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Federal Communications Commission (F.C.C.)

Memorandum Opinion, Order and Authorization

IN THE MATTER OF TELEFONICA LARGA DISTANCIA DE PUERTO RICO, INC.
File No. ITC-95-490

Application for Authorization Under Section 214 of the Communications Act of 1934, As Amended, to Construct, Acquire Capacity in and Operate an Optical Fiber Cable System Linking the Dominican Republic and Puerto Rico

AT&T CORP.

GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED

INTERNATIONAL TELECOMMUNICATIONS CORPORATION

MCI INTERNATIONAL, INC.

PACIFIC GATEWAY EXCHANGE

SPRINT COMMUNICATIONS COMPANY, L.P.

THE ST. THOMAS AND SAN JUAN TELEPHONE COMPANY, INC.

TELECOMUNICACIONES ULTRAMARINAS DE PUERTO RICO, AND

IDB WORLDCOM SERVICES, INC.

File No. **ITC-95-580**

Joint Application for Authorization Pursuant to Section 214 of the Communications Act of 1934, As Amended, to Construct, Acquire, and Operate Capacity in a Digital Submarine Cable System Between the Dominican Republic and Puerto Rico, The ANTILLAS I Cable System

Adopted: June 28, 1996

Released: July 2, 1996

***7979** By the Chief, Telecommunications Division:

1. In this Order, we grant the application of Telefonica Larga Distancia de Puerto Rico, Inc. (TLD) [FN1] requesting authority pursuant to Section 214 of the Communications Act of 1934, as amended, [47 U.S.C. § 214](#), to (1) construct and op-

(Cite as: 11 FCC Rcd. 7978)

erate a high capacity digital submarine cable system known as the ANTILLAS I cable system linking the Dominican Republic and Puerto Rico; (2) acquire capacity in ANTILLAS I; (3) acquire by lease such extension facilities as may be required to extend capacity in ANTILLAS I, and (4) activate and operate capacity in ANTILLAS I and in the aforementioned extension facilities for the provision of its authorized telecommunications services. [FN2]

2. We also grant the joint application of AT&T Corp. (AT&T), GTE Hawaiian Telephone Company Incorporated (HTC), International Telecommunications Corporation (ITC), MCI International, Inc. (MCII), Pacific Gateway Exchange (PGE), Sprint Communications Company, L.P. (Sprint), The St. Thomas and San Juan Telephone Company, Inc. (STSJ), Telecomunicaciones Ultramarinas de Puerto Rico (TUPR) and IDB WorldCom Services, Inc. (WorldCom), [FN3] for authority to (1) construct, acquire and operate capacity in a digital submarine cable system known as the ANTILLAS I cable system between the Dominican Republic and Puerto Rico; (2) acquire by lease or other comparable means such extension facilities as may be required to extend the capacity to be acquired in ANTILLAS I; and (3) activate capacity in ANTILLAS I and in the extension facilities for the provision of their authorized services. [FN4] We find that TLD and the Joint Applicants have provided sufficient information to comply with [Section 214](#) of the Communications Act, and therefore grant the authority to construct, acquire capacity in and operate ANTILLAS I, subject to the conditions below.

3. On August 18, 1995, TLD and TUPR filed a joint application for [Section 214](#) Authorization. Their application was placed on public notice on August 25, 1996. AT&T filed a petition to deny the application. TLD filed an opposition to AT&T's petition, to which AT&T replied. On October 5, 1995, TUPR notified the Commission that it was withdrawing from the TLD application and would participate in a joint application with other U.S. carriers. [FN5] On January 11, *7980 1996, TLD filed a motion to accept supplemental comments in light of the release of the Foreign Carrier Market Entry Order. [FN6] On February 28, 1995, TLD updated the information on file with the Commission regarding TLD's foreign carrier affiliations. [FN7] AT&T withdrew its petition to deny TLD's application on April 16, 1996.

4. On October 13, 1995, the Joint Applicants filed their application. It was placed on public notice on October 31, 1995. TLD filed comments, to which AT&T replied. Subsequently, TLD responded to AT&T's reply.

