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

In the Matter of	)	
	)	
Applications for Consent to Transfer Control filed by	)	
	)	
BELL ATLANTIC NEW ZEALAND HOLDINGS, INC.	)	
	)	IB Docket No. 03-115
and	)	
	)	
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.	)	

To: Chief, International Bureau

JOINT OPPOSITION TO PETITIONS TO DENY AND COMMENTS

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Dated: June 24, 2003

SUMMARY

Bell Atlantic New Zealand Holdings, Inc. ("BANZHI") and Pacific Telecom Inc. ("Pacific Telecom" or "PTI") (collectively, "Joint Applicants") jointly oppose the three petitions to deny and one informal comment filed with respect to the applications to transfer control of Commission licenses and authorizations held by The Micronesian Telecommunications Corporation and its wholly-owned subsidiary, GTE Pacifica Inc. (collectively, "the Companies"), both of which are headquartered in the Commonwealth of the Northern Mariana Islands ("CNMI"). This Joint Opposition demonstrates that the petitions to deny and informal comments lack substantive merit and that grant of the applications would serve the public interest.

Contrary to allegations made in the petitions to deny, PTI is technically and financially qualified to assume control of the licensed telecommunications operations of MTC. PTI's ownership team has significant telecommunications experience gained from founding and managing ISLACOM in the Philippines. PTI's ownership experience will be combined with the experience of the existing management and employment teams of MTC, which in turn will be supported by a comprehensive Transition Services Agreement with Verizon, upon consummation of the proposed transaction. In addition, several letters from well-known financial institutions submitted in this proceeding confirm that PTI has the financial capability to assume control of and operate MTC.

The Joint Applicants agree that the United States has a strong interest in safeguarding national security and are currently working with the U.S. Department of Justice and other Executive Branch agencies to resolve any such issues. Indeed, the Joint Applicants have requested that the FCC defer action on these applications until these agencies notify the Commission that all issues identified, if any, have or have not been resolved.

Consummation of the proposed transaction poses no threat to the Commission's rate integration policies. PTI shares the Governor of Guam's interest in the "continuation of policies of rate integration" and has stated that it voluntarily will sign a rate integration agreement with the CNMI committing PTI not to exceed Verizon's rate integrated long distance domestic message toll service rates for interstate customer dialed direct station-to-station calls for a five year period. Thus, allegations that consummation of the proposed transfer of control would precipitate increased rates and fewer service offerings are unfounded.

Petitioners' arguments regarding PTI's character qualifications are likewise misplaced. As explained in detail in the text of this Joint Opposition, the details of previous, withdrawn applications have no relevance to the Commission's review of the character qualifications of this applicant.

Finally, the parties to this proceeding do not refute that advance authorization for two percent indirect ownership by unidentified foreign individuals is well within the FCC's policy of granting authorization for up to 25 percent for future unidentified foreign entities and individuals. The requested flexibility will allow PTI to permit several current MTC employees who are not U.S. citizens to participate in an employee ownership trust that PTI intends to establish after consummation of the transaction. The trust will allow MTC employees to gain a stake in the continued success of the Companies.

In sum, the proposed transfer of control serves the public interest and should be approved.

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JOINT OPPOSITION TO PETITIONS TO DENY AND COMMENTS

Bell Atlantic New Zealand Holdings, Inc. ("BANZHI") and Pacific Telecom Inc. ("Pacific Telecom" or "PTI") (collectively, the "Joint Applicants"), by their attorneys, hereby jointly file their opposition to the three petitions to deny and one informal comment filed with respect to the above-captioned applications. These applications seek Federal Communications Commission ("FCC" or "Commission") approval for the proposed transfer of control of Commission licenses and authorizations held by The Micronesian Telecommunications Corporation ("MTC") and its wholly-owned subsidiary, GTE Pacifica Inc. ("GTE Pacifica") (collectively, "the Companies"), both of which are headquartered in the Commonwealth of the

Northern Mariana Islands ("CNMI"). Comments on the applications were filed by the Governor of Guam ("Comments of the Governor of Guam"); and petitions to deny were filed by the Governor of the CNMI ("Petition to Deny of the CNMI Governor"), a few elected officials in the CNMI House of Representatives ("Petition to Deny of the CNMI House"), and Mr. Herman Q. Deleon Guerrero ("Petition to Deny of Mr. Guerrero").[1]

In this opposition, the Joint Applicants show that objections to the transfer applications lack merit because: 1) Pacific Telecom is both technically and financially qualified to assume the operations of MTC; 2) issues of national security (if any) will be resolved by the U.S. Department of Justice and other Executive Branch agencies; 3) consummation of the proposed transaction poses no threat to the Commission's rate integration policies; 4) the details of previous, withdrawn applications have no relevance to the Commission's review of the character qualifications of this applicant; and (5) allowing two percent flexible foreign ownership falls squarely within the FCC's policy. Accordingly, grant of the applications would serve the public interest.

