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November 14, 2000

RECEIVED

NOV 14 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Review of Commission Consideration of Applications Under the
Cable Landing Licensing Act
IB Docket No. 00-106

Dear Ms. Salas:

Enclosed for filing please find the original plus fourteen (14) copies of
AT&T's Motion to Strike in connection with the above referenced matter.

Please contact the undersigned if any additional information is required.

Very truly yours,



C. Frederick Beckner III

No. of Copies rec'd 0714
List ABCDE

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

RECEIVED

NOV 14 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Review of Commission Consideration)
of Applications under the Cable Landing)
License Act)

IB Docket No. 00-106

MOTION TO STRIKE

Pursuant to Rule 1.41 of the Commission's Rules, AT&T Corp. and its affiliates Global Networks USA L.L.C. and Concert Global Network Services Ltd. respectfully request that the Commission strike from the record of this proceeding the affidavit of Global Crossing Senior Vice President S. Wallace Dawson, Jr. ("Dawson Affidavit"), submitted as an appendix to Global Crossing's September 20 Reply Comments. The Dawson Affidavit was originally filed by Global Crossing on March 15, 1999, in connection with the Japan-U.S. ("JUS") cable landing license proceeding (the "JUS proceeding"). Global Crossing's subsequent public statements and actions – well before Global Crossing's refile of the Dawson Affidavit in this proceeding – confirm that those allegations are patently false. In view of the duty of honesty and candor to which the Commission holds industry participants,¹ the Dawson Affidavit should be stricken from the record of this proceeding.

The Original Submission of the Dawson Affidavit. In the JUS proceeding, Global Crossing advanced the theory that open investment cables were inherently anticompetitive because their ownership structure purportedly gave the cable owners and foreign

¹ See *Silver Star Comms.-Albany, Inc.*, 3 FCC Rcd. 6342, ¶ 27 (1988); *KQED, Inc.*, 3 FCC Rcd. 2601, ¶ 25 (Rev. Bd. 1988)

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carriers “the ability and incentive . . . to collude and discriminate against” operators of closed investment cables, such as Global Crossing. *JUS Cable Landing License Order*, 14 FCC Rcd. 13066, ¶ 12 (1999). Unable to produce any empirical evidence of such an institutional bias against closed investment cables, Global Crossing relied instead on the Dawson Affidavit, which alleged that Kokusai Denshin Denwa (“KDD”), Japan’s leading telecommunications service provider, had taken steps calculated to benefit the Japan-U.S. Cable Network (“JUS”) at Global Crossing’s expense. Specifically, the Dawson Affidavit asserted that Global Crossing’s competitive position in the Asian market had been badly compromised because: (1) KDD’s construction subsidiary, KDD Submarine Cable Systems (“KDD-SCS”), had diverted resources from Global Crossing’s Pacific Crossing-1 (“PC-1”) cable to the JUS cable project, despite assurances that PC-1 would be accorded manufacturing priority;² and (2) KDD had improperly failed to secure necessary northern landing rights for PC-1, again in contravention of prior assurances.³ Based in part on the assertions in the Dawson Affidavit, the Commission found that Global Crossing had raised colorable concerns concerning the economic implications of the JUS open investment cable project.⁴ Ultimately, the Commission approved the license application based on agreed conditions directed at Global Crossing’s claimed concerns.

The Present Proceeding and the Resubmission of the Dawson Affidavit. In this proceeding, Global Crossing has renewed its broadside attack on open investment cables, again

² Dawson Affidavit ¶¶ 24-26.

³ *Id.* ¶¶ 29-37.

⁴ See *JUS License Order* ¶ 25 (“On the basis of the record in this proceeding, we cannot conclude that Global Crossing’s theories of harm are without merit.”); *id.* ¶ 36 (“We do not, in this proceeding, dismiss the claims that consortium cable systems may slow the growth of competition in international telecommunications, nor do we address whether there are any efficiency benefits to consortium cable systems.”).

charging that they “discourage[] additional capacity from being added to the market,”⁵ and that they encourage foreign carriers “to impede the development of competition,”⁶ and “to discriminate against carriers that choose [closed investment] cables.”⁷ Still unable to find any empirical evidence to back its position, Global Crossing again proffered the March 1999 Dawson Affidavit. But the assertions in the Affidavit, which were unfounded at the time of the JUS proceeding, have since then been flatly disproved, as Global Crossing’s own public statements and actions confirm.

