501, 0001236852, ISP-PDR-20030418-00012 (filed April 18, 2003).

<sup>3</sup> 47 C.F.R. § 0.261 (2002).

<sup>4</sup> *See Commission Seeks Comment on Applications for Consent to Transfer Control filed by Bell Atlantic New Zealand Holdings, Inc. and Pacific Telecom, Inc.; Pleading Cycle Established*, Public Notice, DA 03-1532 (rel. May 9, 2003) (Int’l. Bur. 2003) (*May 9, 2003 Public Notice*).

<sup>5</sup> Comments submitted by Governor of Guam (June 9, 2003); Petition to Deny or in the Alternative to Designate for Hearing, submitted by the Office of the Governor of the Commonwealth of the Northern Mariana Islands (June 9, 2003); Letter from Representatives Stanley T. Torres, Martin B. Ada, Joseph P. Deleon Guerrero, Herman T. Palacios, Oscar M. Babauta, Gloria DLC Cabrera, and Pete P. Reyes, House of Representatives, (continued....)

2. On August 18, 2003, Commission staff requested additional information from the parties.<sup>6</sup> In response, on August 27, 2003, PTI submitted a “*Pro Forma* Balance Sheet of Pacific Telecom Inc. Immediately After Closing” and associated documentation in the form of a bank letter dated August 26, 2003.<sup>7</sup> On August 28, 2003, BANZHI submitted consolidated financial statements for The Micronesian Telecommunications Corporation (“MTC”) and GTE Pacifica Inc. for the years ending December 2002 and December 2001.<sup>8</sup> Each letter was filed with a request for confidentiality pursuant to sections 0.457 and 0.459 of the Commission’s rules.<sup>9</sup>

3. On September 4, 2003, the Office of the Governor filed a Freedom of Information Act (“FOIA”) request<sup>10</sup> that the following documents, submitted in connection with the applications in this case, be made available for copying and inspection: (1) audited consolidated financial statements for MTC and GTE Pacifica Inc. for the years ending December 2002 and December 2001, including a consolidated balance sheet, statement of earnings and retained earnings and statement of cash flows; (2) the “*Pro Forma* Balance Sheet of Pacific Telecom Inc. Immediately After Closing” and associated documentation in the form of a bank letter dated August 26, 2003; and (3) any other material submitted in response to the *August 18, 2003 Information Request*.<sup>11</sup>

4. The Policy Division of the International Bureau issues this Protective Order to facilitate and expedite review of the documents designated by the Applicants as confidential or proprietary in order to avert harm to the Applicants’ interests.<sup>12</sup> We note that this Protective Order does not constitute a determination as to whether any information is exempt from mandatory disclosure under the FOIA or otherwise.

5. *Non-Disclosure of Stamped Confidential Documents.* Except with the prior written consent of the Applicants, or as provided under this Order, neither a Stamped Confidential Document nor the contents thereof may be disclosed by a reviewing party to any person. “Stamped Confidential

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Northern Marianas Commonwealth Legislature, to Michael K. Powell, Chairman, Federal Communications Commission (June 6, 2003); and Letter from Herman Q. DeLeon Guerrero to Michael K. Powell, Chairman, Federal Communications Commission (May 21, 2003).

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<sup>9</sup> 47 C.F.R. §§ 0.457, 0.459 (2002).

<sup>10</sup> FOA No. 2003-557; 5 U.S.C. § 552; 47 C.F.R. § 0.461 (2002).

<sup>11</sup> Letter from Thomas K. Crowe, Counsel for the Office of the Governor of the Commonwealth of the Northern Mariana Islands, to Andrew S. Fishel, Office of Managing Director (September 4, 2003). On September 25, 2003, the Office of the Governor withdrew its FOIA request. See Letter from Thomas K. Crowe, Counsel for the Office of the Governor of the Commonwealth of the Northern Mariana Islands, to Andrew S. Fishel, Office of Managing Director (September 25, 2003).

<sup>12</sup> *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, GC Docket No. 96-55, Report and Order, 13 FCC Rcd 24816, 24837, ¶ 33 (1998); See, e.g., *Application of Visionstar, Inc., Licensee, Shant Hovnanian, Transferor, and Echostar Visionstar Corp., Transferee, For Consent to Transfer of Control Over Authorization to Construct, Launch and Operate a Ka-Band Satellite System in the Fixed-Satellite Service at the 113° W.L. Orbital Location, Order Adopting Protective Order*, Order, 16 FCC Rcd 16967 (2001).