I. PTI HAS DEMONSTRATED THAT IT IS TECHNICALLY AND FINANCIALLY QUALIFIED TO ASSUME THE OPERATIONS OF MTC

PTI has demonstrated in the applications that it is both technically and financially qualified to assume the operations of MTC. PTI, moreover, intends to use its technical and financial assets to make MTC and GTE Pacifica the foundation for a regional

[1] The filings were submitted in response to the FCC's public notice. *See* Commission seeks Comment on Applications for Consent to Transfer Control Filed by Bell Atlantic New Zealand Holdings, Inc. and Pacific Telecom Inc., DA 03-1532, IB Docket No. 03-115 (May 9, 2003) ("Public Notice").

telecommunications expansion effort.[2] PTI's entry into the CNMI telecommunications market will, therefore, benefit consumers.

A. PTI Is Technically Qualified To Be An FCC Licensee

As set forth in detail in PTI's Petition for Declaratory Ruling, PTI's ownership team has significant telecommunications experience that, upon consummation of the proposed transaction, will be combined with the experience of the existing management and employment teams of MTC, enhanced by a comprehensive Transition Services Agreement with Verizon, to ensure continuity of service.

PTI's own technical experience is a result of experience gained when the owners of PTI (the Delgado family) founded and managed ISLACOM. The Governor of the CNMI incorrectly asserts in his petition, however, that "[a]ny expertise the owners of Islacom previously had almost certainly does not cover the wide range of facilities and services encompassed within MTC's broad-based operations."[3] This allegation is unfounded. ISLACOM developed both local exchange as well as paging and cellular communication services for previously underserved or unserved rural insular communities in the Philippines. These were daunting tasks, especially when it is considered that ISLACOM was a newly-formed company operating in the developing world. By the time the Delgado family began negotiations to sell its stake in ISLACOM, it was one of the three largest telecommunications companies in terms of assets in the Philippines. In 1997, ISLACOM had assets roughly ten times that of MTC and provided cellular, long distance, data, paging and local exchange services.

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[2] Petition of the Office of the Governor of The Commonwealth of The Northern Mariana Islands To Deny, Or, In The Alternative, To Designate For Hearing, IB Docket No. 03-115 and File No. ISP-PDR-20030418-00012, at 2 (June 9, 2003) (noting, in contrast, that BANZHI and its parent corporation, Verizon Communications Inc. ("Verizon"), wish to exit the CNMI market) ("Petition to Deny of CNMI Governor").

[3] *See* Petition to Deny of CNMI Governor at 16.

ISLACOM also was the first company to deploy GSM digital service in the Philippines and it pioneered in Asia the use of wireless local loop technology developed by Lucent, illustrating ISLACOM's commitment to deploying the latest in advanced technology.[4] Indeed, the Delgado family continues to maintain strong relationships with ISLACOM's former equipment suppliers, like Lucent, and will use these long-standing relationships to ensure that MTC is at the forefront of technology.[5]

In addition, PTI has committed to supplement its own substantial telecommunications experience. For example, PTI will keep in place MTC's existing management team. PTI also has stated that it will hire a seasoned telecommunications veteran as MTC's new CEO.[6] Finally, at the closing of the proposed transaction, PTI intends to sign a Transition Services Agreement by which Verizon will assist on software and engineering issues and will provide regulatory and technical consultation.[7]

In sum, the combination of the prior telecommunications experience of PTI's owners, the continuity of the existing management and employment teams of MTC, a transition services agreement with Verizon, and the hiring of a new and knowledgeable CEO of MTC demonstrates that PTI is and will continue to be technically qualified to assume MTC's operations.

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[4] The CNMI Governor claims that ISLACOM "fell short of commitments to the Philippine government in terms of service coverage." Petition to Deny of the CNMI Governor at 16 n.46. In fact, none of the companies with obligations at the 700,000 local exchange line level were able to meet the government's initial deadlines due to the difficulties of providing service in impoverished rural areas and the Asian financial crises of the mid-1990's. Although ISLACOM did not meet the government's initial goals for land-line connections, ISLACOM did install switch capacity sufficient to meet more than double the level of demand actually experienced.

[5] *See* Attachment A, a June 24, 2003, letter from Lucent Technologies Singapore.