Global Crossing’s Subsequent Admissions Regarding the Conduct of KDD.

Since the Dawson Affidavit was first filed in 1999, Global Crossing has made a number of statements that show beyond a doubt that the allegations made in the Affidavit regarding KDD are false. A Global Crossing press release, dated December 21, 1999, announced that “initial cable connections have been completed on the northern section of . . . Pacific Crossing-1 (PC-1)” and that the company expected PC-1 to be ready for service “three months *ahead* of schedule and *approximately one year before* the next cable system linking the U.S. and Japan [*i.e.*, the JUS cable] will begin service.”⁸ Just two days later, Global Crossing’s CEO, Bob Annunziata, again emphasized that “KDD-SCS . . . delivered Phase 1 of Global Crossing’s Pacific Crossing-1

⁵ Comments of Global Crossing Ltd. at 9 (Aug. 21, 2000).

⁶ *Id.*

⁷ Reply Comments of Global Crossing Ltd. at 25 (Sept. 20, 2000).

⁸ Global Crossing Press Release, *Asia Global Crossing and Global Bandwidth Solutions Announce Completion of Pacific Ocean Subsea and Japanese Terrestrial Cable Systems* (December 21, 1999) (emphasis added) (attached hereto as Exhibit 1).

system *on budget and ahead of schedule.*”⁹ Indeed, in that press statement Global Crossing stated that it was so pleased with KDD-SCS’s performance as a “subcontractor” on PC-1¹⁰ that it has awarded KDD-SCS the primary Phase 1 construction contract for the new East Asia Crossing cable – an 11,600 kilometer cable linking Japan, Taiwan, Korea, Hong Kong and China – and that the choice of KDD-SC “will *ensure* that this project . . . is completed on or before schedule.”¹¹

Thus, Global Crossing itself has directly refuted each of the key assertions in the Dawson Affidavit. Development of the PC-1 cable, far from having been unfairly subordinated, came in a year ahead of the rival JUS cable (and three months ahead of its own construction schedule); the northern landing rights that supposedly had been blocked have been acquired; and rather than having lost its time to market advantage over the JUS cable, Global Crossing’s “threatened” competitive position in the Asian market is now indisputably stronger.

In these circumstances, resubmitting the Dawson Affidavit in this proceeding goes well beyond vigorous advocacy. The Commission expects industry participants “to be fully forthcoming as to all facts and information relevant to a matter before the FCC.” *Silver Star Comms.-Albany, Inc.*, 3 F.C.C. Rcd. 6342, ¶ 27 (1988); *see also In re KQED, Inc.*, 3 FCC Rcd. 2601, ¶ 25 (Rev. Bd. 1988) (“misrepresentation and lack of candor in an applicant’s dealings with the Commission are serious breaches of trust and undermine the integrity of our

⁹ Global Crossing Press Release, *Asia Global Crossing Awards East Asia Crossing Construction Contract to KDD-SCS Inc.* (December 23, 1999) (“Global Crossing December 23 Press Release”) (emphasis added) (attached hereto as Exhibit 2).

¹⁰ Dawson Affidavit ¶ 22.

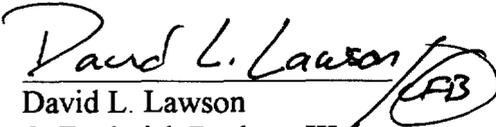
¹¹ Global Crossing December 23 Press Release (emphasis added).

processes").¹² In light of this serious breach of the Commission's policies, the Dawson Affidavit should not be considered as evidence in this proceeding.

CONCLUSION

For the reasons stated above, the Dawson Affidavit should be stricken from the record of this proceeding.