5. TLD is a corporation organized under the laws of the Commonwealth of Puerto Rico, and is a U.S. licensed carrier. [FN8] All of its principal officers are U.S. citizens. Each of the Joint Applicants, except Sprint, is a corporation. Sprint is a limited partnership organized and existing under the laws of the State of Delaware. AT&T is organized and existing under the laws of the State of New York. HTC is a corporation organized under the laws of the Kingdom of Hawaii and existing under the laws of the State of Hawaii. ITC, MCII, PGE and WorldCom are each organized and existing under the laws of the State of Delaware. STSJ is organized

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and existing under the laws of the U.S. Virgin Islands. TUPR is organized and existing under the laws of the Commonwealth of Puerto Rico. [FN9] TUPR is a carrier authorized to offer services to other carriers between Puerto Rico and the Dominicans Republic through a digital microwave system as well as to other international points by satellite. TUPR does not offer end-to-end services and holds no correspondent agreements with foreign carriers. [FN10] All of the principal officers of the Joint Applicants are citizens of the United States. TLD and the Joint Applicants certify that they are affiliated with a number of foreign carriers within the meaning of Section 63.01(r)(1)(i) & (ii) of the Commission's Rules. [FN11] TLD and the Joint Applicants also certify, however, that they do not have affiliation with any carrier in the destination country, Dominican Republic, for which they seek facilities-based authority.

***7981** 6. The proposed ANTILLAS I cable system will extend from landing points at a cable station at Miramar, Puerto Rico and a cable station at Isla Verde, Puerto Rico to the cable station at Cacique, Dominican Republic, including an undersea branching unit connecting the stations in Puerto Rico and the Dominican Republic. ANTILLAS I will connect with the domestic networks in Puerto Rico and the Dominican Republic. The proposed cable system consists of five segments: A, B, C, D and E. Segments A and B are located in U.S. territory.

7. Segments A and B will consist of the cable stations at Miramar, Puerto Rico and Isla Verde, Puerto Rico, respectively, and Segment E is an intermediate cable landing point which is necessary to house repeater equipment at Punta Cana, Dominican Republic. Segment C will consist of the cable station at Cacique, Dominican Republic and two subsegments. Subsegment C1 will comprise the part of the cable station at Cacique associated with the optical fiber pairs in Subsegment D2 which connects to the cable station at Miramar. Subsegment C2 will consist of the part of the cable station at Cacique associated with the optical fiber pairs in Subsegment D3 which connect to the cable station at Isla Verde, Puerto Rico.

8. Segment D will consist of the whole fiber optic cable provided between and among, and including the system interfaces at the cable stations at Miramar, Isla Verde, and Cacique, and comprised of Subsegments D1, D2 and D3. Subsegment D1 will consist of the segment of the cable between the system interfaces at the cable station at Cacique, and the undersea branching unit. Subsegment D1 is to consist of two smaller segments of six fiber optic pairs each: D1-1 and D1-2. D1-1 will be the submarine portion of Subsegment D1 that links the system interface at the Cacique cable station, via the optical amplifier, to the beach joint at Punta Cana, Dominican Republic. D1-2 will be the submarine portion of Subsegment D1 that links the beach joint at Punta Cana with the branching unit, including a one-third portion of the branching unit. Subsegment D2 will consist of the part of Segment D between the branching unit and the system interface at the cable station at Miramar, including one-third of the branching unit. It will consist of six fiber optic pairs, three of which will be connected at the branching unit to three optical fiber pairs in Subsegment D3, and three of which will be connected to the

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branching unit to three optical fiber pairs in Subsegment D1. Subsegment D3 will consist of the part of Segment D between the branching unit and the system interface at the Isla Verde cable station, including one-third of the branching unit. It will consist of six fiber optic pairs, three of which will be connected to the branching unit to three optical fiber pairs in Subsegment D2, and three of which will be connected at the branching unit to three optical fiber pairs in Subsegment D1.