[6] *See* Petition of Pacific Telecom Inc. For Declaratory Ruling Under Section 310(b)(4) of The Communications Act of 1934, As Amended, File No. ISP-PDR-20030418-00012, at 9 (Apr. 18, 2003) ("Petition for Declaratory Ruling").

[7] *See id.*

B. PTI Is Financially Qualified To Be An FCC Licensee

PTI has also demonstrated that it is financially qualified to assume the operations of MTC. As the Petition to Deny of the CNMI Governor correctly points out, Pacific Telecom previously submitted two letters from well-known financial institutions attesting to the value of accounts held by the ultimate owners of PTI.[8] PTI concurrently will file, under request of confidentiality, a letter dated June 20, 2003, from a well-known international financial institution confirming that the two ultimate owners of PTI collectively have unencumbered funds available to pay the entire purchase price of MTC in cash. In other words, although the Delgados have referenced their principal business operation, Citadel Holdings, as visible illustration of their financial wherewithal, the June 20 letter confirms that PTI will not need to rely upon any funding from Citadel.

PTI also appends as Attachment B to this Joint Opposition a June 23, 2003, letter from the President and Chief Executive Officer of the Philippine National Bank affirming that the businesses of the Delgado family in the Philippines carry practically no debt and that funding for the MTC acquisition would be available from Philippine banks if the Delgado family desired it.[9] Thus, concerns regarding the recent financial performance of Citadel have no bearing on PTI's financial ability to undertake the transaction contemplated in this proceeding.

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[8] *See* Petition to Deny of CNMI Governor at 13.

[9] The President of and Chief Executive Officer of the Philippine National Bank, Lorenzo V. Tan, is no relation to the former shareholder of PTI, the Tan family of the CNMI.

II. THE PROPOSED TRANSACTION AS CONDITIONED WILL SAFEGUARD U.S. NATIONAL SECURITY INTERESTS

The Petition to Deny of the CNMI Governor requests that the Commission undertake an extensive analysis of national security concerns with respect to the proposed transaction.[10] An independent analysis by the FCC is not warranted, however, because the Commission's clear policy when evaluating proposed foreign ownership of U.S. common carriers is to defer to the Executive Branch of the U.S. Government with respect to national security and law enforcement issues.[11] In accordance with this well-established policy, PTI and BANZHI expressly requested that the FCC not take dispositive action on the pending applications until the U.S. Department of Justice and other Executive Branch agencies notify the Commission that all issues identified, if any, have or have not been resolved.[12]

Indeed, PTI has been taking active steps to ensure that it is working with the appropriate executive agencies to resolve any national security issues. Jose Ricardo Delgado, who has earned a bachelor's degree in International Relations from Brown University, *magna cum laude*, and obtained an MBA degree from the Kellogg School at Northwestern University, visited Washington, D.C. prior to the filing of the instant applications in order to have face-to-face meetings with officials from the U.S. Department of Justice, State Department, and the

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[10] Petition to Deny of CNMI Governor at 18-31; *see also* Letter from Representative Stanley T. Torres et al. to Michael K. Powell, Chairman, FCC at 2 (June 6, 2003) ("Petition to Deny of the House of Representatives of the CNMI"). Under the new ownership structure, Pacific Telecom will, initially, have 100 percent ultimate Philippine ownership. The U.S. and the Philippines have had long-standing political, cultural, and trade ties, and the Philippines is one of the U.S.'s staunchest Asian allies. *See, e.g.*, Scott Lindlaw, *Staunch Ally Welcomed In Style*, available at http://www.cbsnews.com/stories/2003/05/19/world/main554451.shtml (last visited June 22, 2003) (describing Philippine President Gloria Macapagal Arroyo as "a staunch U.S. ally in the war on terror and in Iraqi reconstruction.").

[11] *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities,* Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23919-20 (1997) ("*Foreign Participation Order*").

[12] *See* Petition for Declaratory Ruling at 14.

Committee on Foreign Investment in the United States. Moreover, representatives of PTI already have met with Executive Branch officials to work together on a Network Security Agreement. In these meetings, PTI has consistently pledged its cooperation and expressed its intention to do whatever is necessary to resolve any law enforcement or national security concerns that the Executive Branch agencies may have.