Document” shall mean the pro forma balance sheet and associated bank letter submitted by PTI under request for confidentiality dated August 27, 2003; the audited, consolidated financial statements of MTC and GTE Pacifica Inc. for the years ending in December 2002 and December 2001 submitted under request for confidentiality dated August 28, 2003; and any subsequently filed document that bears the legend (or which will otherwise shall have had the legend recorded upon it in a way that brings its attention to a reasonable examiner). Each Stamped Confidential Document shall bear the legend “CONFIDENTIAL” and any copy of any such document that is prominently marked “CONFIDENTIAL – NOT FOR PUBLIC INSPECTION – SUBJECT TO PROTECTIVE ORDER IN FILE NOS. SES-T/C-20030418-00502, SES-T/C-20030418-00501, 0001236852, SCL-T/C-20030418-00008, ITC-T/C-20030418-00204, and ISP-PDR-20030418-00012” to signify that it contains information that the Applicants contend is entitled to protection under the FOIA and the Commission’s implementing rules, unless, on the Commission’s own motion or in response to a petition, the Commission determines pursuant to sections 0.459 or 0.461 of its rules that such document is not entitled to confidential treatment.<sup>13</sup> For purposes of this Order, the term “document” means all written, recorded, or graphic material, whether produced or created by a party or another person.

6. *Permissible Disclosure.* Subject to the requirements of paragraph 8, Stamped Confidential Documents may be reviewed by outside counsel of record for the parties in this proceeding and also by such of their in-house counsel who are actively engaged in the conduct of this proceeding and are not involved in competitive decision-making. Counsel is deemed to be involved in competitive decision-making if counsel’s activities, association, and relationship with a client include giving advice concerning, or participating in, any of the client’s business decisions made in light of similar information about a competitor. Subject to the requirements of paragraph 8, such counsel may disclose Stamped Confidential Documents to: (i) the partners, associates, secretaries, paralegal assistants, and employees of such counsel to the extent reasonably necessary to render professional services in this proceeding; (ii) Commission officials involved in this proceeding; (iii) outside consultants or experts retained for the purpose of assisting counsel in this proceeding who do not participate directly in the business decisions of any competitor of either of the Applicants or provide analysis underlying the business decisions of such competitor; (iv) employees of such counsel involved solely in organizing, filing, coding, converting, storing, and/or retrieving data or designing programs for handling data connected with this proceeding; and (v) employees of third-party contractors performing one or more of these functions under counsel’s supervision.

7. *Duty to Limit Access and Ensure Compliance.* Persons described in paragraph 6 shall ensure that access to Stamped Confidential Documents is strictly limited as prescribed in this Order. Such persons shall further ensure that Stamped Confidential Documents are used only as provided in this Order and that Stamped Confidential Documents provided pursuant to paragraph 9 are not duplicated except as necessary for filing at the Commission under seal as provided in paragraph 10.

8. *Procedures for Obtaining Access to Confidential Documents.* Before reviewing or having access to Stamped Confidential Documents, anyone seeking such access shall execute the Declaration of Confidentiality in the form attached hereto as Appendix B. The executed Declaration shall be filed with the Commission and a copy thereof shall be provided to the Applicants so that it is received by them at least five business days before the Declarant reviews or obtains access to any Stamped Confidential Document. The Applicants may object to disclosure of Stamped Confidential Documents to any such Declarant, provided that they file the objection at the Commission and serve it on counsel representing, retaining, or employing that person within three business days after receiving the person’s Declaration. Until such objection is resolved by the Commission or a court of competent jurisdiction, and unless the objection is resolved in favor of the party seeking access, persons subject to such an objection shall not have access to Stamped Confidential Documents. The Applicants shall allow eligible persons to examine

<sup>13</sup> 47 C.F.R. §§ 0.459, 0.461 (2002).

the Stamped Confidential Documents at the offices of either Applicant's outside counsel.

9. *Copying.* If, in the judgment of the Applicants, a document contains information so sensitive that it should not be copied by anyone, it shall bear the additional legend "Copying Prohibited," and no copies of such document, in any form, shall be made except as authorized by further order of the Commission. Application for relief from this restriction against copying may be made to the Commission with notice to counsel for the Applicants.

10. *Use of Confidential Information.*

A. *In Filings in this Proceeding.* Persons who have reviewed Stamped Confidential Documents pursuant to this Order may, in documents they file in this proceeding, refer to information found in Stamped Confidential Documents or derived therefrom (hereinafter, "Confidential Information") if they comply with the following procedure:

1. Any portion of a pleading that contains or discloses Confidential Information must be physically segregated from the remainder of the pleading;
2. The portions disclosing Confidential Information must be covered by a separate letter to the Secretary of the Commission referencing this Protective Order;
3. Each page of any party's filing that discloses Confidential Information must be clearly marked "INFORMATION FROM CONFIDENTIAL DOCUMENTS INCLUDED PURSUANT TO PROTECTIVE ORDER, FILE NOS. SES-T/C-20030418-00502, SES-T/C-20030418-00501, 0001236852, SCL-T/C-20030418-00008, ITC-T/C-20030418-00204, and ISP-PDR-20030418-00012"; and
4. A party filing a pleading containing Confidential Information shall also file a copy of the pleading with the Confidential Information redacted, which shall be placed in the public file. Parties may file courtesy copies of pleadings containing Confidential Information to Commission staff under seal. Persons who are otherwise eligible under paragraph 6 and have signed a Declaration shall be entitled to review unredacted copies of pleadings containing Confidential Information.
5. In the event the Commission relies upon or otherwise refers to the content of any of the Stamped Confidential Documents or Confidential Information in its decision in this proceeding, it will redact any Confidential Information from the public version of the decision and make the unredacted version available only to a court or to persons entitled to access to such information under this Protective Order.