9. TLD and the Joint Applicants state that ANTILLAS I will utilize digital channels operating at sixty-four kilobits per second (Kbps) that will allow over 15,000 simultaneous calls without multiplexing. ANTILLAS I will consist of six working optical fiber pairs and the capacity of each fiber pair is comprised of four 155 Mbps Basic System Modules (BSMs), with each BSM containing sixty-three Minimum Investment Units (MIUs), for a total capacity, on each fiber pair, of 252 MIUs. For voice telephone requirements, digital circuit multiplication equipment can be applied to derive nominally five times the original number of voice paths. ANTILLAS I will be extended by suitable facilities to the terminals of other international communications systems and satellite earth stations, enabling ANTILLAS I to be used for services between and among the U.S. Mainland, *7982 Puerto Rico, the Dominican Republic and points beyond. [FN12]

10. TLD states that the facilities covered by its application will be used to supplement its existing facilities in providing service which it is presently furnishing from Puerto Rico to the Dominican Republic. [FN13] TLD is presently authorized to provide service to the Dominican Republic via thirty cable circuits, 240 microwave circuits, and forty-six satellite circuits and is authorized to provide service over TUPR authorized microwave and satellite facilities. [FN14] TLD states that it is requesting a modification of this authority to adjust its authorized capacity in order to satisfy increasing demand for service to the Dominican Republic; improve the quality and increase the efficiency of its service; and reduce the cost of providing service to the Dominican Republic. TLD states that the capacity assignment in ANTILLAS I is based on forecasted demand through the year 2006. [FN15]

11. The Joint Applicants state that the facilities covered by this application will be used to supplement their existing cable, microwave and satellite facilities in providing the services which they are presently furnishing or which they may subsequently furnish. These include: satellite circuits between the U.S. earth stations and the INTELSAT Atlantic Ocean Region (AOR) satellites acquired by the Joint Applicants from the COMSAT Corporation pursuant to COMSAT's applicable tariffs; and existing submarine cable and microwave facilities used to provide service between the U.S. and those locations proposed to be served by ANTILLAS I consisting of circuits in the Americas-1, Columbus II, St. Thomas-3, TCS-1, and the Puerto-Rico-Dominican Republic Microwave System. [FN16] The Joint Applicants submit that initially all the applicants may not be certified to serve directly all territories which the facilities covered by this application are capable of

serving. As a result, the Joint Applicants state that when the extensions into such territories by means of these facilities are proposed to be activated in the future, the individual applicant proposing such an extension will seek [Section 214](#) authorization as may be required at that time. [FN17]

12. In its comments filed in response to the Joint Application, TLD urges the Commission to grant both applications simultaneously and expeditiously. TLD notes that neither it nor any of its affiliates have any market power in the Dominican Republic, the destination market of the proposed *7983 cable system. [FN18] It also urges the Commission to condition grant of TUPR's authorization on TUPR continuing to operate exclusively on a carrier-to-carrier basis and not offering services directly to end-users nor permitted to hold operating agreements. [FN19] In its reply comments, AT&T states that while it agrees that the licenses under consideration should be granted, TLD's application has no relevance to the Joint Applicants' application. [FN20]

13. [Section 214](#) of the Communications Act requires that the Commission make a finding that the public convenience and necessity will be served by authorization of the facilities requested in the Joint Application by determining "whether the specific facility chosen and the use to be made of that facility are required by the public convenience and necessity." [FN21] The proposed [Section 214](#) authorizations will serve the public interest because it will improve the infrastructure and add capacity along a critical telecommunications services route. As TLD notes, while more than half of all international traffic originating in Puerto Rico transits the Dominican Republic, additional capacity is unavailable on the TCS-1 cable system for service between Puerto Rico and the Dominican Republic. The Commission has stated that the availability of advanced telecommunications is critical to the economic development of the Caribbean region. [FN22]

14. After reviewing these factors in relation to this cable system, we conclude that projected circuit demand as supplied by TLD, [FN23] along with other factors provided by TLD and the Joint Applicants, [FN24] supports the construction and operation of ANTILLAS I to meet the telecommunications needs of TLD and their correspondents in the Atlantic Ocean Region during the 1996- 2006 time frame. With respect to TLD's assertions about TUPR, we note that we have authorized TUPR to operate exclusively on a carrier-to-carrier basis. [FN25] Since the Joint Applicants, including TUPR, have requested authority to provide already authorized services, [FN26] there is no need to further condition TUPR's authorization.