Opposing Petitioners have also suggested that extraordinary national security concerns stem from the current lack of vigorous competition in some components of the CNMI market.[13] As set forth in detail in PTI's Petition for Declaratory Ruling, however, the CNMI market is, and will remain, competitive.[14] Although it is true that MTC is currently the sole provider of wireline local service, the Commission's pro-competitive, open-entry policies apply to the CNMI and Guam. Moreover, as explained in PTI's Petition for Declaratory Ruling, the Commission has previously approved ownership of an incumbent local exchange carrier ("ILEC") by a foreign company.[15] That approval contained no extraordinary national security analysis, and a departure from Commission precedent is not warranted here. Thus, allegations of unusual national security concerns stemming from the degree of competition in the CNMI market are

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[13] *See* Petition to Deny of the CNMI Governor at 21. The Petition to Deny filed by certain representatives of the CNMI House of Representatives also suggests, contrary to both the statutory standard and Commission policy, that the FCC should prohibit "any application by a foreign-owned cooperation from acquiring any majority or minority interest in the Commonwealth's telecommunications facilities." *See* Petition to Deny of the House of Representatives of the CNMI at 1.

[14] The competitiveness of the CNMI market is illustrated by Attachment C, which indicates that pre-subscribed 1+ originating calls are a small percentage (less than one quarter) of the total CNMI market for long distance services. More than one-half of all originating minutes are carried by 1-800 service providers unaffiliated with MTC (52.36% of the total long distance market).

[15] *See* Petition for Declaratory Ruling at 6; *In re Global Crossing Ltd. And Frontier Corporation; Applications for Transfer of Control Pursuant to Sections 214 and 310(d) of the Communications Act, as amended,* Memorandum Opinion and Order, 14 FCC Rcd 15911, 15918-19 (1999) (approving the acquisition of Frontier Communications, an ILEC with multiple facilities in the continental United States, by Global Crossing, a foreign (Bermuda) company whose business the Commission found to be principally conducted in countries that are members of the WTO).

unfounded, have no relevance to the Commission's analysis, and in any event will be considered fully by the Executive Branch agencies.

III. THE PROPOSED TRANSACTION WILL NOT UNDERMINE RATE INTEGRATION IN THE CNMI

The Comments filed by the Governor of Guam express an interest in the "continuation of policies of rate integration" and acknowledge PTI's "praiseworthy" commitment to rate integration.[16] Opposing petitioners, however, inaccurately speculate that consummation of the proposed transfer of control could possibly result in increased rates and fewer service offerings in contravention of the Commission's rate integration policy.[17] This allegation is unfounded. The transaction poses no threat of reducing the amount or quality of products and services or of undermining rate integration in the CNMI.

Contrary to the suggestions of the CNMI Governor, Section 254(g) of the Communications Act, 47 U.S.C. § 254(g), does not sanction the Commission's denial of, or placement of conditions on, the proposed transfer of control of MTC and GTE Pacifica to PTI.[18] Instead, Section 254(g) requires that:

> rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas

and that

> a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than rates charged to its subscribers in any other state.

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16 Comments of the Governor of Guam at 2-3.

17 *See* Petition to Deny of the CNMI Governor at 31; *see also* Petition to Deny of the House of Representatives of the CNMI at 2.

18 47 U.S.C. 254(g).

Thus if a long distance provider offers services to consumers in both the CNMI and other U.S. states, it must offer basically the same rates to subscribers in both "states." Similarly, if a long distance provider offers service in both "rural and high cost" areas and "urban" areas, it must offer basically the same rates in both areas.

Because PTI will be under no statutory obligation to offer service in the CNMI at rates that Verizon or other carriers offer service on the U.S., the Petition to Deny of the CNMI Governor assumes that PTI will therefore increase rates and discontinue services.[19] Contrary to this presumption, PTI has stated that it voluntarily will sign a rate integration agreement with the CNMI committing PTI not to exceed Verizon's rate integrated long distance domestic message toll service rates for interstate customer dialed direct station-to-station calls for a five year period.[20] In fact, GTE Pacifica currently offers domestic long distance calling plans containing rates that are lower than required by the rate integration policy currently applicable to GTE Pacifica's parent, Verizon.[21] The lower rates are driven by competition, and the Joint Applicants are unaware of any reason why such competition will diminish upon PTI's acquisition of GTE Pacifica.

Although it is not clear that the Commission would have authority to impose a rate integration obligation on a carrier not subject to Section 254(g), to resolve any potential concerns, PTI would not object to the Commission conditioning its approval of the proposed

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[19] *See* Petition to Deny of the CNMI Governor at 31.

[20] *See* Petition for Declaratory Ruling at 10-11. In addition, as explained in its Petition for Declaratory Ruling, PTI has stated that it intends to increase investment in and continue expansion of the Companies' services, including (1) preserving and enhancing the existing wireline voice business; (2) accelerating development of wireless communications; (3) aggressively expanding data (DSL) and other broadband services; (4) pursuing opportunities in international telecommunications; and (5) maintaining and further developing a highly trained employee base.