B. *In Other Documents Prepared for this Proceeding.* Notes, internal memoranda and other documents produced by a reviewing person that contain Confidential Information must be prominently marked "CONTAINS CONFIDENTIAL INFORMATION PROTECTED PURSUANT TO PROTECTIVE ORDER, FILE NOS. SES-T/C-20030418-00502, SES-T/C-20030418-00501, 0001236852, SCL-T/C-20030418-00008, ITC-T/C-20030418-00204, and ISP-PDR-20030418-00012" and at the termination of the proceeding shall be dealt with in accordance with the provisions of paragraph 15.

11. *Requests for Additional Disclosure.* Requests for disclosure of Stamped Confidential

Documents outside the terms of this Protective Order will be treated in accordance with sections 0.442 or 0.461 of the Commission's rules.<sup>14</sup>

12. *No Waiver of Confidentiality.* Disclosure of Confidential Information as provided herein by any person shall not be deemed a waiver by the Applicants of any privilege or entitlement to confidential treatment of such Confidential Information. Persons reviewing these materials pursuant to this Order agree that they shall not assert any such waiver and shall not use Confidential Information to seek disclosure in any other proceeding. Such persons also agree that accidental disclosure of Confidential Information by the Applicants shall not be deemed a waiver of any privilege or entitlement if the Applicants take prompt remedial action.

13. *Subpoena by Courts or Other Agencies.* If a court or another administrative agency subpoenas or orders production of Stamped Confidential Documents or other Confidential Information that a person has obtained under terms of this Protective Order, such person shall promptly notify the Applicants of the subpoena or order. Consistent with the independent authority of any such court or administrative agency, such notification must afford the Applicants a full opportunity to oppose such production prior to the production or disclosure of any Stamped Confidential Document or other Confidential Information.

14. *Violations of Protective Order.* Persons obtaining access to Stamped Confidential Documents or Confidential Information under this Order shall use the information only for conduct of this proceeding and any subsequent judicial proceeding arising directly from this proceeding, and shall not use such information for any other purpose, including business, governmental, commercial, or other administrative or judicial proceedings. Should a party that has properly obtained access to Confidential Information under this Protective Order violate any of its terms, that party shall immediately inform the Commission and the Applicants of the violation. Should such violation consist of improper disclosure of Confidential Information, the violating party shall take all necessary steps to remedy the improper disclosure. The Commission retains its full authority to fashion appropriate sanctions for violations of this Protective Order.

15. *Termination of Proceeding.* The provisions of this Order shall not terminate at the conclusion of this proceeding. Unless otherwise ordered by the Commission or a court of competent jurisdiction, Stamped Confidential Documents and all copies thereof shall be returned to the Applicants within two weeks after conclusion of the proceeding, including any judicial review. No document containing Confidential Information may be retained by any person having access thereto, except that counsel to a party to this proceeding eligible to review such documents pursuant to Paragraph 6 may retain, under the continuing strictures of this Order, two copies of pleadings prepared on behalf of the party that contain Confidential Information. All counsel of record shall certify compliance herewith and shall deliver the certification to counsel for the Applicants not more than three weeks after conclusion of this proceeding. *Effect of Protective Order.* This Protective Order is an order of the Commission and shall be an agreement between the reviewing persons executing a Declaration and the Applicants.

17. *Client Consultation.* Nothing in this Order shall prevent counsel from rendering advice to their clients concerning the conduct of this proceeding and any judicial proceeding arising therefrom, provided that in rendering such advice and otherwise communicating with clients counsel shall not disclose Confidential Documents or Confidential Information.

18. *Authority.* This Protective Order is issued pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i); section 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4); and authority delegated under section 0.261 of the Commission's rules and is effective upon its

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<sup>14</sup> 47 C.F.R. §§ 0.442, 0.461 (2002).

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APPENDIX B

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IB Docket No. 03-115

DECLARATION OF CONFIDENTIALITY

I have read the Protective Order in the above-captioned proceeding and acknowledge that I am bound by it. I will not disclose or use documents designated as Stamped Confidential Documents or Confidential Information obtained therefrom except as allowed by the Order. I acknowledge that a violation of the Protective Order is a violation of an Order of the Federal Communications Commission.

Without limiting the foregoing, to the extent that I have any employment, affiliation, or role with any person or organization other than a conventional private law firm (such as, but not limited to, a lobbying or public interest organization), I acknowledge that my access to any information obtained pursuant to the Order is due solely to my capacity as counsel or consultant to a party or other person described in paragraph 6 of the Protective Order and that I will not use such information in any other capacity nor will I disclose such information except as specifically provided in the Order.

I acknowledge that it is my obligation to ensure that: 1) Stamped Confidential Documents and Confidential Information are used only as provided in the Protective Order and 2) Stamped Confidential Documents are not duplicated except as specifically permitted by the terms of the Protective Order, and I certify that I have verified that there are in place procedures, at my firm or office, to prevent unauthorized disclosure of Stamped Confidential Documents or Confidential Information.

Executed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

Signature

Title

Employer

Address

Phone Number