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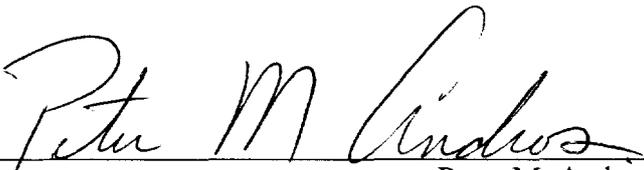
November 14, 2000

¹² *Silver Star* and *KQED* involved applications for broadcast licenses, but of course the strict requirement of candor in official dealings with the Commission extends beyond that context. "The integrity of the Commission's processes cannot be maintained without honest dealing with the Commission by licensees." *In re Policy Regarding Character Qualifications in Broadcast Licensing*, 102 F.C.C.2d 1179, ¶ 61 (1986).

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of November, 2000, I caused true and correct copies of the forgoing Motion to Strike of AT&T Corp. to be served on all parties by mailing, postage prepaid to their addresses listed on the attached service list.

Dated: November 14, 2000
Washington, D.C.


Peter M. Andros

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● Press Releases

Asia Global Crossing and Global Bandwidth Solutions Announce Completion of Pacific Ocean Subsea and Japanese Terrestrial Cable Systems

- Pacific Crossing-1 the most advanced cable ever deployed in the Pacific
- Subsea and terrestrial systems expected to be ready for service before the end of December, three months ahead of schedule
- Early availability creates lead in Japanese market

Tokyo, Japan, and Hamilton, Bermuda - December 21, 1999 - Asia Global Crossing Ltd., an affiliate of Global Crossing Ltd. (Nasdaq: GBLX) and Global Bandwidth Solutions, a subsidiary of Marubeni Corporation (Tokyo Stock Exchange: 8802), today announced that initial cable connections have been completed on the northern section of their transpacific subsea cable, Pacific Crossing-1 (PC-1), the most advanced cable ever deployed in the Pacific, and their Japanese terrestrial system Global Access Limited (GAL).

The subsea and terrestrial systems will combine to provide broadband capacity from the United States to Tokyo, Japan. After testing, the two systems are expected to be ready for service before the end of December, three months ahead of schedule and approximately one year before the next cable system linking the US and Japan will begin service.

"Pacific Crossing is key to our goal of providing a seamless, worldwide network of state-of-the-art fiber optic connectivity for our customers," said Bob Annunziata, Chief Executive Officer of Global Crossing. "Transpacific telecommunications demand has increased tremendously over the last few years, fueled by Internet and other high bandwidth data applications. This demand will be best served by open access IP global networks linked by PC-1, as well as other Global Crossing projects around the world."

"The number of Internet users in Japan is currently approaching 20 million, and growing at a rate of over 50% per year. This trend has made Japan the second largest population of Internet users in the world," said James Pagos, Chief Executive Officer of Global Bandwidth Solutions. "These two projects and the speed with which we have implemented them have given us a tremendous head start in the Japanese market."

Pacific Crossing

PC-1 will connect four landing points in Japan and the United States to form a 21,000-km, four-fiber pair self-healing ring. Landing points in Washington State and Ajigaura are now complete. The transoceanic cable is designed to operate initially at 80 Gbps (gigabits per second) of service capacity, and is upgradeable to 640 Gbps, using DWDM (dense wavelength division multiplexing) technology.

PC-1 is the first non-carrier, non-consortia, privately owned and operated cable system to cross the Pacific Ocean. The system is majority owned by Asia Global Crossing; Global Bandwidth Solutions owns approximately one-third of the joint venture. It is an essential link for international carriers as they prepare to tackle the swelling data, Internet, and telephony traffic demands between the U.S. and the Pacific Rim in the 21st century.

Global Access Limited

Global Access Limited will supply the critical connection from the coast to the major metropolitan markets in Japan on its state-of-the-art terrestrial fiber optic network. The first segment of the network between the PC-1 cable station at Ajigaura (Ibaragi Prefecture) and Tokyo has recently been completed and will begin service in concert with PC-1. Construction on this segment began in September 1998 and principal rights of way were obtained from Ibaragi Kotsu Company and Kashima Rinkai Railway Company.

The second segment of the GAL network will connect PC-1's southern Japanese cable station at Shima (Mie Prefecture) to Osaka and is scheduled to begin service this summer. When completed, the network will connect with Tokyo, Nagoya, and Osaka. These three cities alone constitute nearly 80% of Japan's international telecommunications traffic. At that time, the GAL network will cover over 1,500 kilometers and provide ultra-high capacity over multiple ring configurations providing diverse routing options and redundancies to ensure service quality. GAL will maintain its own operating center and will also be integrated into Global Crossing's new worldwide network operations center in London.