[21] Attachment D provides a table comparing MTC's current Offshore Calling Plan and calling card rates to rate integrated rates.

transfers of control on PTI's commitment not to exceed Verizon's rate integrated long distance message toll service rates for interstate customer-dialed direct station-to-station calls for a five year period from date of FCC approval.[22]

IV. THE CURRENT APPLICATIONS UNDER REVIEW ARE NEW APPLICATIONS, AND ANY PREVIOUS CHARACTER QUALIFICATION ALLEGATIONS CANNOT BE ATTRIBUTED TO THE CURRENT APPLICANT

The Commission has emphasized that, when considering an applicant's character eligibility, the Commission inquiry will "focus on the likelihood that an applicant will deal truthfully with the Commission and comply with the Communications Act and [FCC] rules and policies."[23] In an effort to call into question PTI's character in the current proceeding, the Petition to Deny of the CNMI Governor now points to PTI's previously filed transfer of control applications in IB Docket No. 02-111, since withdrawn, and claims that statements and actions by parties to the prior applications should preclude the approval of the newly filed applications.[24] This argument is without merit.

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[22] The Petition to Deny of the CNMI Governor suggests that approval of the applications should be conditioned on the requirement that Pacific Telecom sustain all existing product offerings at pricing not to exceed existing rate levels *indefinitely*. *See* Petition to Deny of the CNMI Governor at 31. The FCC clearly has no statutory authority to extend the reach of Section 254(g) of the Act indefinitely to carriers to whom the statutory language does not apply. The Commission also has no record upon which it would order an indefinite freeze on existing rates, as the CNMI Governor requests.

[23] *See Policy Regarding Character Qualifications in Broadcast Licensing, Report, Order, and Policy Statement*, 102 F.C.C.2d 1179, 1183 (1986) (*"Character Policy Statement"), recon. granted in part, denied in part,* 1 FCC Rcd 21 (1986), *appeal dismissed sub nom., Nat'l Ass'n for Better Broadcasting v. FCC,* No. 86-1179 (D.C. Cir. June 11, 1987), *modified by Policy Regarding Character Qualifications in Broadcast* Licensing, Policy Statement and Order, 5 FCC Rcd 3252 (1990) ("Modified Character Policy Statement").

[24] *See Petition to Deny of the CNMI Governor* at 4-5. Herman Q. Deleon Guerrero also attempts to cast doubt on PTI's credibility by asserting that he previously was a corporate shareholder of MTC while employed as vice president for administration. Petition to Deny of Mr. Guerrero at 2 (May 21, 2003). This statement regarding a single individual does not contradict Mr. Delgado's statement to the press that PTI proposes a trust for 127 employees and that "[t]his has never happened before in the CNMI, where employees would also own the company they work for." It is PTI's understanding that at the time of Mr. Guerrero's share ownership not all MTC employees had an ownership stake.

The FCC should not consider character allegations that are related exclusively to former shareholders of PTI who are not parties to the current proceeding. Pacific Telecom's current ownership structure has significantly changed from the ownership structure represented in the withdrawn applications. In IB Docket No. 02-111, Pacific Telecom explained that (a) it was just recently formed as the vehicle to purchase the assets of MTC and GTE Pacifica, (b) it had no current operations, and (c) it had not yet even been funded by its three shareholders, Prospector Investment Holdings, Inc. ("Prospector" owned by Ricardo C. Delgado and his son Jose Ricardo Delgado from the Philippines), THC Communications Corporation (ultimately owned by a series of Tan Family trusts), and Missouri Holdings Corporation (owned by investor Michael Leung with Canadian/British National Overseas Citizenship). Seats on the board of directors were to be divided evenly between Prospector and the Tan Family corporation. A Tan representative, George Chiu, an American citizen, was designated initially as chairman of PTI and the person responsible for preparing and executing the prior FCC applications on behalf of PTI.

The Petition to Deny of the CNMI Governor claims that, in the now-withdrawn transfer of control application in IB Docket No. 02-111, PTI made "material misstatements to the Commission."[25] In fact, PTI clarified its certifications and fully disclosed all the relevant facts in IB Docket No. 02-111.[26]

The prior allegations of misstatements, however, are no longer relevant here. As the Governor of the CNMI acknowledges, "the character questions originally involved the actions of

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[25] Petition to Deny of the CNMI Governor at 5.