15. Upon consideration of the applications and in view of the foregoing, we conclude that grant of the applications of TLD and the Joint Applicants will increase competition in the U.S. and *7984 Dominican Republic markets and thus benefit U.S. consumers. Therefore, IT IS HEREBY CERTIFIED that the present and future public convenience and necessity require a grant of the applications.

16. Accordingly, IT IS ORDERED that application File No. I-T-C-95-490 IS GRAN-

TED, and TLD is authorized to (1) construct and operate a high capacity digital submarine cable system known as the ANTILLAS I cable system linking the Dominican Republic and Puerto Rico; (2) acquire capacity in ANTILLAS I on an ownership basis, in accordance with the interest specified in the Appendix; (3) acquire by lease or other comparable means such extension facilities as may be required to extend capacity in ANTILLAS I; and (4) activate and operate capacity in ANTILLAS I extending between landing points in Puerto Rico and the Dominican Republic and in such extension facilities as may be required to extend capacity in ANTILLAS I.

17. IT IS FURTHER ORDERED that application File No. **I-T-C-95-580** IS GRANTED, and the Joint Applicants, AT&T, HTC, ITC, MCII, PGE, Sprint, STSJ, TUPR and World-Com are authorized to (1) construct, acquire and operate capacity in a digital submarine cable system known as the ANTILLAS I cable system between the Dominican Republic and Puerto Rico on an ownership basis, in accordance with the interests specified in the Appendix; (2) acquire by lease or other comparable means such extension facilities as may be required to extend the capacity to be required in ANTILLAS I; and (3) activate capacity in ANTILLAS I and in the extension facilities for the provision of their authorized services.

18. IT IS FURTHER ORDERED that the tariffs of TLD and the Joint Applicants must state that their customers may not resell international private lines or connect them to the public switched network for the provision of international basic telecommunications services, unless authorized to do so by the Commission upon a country-specific finding of resale opportunities equivalent to those available under U.S. law, in accordance with [Market Entry and Regulation of Foreign-Affiliated Entities Order, 11 FCC Rcd 3873 \(1995\)](#). The limitations in this paragraph are subject to the exceptions contained in Section 63.18(e)(4)(ii) of the Commission's Rules, [47 C.F.R. §§ 63.18\(e\)\(4\)\(ii\)](#).

19. IT IS FURTHER ORDERED that TLD and the Joint Applicants shall make available half-interests in ANTILLAS I capacity to such present and future U.S. carriers as may be authorized by the Commission to acquire such capacity.

20. IT IS FURTHER ORDERED that the Commission retains jurisdiction to reallocate U.S. carriers' interest in capacity herein authorized, as the public interest may require and with any requisite concurrence of the foreign administration or carriers concerned, in order to accommodate additional carriers or for other reasons.

21. IT IS FURTHER ORDERED that the Commission retains jurisdiction over all matters relating to TLD and the Joint Applicants' ownership, management, maintenance and operation of the cable system as authorized herein to ensure the most efficient use not only of this cable system but of all means of communications between the United States and the Atlantic Ocean Region.

22. IT IS FURTHER ORDERED that TLD and the Joint Applicants shall include ANTI-

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LLAS I facility use in the annual circuit reports in accordance with the requirements set forth in Rules for Filing of International Circuit Status Reports, CC Docket No. 93-157, Report and Order, *798510 FCC Rcd 8605 (1995).

23. This order is issued under Section 0.261 of the Commission's Rules and is effective upon release. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's Rules may be filed within 30 days of the date of the public notice of this order (see Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

Diane J. Cornell

Chief

Telecommunications Division

International Bureau

FN1. In a companion order, we grant TLD's application for a cable landing license. (File No. S-C-L-95-008, DA 96-1052, adopted June 28, 1996.)

FN2. TLD Application at 1, 13.

FN3. In a companion order, we grant the Joint Applicants' application for a cable landing license. (File No. S-C-L-95-012, DA 96-1052, adopted June 28, 1996).