GAL was founded in 1997 by Global Bandwidth Solutions' parent company, Marubeni Corporation. Global Bandwidth Solutions owns the majority of the venture and Global Crossing holds the remaining 49%. GAL was licensed as a Type-1 (facility-based) carrier in Japan in April 1998.

About Asia Global Crossing

Asia Global Crossing is a joint venture among Global Crossing (Nasdaq: GBLX), Softbank (Tokyo Stock Exchange: 9984), and Microsoft (Nasdaq: MSFT) created to provide the Asia Pacific region unprecedented access to a broadband, seamless global network through a combination of high-capacity city rings, terrestrial systems, and undersea cables. Asia Global Crossing offers to businesses and consumers an array of advanced network-based telecommunications services including state-of-the-art telehouses, web hosting, and electronic commerce, as well as low-cost, high-quality telephony in competition with local incumbent carriers. Asia Global Crossing assets will include Global Crossing's 58% interest in Pacific Crossing-1, a subsea system connecting the US and Japan, and East Asia Crossing, a 17,000-km fiber optic subsea system that will link Japan, Taiwan, Korea, Hong Kong, Singapore, Malaysia, the Philippines, and China, as regulations permit.

About Global Crossing

Global Crossing Ltd. (Nasdaq: GBLX) is building and offering services over the world's first global fiber optic network with 97,200 announced

route miles, serving five continents, 24 countries and more than 200 major cities. The Global Crossing Network and its telecommunications and Internet product offerings will be available to over 80% of the world's international communications traffic. Global Crossing hosts more than 300 of the top Internet brands in its Global Centers. Among the brands are some of the largest and most densely trafficked sites on the Web, including Yahoo!, The Motley Fool, Ziff Davis, MP3.com and eToys. Global Crossing's operations are headquartered in Hamilton, Bermuda, with principal offices in Los Angeles, California; London, England; Morristown, New Jersey; and Rochester, New York.

About Global Bandwidth Solutions

Global Bandwidth Solutions is a newly formed subsidiary of Marubeni Corporation and was announced in November 1999. The company was founded to grow Marubeni's existing telecommunications projects -- FLAG, PC-1, GAL and others -- into a new, international broadband data network to meet the rapidly increasing demand for high-bandwidth telecommunications services and traffic. The company is headed by James M. Pagos and based in New York, New York.

About Marubeni

Marubeni Corporation (Tokyo Stock Exchange: 8802) was established in 1858 and is one of Japan's leading general trading companies. Marubeni's operations encompass domestic, import, export, and offshore trade and investment activities and range from the development of natural resources to the retail marketing of finished products. The company's total trading volume was \$98.8 billion in its fiscal year ending March 31, 1998. Marubeni has 8,700 employees and approximately 160 offices and 500 subsidiaries in 80 countries.

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Statements made in this press release that state the Company's or management's intentions, beliefs, expectations, or predictions for the future are forward-looking statements. Such forward-looking statements are subject to a number of risks, assumptions and uncertainties that could cause the Company's actual results to differ materially from those projected in such forward-looking statements. These risks, assumptions and uncertainties include: the ability to complete systems within currently estimated time frames and budgets; the ability to compete effectively in a rapidly evolving and price competitive marketplace; changes in the nature of telecommunications regulation in the United States and other countries; changes in business strategy; the successful integration of newly-acquired businesses; the impact of technological change; and other risks referenced from time to time in the Company's filings with the Securities and Exchange Commission.

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◆ Press Releases

Asia Global Crossing Awards East Asia Crossing Construction Contract to KDD-SCS Inc.

- ◆ East Asia Crossing first in Asia Pacific region to use 2.56 terabit system.
- ◆ Highest capacity cable ever introduced into region.

Los Angeles, California – December 23, 1999 – Asia Global Crossing Ltd., an affiliate of Global Crossing Ltd. (Nasdaq: GBLX), today announced that it has awarded KDD Submarine Cable Systems Inc. (KDD-SCS) the construction contract for Phase 1 of East Asia Crossing (EAC), an 11,600 kilometer subsea fiber optic cable system that will connect Japan, Taiwan, Korea, Hong Kong, and China.