[26] The Governor's allegations of material misstatements are simply that, allegations. *See Character Policy Statement,* 102 F.C.C.2d at 1205 ("there must be an ultimate adjudication by an appropriate trier of fact, either by a government agency or court, before we will consider the activity in our character determinations").

companies affiliated with Tan Holdings Corp ("Tan")."[27] Prior to the IB Docket No. 02-111 proceeding, the Joint Applicants had no knowledge that an affiliate of Tan in an unrelated business had entered a *nolo contendere* plea more than eleven years ago and had failed to disclose it on the FCC application forms that Tan had primary responsibility for completing. In any event, as PTI described very clearly in the pending set of applications in the instant docket, neither Tan (and its representative George Chiu) nor Missouri Holdings Corporation are parties to the current application; nor are they associated in any way with the new applications filed by PTI.[28] Accordingly, any alleged misstatements made by these former parties have no bearing on the Commission's consideration of the applications currently under review.

Specifically, character questions involving the Tan family are irrelevant to the current applications because that former shareholder does not maintain *any* attributable interest in the current applicant.[29] In the context of reviewing character qualifications for broadcast licensees, the Commission has stated that to attribute character issues regarding non-FCC conduct, "the individual involved in such acts must have an interest in the parent corporation which is recognized and attributed under the multiple ownership rules ... the individual must actually be involved in some fashion in the day-to-day operations of the broadcast subsidiary."[30] As

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[27] Petition to Deny of the CNMI Governor at 7.

[28] PTI stated in no uncertain terms that neither THC Communications Corporation (Tan) nor Missouri Holdings Corporation, nor their ultimate owners, "will have any future financial or voting interest in Pacific Telecom." Petition for Declaratory Ruling at 3 n.5.

[29] The FCC has defined "party to the application" in the context of the Anti-Drug Abuse Act of 1988 by stating that a party shall include "If the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or non-voting) of the applicant." 47 CFR § 1.2002(b)(2). Applying a similar definition here, neither Chiu nor Tan can be classified as parties to the current application, as they do not hold positions as officers or directors nor do they have any ownership interest in PTI.

[30] *See* Character Policy Statement, 102 F.C.C. 2d at 1219. The FCC further stated that "If the individual's role in the parent is not such to confer an attributable interest, the Commission finds no basis on which to consider his or her nonbroadcast actions for character purposes." *Id.*

discussed above, PTI has unequivocally severed all ties to Tan. Accordingly, character questions regarding Tan are not attributable to PTI.

Finally, even if the character questions involving Tan were somehow attributable to PTI, the FCC has stated that mitigating factors in considering questions of character include "efforts made to remedy the wrong" and "overall record of compliance."[31] In addition, "corporate misconduct often can be cured by replacing management and directors."[32] In this proceeding, PTI has changed its former ownership structure and replaced management; and the parties whose character was called into question in the prior proceeding have voluntarily withdrawn from PTI. Accordingly, by implementing these changes before filing the new applications, PTI has successfully rehabilitated any alleged prior character issues.[33]

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[31] *See* Modified Character Policy Statement, 5 FCC Rcd at 3252 n.4. The FCC also explained "Rehabilitation is generally a factor when misconduct occurred prior to the filing of the application in question. Whether an applicant has been rehabilitated will necessarily turn on the facts of each case." *See id; see also In the Matter of Lockheed Martin Corporation, COMSAT Government Systems, LLC, and COMSAT Corporation, Applications for Transfer for Control of COMSAT Corporation and its Subsidiaries*, Order on Reconsideration, 17 FCC Rcd 13160,13167 (2002) (stating "The Commission will consider a felony conviction as relevant to a licensee's character qualifications and an indication of its propensity to obey the law. However, the Commission also takes into consideration mitigating factors, including willfulness, frequency, correctness, and seriousness of the misconduct as well as efforts to remedy the wrong and overall record of compliance with Commission rules and policies.").

[32] *See* Character Policy Statement, 102 FCC 2d at 1217 (citing *RKO General Inc. v. FCC*, 670 F.2d 215 (D.C. Cir. 1981)).

[33] Although the Governor of the CNMI states in the title to his pleading that he requests, in the alternative, to designate the transfer applications for hearing, the text of the pleading does not address this alternative request. This failure is sufficient to doom the CNMI Governor's request in light of the fact that Congress amended Section 309(d) in 1960 to significantly increase the burden a petitioner must satisfy in order to obtain an evidentiary hearing. *See Gencom Inc. v. FCC*, 832 F.2d 171, 180-181 (D.C. Cir. 1987). The allegations must be of specific evidentiary facts, not "ultimate, conclusionary facts or more general allegations on information and belief, supported by general affidavits." *See Columbus Broadcasting Coalition v. FCC*, 505 F.2d 320, 323 (D.C. Cir. 1974). The Commission must then weigh the evidentiary facts against the facts offered by PTI in rebuttal. *Gencom*, 832 F.2d at 181. Under these standards, the CNMI Governor clearly has not met its burden for a hearing.

