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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Streamlining the International)	IB Docket No. 95-118
Section 214 Authorization)	
Process and Tariff Requirements)	

COMMENTS OF GST PACWEST TELECOM HAWAII, INC.

GST Pacwest Telecom Hawaii, Inc. ("Pacwest"), by its undersigned counsel, hereby submits these Comments on the Commission's *Notice of Proposed Rulemaking* in the above-captioned proceeding.^{1/} Pacwest is an authorized competitive provider of intrastate, interstate, and international telecommunications services in Hawaii.^{2/} Pacwest maintains domestic and international tariffs at the Commission and holds Section 214 authority to provide international switched and private line services. Pacwest currently resells the services of other international facilities-based carriers and is not affiliated with any foreign carriers. Pacwest therefore is subject to streamlined regulation under the Commission's existing rules.

Pacwest fully supports the Commission's efforts to further streamline its rules applicable to international carriers. In response to the Commission's request for additional

^{1/} *Streamlining the International Section 214 Authorization and Tariff Requirements*, Notice of Proposed Rulemaking, FCC 95-286 (released July 17, 1995) (*Notice of Proposed Rulemaking*).

^{2/} Pacwest's affiliates also provide domestic and international telecommunications services in markets outside of Hawaii.

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suggestions on how the Commission may best reach its stated goals,^{3/} Pacwest herein suggests that the Commission permit customers with long-term service arrangements to terminate these arrangements upon the introduction of new service offerings by competitive service providers.

Pacwest recently filed an application to construct and operate an interisland high-capacity fiber optic submarine cable system linking the Hawaiian islands. This system will be the only competitive local facility linking the Hawaiian islands, providing the necessary local link for interstate and international access services. All traffic between the Hawaiian islands is currently routed over GTE Hawaiian Telephone Company, Inc.'s ("GTE's") recently-constructed inter-island fiber optic facilities. The Pacwest interisland system will provide interexchange carriers ("IXCs"), international carriers, and large business users with the ability to use alternative facilities for their interstate/international access requirements. The construction of the interisland cable system by Pacwest, however, is at risk unless IXCs, international carriers, and large business users are able to terminate their existing long-term service arrangements with GTE and take advantage of their competitive options.

Long-term service arrangements with incumbent monopoly service providers inhibit the development of competition and effectively prevent customers from using the facilities of competitive service providers such as Pacwest. Several IXCs, international carriers, and large business users have expressed an interest in using Pacwest's interisland cable system for the local portion of their interstate and international traffic, but have indicated that their

^{3/} *Notice of Proposed Rulemaking*, at ¶ 55.

existing long-term service arrangements with GTE would effectively prevent them from using Pacwest's facilities.

The long-term service arrangements with GTE were likely entered into at a time when GTE was the *only* provider of submarine cable facilities between the Hawaiian islands. Pacwest's proposed interisland cable system promises to introduce much-needed competition in the interstate and international access market in Hawaii. However, unless customers are free to take advantage of competitive service options upon their introduction into the market, competitive alternatives, like Pacwest's interisland cable system, will not become available.

The Commission has previously recognized customers with long-term contracts should be able to avail themselves to alternative providers of telecommunications services.

The existence of certain long-term access arrangements also raises potential anticompetitive concerns since they tend to "lock-up" the access market, and prevent customers from obtaining the benefits of the new, more competitive interstate access environment. To address this, we conclude that certain LEC customers with long-term access arrangements should be permitted to take a "fresh look" to determine if they wish to avail themselves of a competitive alternative.^{4/}

State commissions also have recognized that long-term contracts with incumbent providers of telecommunications services can delay and impede the development of competition. The State of Maryland, for example, recently allowed large business customers of Bell Atlantic to rescind their long-term contracts upon the introduction of competition in the local services market.^{5/} Similarly, a settlement agreement between Pacific Bell and

^{4/} *Expanded Interconnection with Local Telephone Company Facilities*, 7 FCC Rcd 7369, 7463-64 (1992) (*Special Access Order*).

^{5/} *See Letter from Daniel P. Gahagan, Executive Secretary MD P.S.C. to John W. Dillon, ML #46814 (March 17, 1995).*

several IXCs was approved by the California Public Utilities Commission (“CAPUC”) in which Pacific Bell agreed to include a 120-day fresh look period in each MTS/WATS/800 contact, which would be triggered upon the introduction of competition.^{6/}

Accordingly, the Commission should require local exchange carriers (“LECs”) to include a “fresh look” provision in all interstate/international access tariffs. This would allow customers with long-term service arrangements with the LECs to consider new competitive providers for their telecommunications needs upon their introduction in the market.

Although market forces are generally preferred over regulation, the public interest requires Commission oversight of the practices of existing monopoly providers of telecommunications services. GTE is the dominant interstate/international access provider in Hawaii and the only provider of fiber optic facilities between the Hawaiian islands. In addition to providing interstate/international access services, GTE also provides international telecommunications services in Hawaii.^{7/} GTE is an authorized facilities-based international telecommunications carrier with an interest in several submarine cable facilities that transit the Hawaiian islands.^{8/} Thus, international carriers serving the Hawaiian islands currently must obtain access facilities from their competitor, GTE. It is therefore critical that

^{6/} *Application of Pacific Bell (U-1001-C), a Corporation for Limited Authority to Provide MTS/WATS/800 contracts*, Decision No. 93-06-032, June 3, 1993.

^{7/} An affiliate of GTE -- GTE Telecom -- also provides resold interexchange services in Hawaii.

^{8/} See *HAW-5 Authorization*, 5 FCC Rcd 7344 (1994); *PacRimEast Authorization*, 5 FCC Rcd 7331 (1994).

international and interstate carriers and large business users are able to use the facilities of competitive providers of telecommunications services once those facilities become available.

CONCLUSION

Pacwest fully supports the Commission's efforts to streamline regulation of international carriers and respectfully urges the Commission to require LECs to include a provision in their interstate/international access tariffs that allows customers to terminate their long term contracts once competitive local access facilities become available.

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