FN4. Joint Application at 2.

FN5. Letter from Jorge Guzman, Senior Director, Telecomunicaciones Ultramarinas de Puerto Rico to Mr. William F. Caton, Acting Secretary, Federal Communications Commission (October 5, 1995).

FN6. To ensure a complete record, we find that the public interest would be served by including TLD's comments in the record.

FN7. Letter from Alfred M. Mamlet, Counsel for TLD, to William F. Caton, Acting Secretary, Federal Communications Commission (Feb. 28, 1996).

FN8. Seventy-nine percent of TLD's stock is owned by Telefonica International Holding, B.V. (TI Holding); nineteen percent of TLD's stock is owned by the Puerto Rico Telephone Authority (PRTA); and two percent is held in an employee stock ownership plan. TI Holding is a Netherlands corporation which is a wholly owned subsidiary of Telefonica Internacional de Espana, S.A. (TI), a corporation organized under the laws of Spain. TI, in turn, is majority-owned by Telefonica de Espana, S.A., the monopoly provider of domestic and international communications services in Spain. See TLD Application at 2-3.

FN9. The PRTA, a public authority created by the Government of the Commonwealth of Puerto Rico, owns 85.1 percent of TUPR. TI Holding indirectly owns the remaining 14.9 percent of TUPR. Id. at 3.

FN10. See Telefonica [Larga Distancia de Puerto Rico, Inc.](#), 8 FCC Rcd 106, 115-117 (1992).

FN11. This rule section has been renumbered [Section 63.18\(h\)\(1\)\(i\)\(A\) & \(B\)](#). See Streamlining the International [Section 214](#) Authorization and Tariff Requirements, IB Docket No. 95-118, [FCC 96-79](#), released March 13, 1996, ([61 Fed. Reg. 15724 \(4/9/96\)](#)) at Appendix A.

FN12. The ANTILLAS I cable system will be owned by TLD, the Joint Applicants and foreign telecommunications entities in the Dominican Republic, Italy, Venezuela, Canada and Spain. TLD Application at 4.

FN13. TLD Application at 3.

FN14. See Telefonica [Larga Distancia de Puerto Rico, Inc.](#), 9 FCC Rcd 5324, 5324-25 (1994).

FN15. TLD Application at 6.

FN16. Joint Application at 6, 7.

FN17. Id. at 6.

FN18. Letter from Alfred M. Mamlet, Counsel for TLD, to William F. Caton, Acting Secretary, Federal Communications Commission (Feb. 28, 1996).

FN19. TLD Comments at 5.

FN20. AT&T Reply at 2-3 (Dec. 13, 1995).

FN21. See [AT&T et al.](#), ([TAT-7 Order](#)), 73 F.C.C.2d 248, 256 (1979).

FN22. [Caribbean Planning Order](#), 3 FCC Rcd 97, 105 (1988).

FN23. TLD Supplemental Comments at 6.

FN24. TLD Application at 9-10; Joint Application at 13.

FN25. See Telefonica [Larga Distancia de Puerto Rico, Inc.](#), 9 FCC Rcd 5324, 5324-25 (1994).

FN26. Joint Application at 2,7.

***7986** APPENDIX

ANTILLAS I CABLE SYSTEM

SCHEDULE B

VOTING INTEREST

	PERCENTAGE
AAC&R	0.6160%
AT&T	12.3202%
CANTV	0.6110%
CODETEL	34.3517%
WCOM	3.3681%
MCII	5.5391%
PGE	1.5275%
SPRINT	4.2871%
TRESCOM	1.2295%
TI	0.3055%
TELEF	0.6160%
TLGB	0.3055%
TLDI	7.9432%
TRICOM	21.4729%
TUPR	2.4440%
ITC	0.9205%
HTC	2.1420%
TOTAL	100.0000%

Oct-2-95

Notes:

The percentages shown are based upon a weighted average of percentages shown on Schedules C-1 and C-2, multiplied by each segment cost and divided by the total cable system cost.

1996 WL 420216 (F.C.C.), 11 F.C.C.R. 7978, 11 FCC Rcd. 7978

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