IV. ALLOWING TWO PERCENT FLEXIBLE FOREIGN OWNERSHIP FALLS SQUARELY WITHIN THE FCC'S POLICY

PTI seeks advance authorization for two percent indirect ownership by unidentified foreign individuals. Because this small percentage is well within the FCC's policy of granting authorization for up to 25 percent for future unidentified foreign entities and individuals, the Commission should grant this limited advance authorization.[34]

V. CONCLUSION

As demonstrated above, PTI possesses the requisite technical, financial and character qualifications to assume the operations of MTC. In addition, the proposed transaction as conditioned will safeguard U.S. national security and will not undermine rate integration in the CNMI. Accordingly, the Joint Applicants respectfully request that the Commission find that the public interest will be served by grant of the Joint Applications and Petition for Declaratory Ruling.

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[34] *See* Petition for Declaratory Ruling at 15-16. No party objected to the two percent flexibility requested by PTI, although two parties questioned it. *See* Petition to Deny of the CNMI Governor at 11; Petition to Deny of Mr. Guerrero at 2. PTI will use the requested flexibility in connection with a trust PTI proposes to create after consummation of the transaction. Creation and funding of the trust by PTI is intended to align the interests of MTC's owners with MTC employees whereby MTC employees eventually will have a ten percent beneficial ownership stake in PTI. Because not all current MTC employees are U.S. citizens, PTI requires FCC advance authorization for the non-U.S. citizens to become beneficial owners. Hypotheticals about an influx of Filipino laborers are just that, unfounded hypotheticals. Moreover, any influx of foreign nationals would be within the CNMI Governor's jurisdictional responsibility.

Respectfully Submitted,

/s/

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PACIFIC TELECOM INC.

Kenneth D. Patrich
Timothy J. Cooney

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202.783.4141
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Its Attorneys

Dated: June 24, 2003

ATTACHMENT A

Lucent Technologies
Bell Labs Innovations

Lucent Technologies Singapore Pte Ltd
750D Technopark@Chai Chee
#06-01 Chai Chee Road
Singapore 469004
Tel: (65) 240-8231
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June 24, 2003

To : Attorney at Law
Wilkson Barku
Knauuer LLT
Attention : Mr Timothy Cooney
Fax No. +1 202 783 5851

Dear Mr Cooney :

This is to certify that the Delgado Family through companies owned by them, was a major customer of Lucent in the mid 1990's, and as a customer, was always interested in the latest technology offerings Lucent had. In fact, we created for them a state of the art network in the previously underserved island of Cebu/Bohol/Leyte, and complimented this with the first and largest deployment of Wireless Local Loop Technology in Asia at that time.

We have continued to maintain a dialogue with the Delgado Family, and update them with Lucent's latest products. We are confident in the future, that the family will return as a Top customer of Lucent in the Far East.

Yours Sincerely,

Vijay Gupta
Managing Director, Sales and Marketing
Mobility Segment
ASEAN Region
Cc : Ricardo Delgado
Fax No. +632-812-7711

ATTACHMENT B

Philippine National Bank

AUTHORIZED DEPOSITORY OF THE REPUBLIC OF THE PHILIPPINES

LORENZO V. TAN
PRESIDENT & CHIEF EXECUTIVE OFFICER

June 23, 2003

Mr. Adam Turner
Executive Director
Commonwealth Telecommunications
Commission
Saipan, CNMI

Dear Mr. Turner:

It has been quite some time since we met here in Manila while you were conducting your due diligence on the Delgado family. Based on recent information, I know now that the Delgado family has decided to purchase MTC on its own, despite some objections regarding their former partner from the Governor of the CNMI.

Moreover, I have been informed that in the recent petition filed by the said governor, his lawyer questions the Delgados' financial capability to do this transaction. I wanted to write you personally so that I could inform you of facts that would lay aside their apprehensions.

As is commonly known in the business community, the Delgados sold out of Islacom at the top of the market in 1999 for over $60M USD. They have yet to deploy that capital locally. In addition, the Delgados' businesses locally continue to expand with internally generated funds and have not returned to the debt markets since Deutsche Telekom invested close to $250 million USD into their company in 1996.