EAC will use bi-directional transport capacity shared over four fiber pairs and state-of-the-art dense wavelength division multiplexing (DWDM) technology to provide the region's first 2.56 terabit system, the highest cable capacity ever introduced to the Asia Pacific marketplace. The EAC system forms a self-healing ring, providing internal restoration capability in the event of a link outage, and will connect with Global Crossing's subsea system Pacific Crossing-1 and its Japanese terrestrial network. EAC Phase 1 planning and construction has begun and initial service for the link between Japan and Hong Kong is scheduled for year-end 2000.

"Global Crossing, through its subsidiary Asia Global Crossing, is dedicated to providing global connectivity in the Asia Pacific region," said Bob Annunziata, CEO of Global Crossing. "By linking the fast-growing markets of Japan, Taiwan, Korea, Hong Kong, and China, and connecting them to the worldwide fiber optic Global Crossing Network, the Asia Pacific region will for the first time gain access to a broadband, seamless global network. Awarding the construction contract to KDD-SCS, the submarine cable supplier that delivered Phase 1 of Global Crossing's Pacific Crossing-1 system on budget and ahead of schedule, will ensure that this project, as all Global Crossing projects, is completed on or before schedule." Planning for the second phase of EAC is underway.

"KDD-SCS continues to lead the world in the application of leading edge technologies," said Dr. Y. Niuro, President of KDD-SCS. "KDD-SCS appreciates the opportunity to apply these advanced technologies in the construction of the EAC cable system."

About KDD Submarine Cable Systems

KDD Submarine Cable Systems Inc. (KDD-SCS) is one of the leading suppliers in the field of terabit capacity fiber optic submarine cable systems. With capabilities in every related area from the development and design of the basic technology and equipment to the actual

construction and construction engineering for the systems themselves, KDD-SCS is an expert in system integration in this field, providing highly reliable submarine cable systems worldwide.

About Asia Global Crossing

Asia Global Crossing is a joint venture among Global Crossing (Nasdaq: GBLX), Softbank (Tokyo Stock Exchange: 9984), and Microsoft (Nasdaq: MSFT) created to provide the Asia Pacific region unprecedented access to a broadband, seamless global network through a combination of high-capacity city rings, terrestrial systems, and undersea cables. Asia Global Crossing offers to businesses and consumers an array of advanced network-based telecommunications services including state-of-the-art telehouses, web hosting, and electronic commerce, as well as low-cost, high-quality telephony in competition with local incumbent carriers. Asia Global Crossing assets will include Global Crossing's 58% interest in Pacific Crossing-1, a subsea system connecting the US and Japan, and East Asia Crossing, a 17,000-km fiber optic subsea system that will link Japan, Taiwan, Korea, Hong Kong, Singapore, Malaysia, the Philippines, and China.

About Global Crossing

Global Crossing Ltd. (Nasdaq: GBLX) is building and offering services over the world's first global fiber optic network with 97,200 announced route miles, serving five continents, 24 countries and more than 200 major cities. The Global Crossing Network and its telecommunications and Internet product offerings will be available to over 80% of the world's international communications traffic. Global Crossing hosts more than 300 of the top Internet brands in its Global Centers. Among the brands are some of the largest and most densely trafficked sites on the Web, including Yahoo!, The Motley Fool, Ziff Davis, MP3.com and eToys. Global Crossing's operations are headquartered in Hamilton, Bermuda, with principal offices in Los Angeles, California; London, England; Morristown, New Jersey; and Rochester, New York.

Statements made in this press release that state the Company's or management's intentions, beliefs, expectations, or predictions for the future are forward-looking statements. Such forward-looking statements are subject to a number of risks, assumptions and uncertainties that could cause the Company's actual results to differ materially from those projected in such forward-looking statements. These risks, assumptions and uncertainties include: the ability to complete systems within currently estimated time frames and budgets; the ability to compete effectively in a rapidly evolving and price competitive marketplace; changes in the nature of telecommunications regulation in the United States and other countries; changes in business strategy; the successful integration of newly-acquired businesses; the impact of technological change; and other risks referenced from time to time in the Company's filings with the Securities and Exchange Commission.

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