I remember stressing to you that as a bank, we look at the potential clients' willingness and capacity to repay loans. The Delgados would qualify on both counts being one of the families in Manila who has been in business for three generations and had accumulated substantial finances in the form of cash, marketable securities and real estate.

That said, they could easily finance this acquisition. If they were to choose to finance part of this transaction locally, there would be several banks which would compete commercially to finance their expansion. We at PNB, which is amongst the country's largest 5 banks, would be willing to work with them going forward.

I hope that this information puts to rest whatever doubts the governor may have regarding their financial capability. Please call me if you have any more questions.

Very truly yours,

Lorenzo V. Tan
President & Chief Executive Officer

ATTACHMENT C

Long Distance Market Share in the CNMI for All Originating Access Minutes and for Only Presubscribed 1+ Originating Minutes

	MARKET SHARE FOR ALL ORIGINATING ACCESS MINUTES*	MARKET SHARE FOR ONLY PRESUBSCRIBED 1+ORIGINATING MINUTES
Verizon Micronesia	0.00%	0.00%
Verizon Pacifica	17.11%	71.28%
IT&E Overseas	5.16%	21.51%
TelePacific Network, Inc.	1.41%	5.89%
Worldcom	23.64%	0.00%
Startec/PCI	0.32%	1.33%
All-others (1-800)**	52.36%	0.00%
TOTAL	100.00%	100.00%

* Source: May 2003 YTD Summary of billed Carrier Access MOU Report

** These minutes are terminated by AT&T and Sprint via correspondence agreements with Verizon Pacifica.

ATTACHMENT D

Summary of Current Rate Integrated Rates, Optional Calling Plan (OCP) Rates and Prepaid Rates for Calls Originating in the CNMI

		Standard Day		Standard Evening		Standard Night		Weekend Day		Weekend Evening/Night	
		1st Min	Addl Min	1st Min	Addl Min	1st Min	Addl Min	1st Min	Addl Min	1st Min	Addl Min
	U.S Mainland										
1	Rate Integrated Rate	$0.40	$0.40	$0.40	$0.40	$0.40	$0.40	$0.40	$0.40	$0.40	$0.40
2	OCP	$0.20	$0.20	$0.14	$0.14	$0.14	$0.14	$0.14	$0.14	$0.14	$0.14
3	Prepaid Card	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33
	Hawaii										
1	Rate Integrated Rate	$0.34	$0.34	$0.34	$0.34	$0.34	$0.34	$0.34	$0.34	$0.34	$0.34
2	OCP	$0.20	$0.20	$0.14	$0.14	$0.14	$0.14	$0.14	$0.14	$0.14	$0.14
3	Prepaid Card	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33
	Alaska										
1	Rate Integrated Rate	$0.34	$0.34	$0.34	$0.34	$0.34	$0.34	$0.34	$0.34	$0.34	$0.34
2	OCP	$0.20	$0.20	$0.14	$0.14	$0.14	$0.14	$0.14	$0.14	$0.14	$0.14
3	Prepaid Card	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33
	Guam										
1	Rate Integrated Rate	$0.25	$0.25	$0.25	$0.25	$0.25	$0.25	$0.25	$0.25	$0.25	$0.25
2	OCP	$0.20	$0.20	$0.14	$0.14	$0.14	$0.14	$0.14	$0.14	$0.14	$0.14
3	Prepaid Card	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33
	US Virgin Islands/Puerto Rico										
1	Rate Integrated Rate	$0.50	$0.50	$0.50	$0.50	$0.50	$0.50	$0.50	$0.50	$0.50	$0.50
2	OCP	$0.20	$0.20	$0.14	$0.14	$0.14	$0.14	$0.14	$0.14	$0.14	$0.14
3	Prepaid Card	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33	$0.33

1 The Rate Integrated Rate is the Verizon Pacifica Direct Dial Calls Usage Charge, effective June 1, 2003.

2 The OCP rate is the rate for the WorldPass Extra Savings Plan for Residence and WorldPass Extra Savings Plan for Business, effective July 31, 2001.

3 The Prepaid Card rate is the WorldPass Verizon VIP Prepaid Phone Card - CNMI, effective July 31, 2001. For prepaid card calls, the first three minutes or fraction thereof will be billed at the rate of 3 minute rate.

CERTIFICATE OF SERVICE

I, Claudia L. Cartagena, a legal secretary at Wiley Rein & Fielding LLP certify that on June 24, 2003, the foregoing was served on all parties listed below by hand delivery (indicated by asterisk) and U.S. mail, first class, postage prepaid.

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