

In the Matter of AT&T CORP. AT&T OF PUERTO RICO, INC. Application for authority to acquire and operate satellite capacity for service to Cuba

File No. I-T-C-95-342

RELEASE-NUMBER: DA 95-2313

FEDERAL COMMUNICATIONS COMMISSION

10 FCC Rcd 12598; 1995 FCC LEXIS 7513

November 22, 1995 Released; Adopted October 31, 1995

**ACTION:**

[\*\*1] MEMORANDUM OPINION, ORDER, AUTHORIZATION AND CERTIFICATE

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

**OPINION BY:** CORNELL

**OPINION:**

[\*12598] 1. The Commission has under consideration an application, filed by AT&T of Puerto Rico, Inc. (AT&TPR) and AT&T Corp. (AT&T), jointly, requesting authority to acquire and operate satellite facilities for provision of service between the United States and Cuba and between Puerto Rico and Cuba. The application was placed on public notice and a Petition to Deny the application was filed by Telefonica Larga Distancia de Puerto Rico (TLD). AT&T and AT&TPR filed an opposition to the petition, and TLD replied.

2. TLD's Conditional Petition to Deny the AT&T-AT&TPR application is based on the contention that TLD's similar application for service between Puerto Rico and Cuba has been opposed by AT&T, and that both applications should either be granted simultaneously or deferred pending the Commission's action in its pending Foreign Carrier Rulemaking. n1 AT&T and AT&TPR argue in their opposition to its application that TLD is merely trying to retaliate for their opposition to its application. In its reply, TLD reiterates its position that both applications should be granted [\*\*2] simultaneously or deferred.

n1 See *Market Entry and Regulation of Foreign-affiliated Entities*, IB Docket No. 95-22, 10 FCC Rcd 4844 (1995) (Foreign Carrier Rulemaking).

3. After considering the record in this proceeding, we find that the present and future public convenience and necessity require a grant of this application. As we have found in the past, we do not believe that the public interest would be served by delaying action on AT&T's applications pending a decision in the Foreign Carrier Rulemaking. n2 In addition, we find that TLD has not demonstrated why the public interest requires a simultaneous grant of its application with AT&T's application. The issues raised in these two applications are different, and will be decided on their own merits in the time frame needed to dispose of the issues raised. In fact, we note that subsequent to TLD's opposition in this proceeding, we granted its application for service to Cuba. n3 In addition, we have already granted AT&T the authority requested herein on a special temporary authority basis. n4

n2 AT&T Corp., File Nos. I-T-C-95-298 et al., DA-95-1722, released August 11, 1995.

n3 Telefonica Larga Distancia de Puerto Rico, File No. I-T-C-95-391, DA-95-2081, released October 6, 1995.  
[\*\*3]

n4 TAO-2518 granted June 19, 1995.

4. In light of the above, IT IS HEREBY CERTIFIED that the present and future public convenience and necessity require the provision of communications services between Puerto Rico and Cuba by AT&TPR and AT&T.

5. Accordingly, IT IS ORDERED that application File No. I-T-C-95-342 IS GRANTED, and

a. AT&TPR is authorized to:

i. lease from Comsat and operate eight 64-kbps voice-grade circuits between an appropriately licensed earth station in Puerto Rico and an appropriate INTELSAT satellite over the Atlantic Ocean, connecting with similar circuits between the satellite and an earth station in Cuba, furnished by its correspondent;

ii. own and operate facilities in the earth station in Puerto Rico, to be used in conjunction with the space segment capacity; and

iii. use the facilities in a, i and ii, above, to provide its regularly authorized services between Puerto Rico and Cuba;

b. AT&T is authorized to:

i. lease from Comsat and operate 30 64-kbps voice-grade circuits between an appropriately licensed U.S. earth station and an appropriate INTELSAT satellite over the Atlantic Ocean, connecting with similar circuits between the [\*\*4] satellite and an earth station in Cuba, furnished by its correspondent;

ii. own and operate facilities in the U.S. earth station, to be used in conjunction with the space segment capacity; and

iii. use the facilities in b, i and ii, above, to provide its regularly authorized services between the United States and Cuba.

6. IT IS FURTHER ORDERED that AT&T shall split 50/50 with ETCSA the \$ 1.20 per minute accounting rate for the IMTS services.

7. IT IS FURTHER ORDERED that the surcharge agreed to between AT&T and ETCSA for received collect calls shall be no greater than \$ 1.00 per call.

[\*12599] 8. IT IS FURTHER ORDERED that AT&T shall submit reports on or before June 30, and December 31, of each year, and on the one-year anniversary of the notification of the grant of this application in the Federal Register, indicating the number of circuits activated by facility.

9. IT IS FURTHER ORDERED that this authorization is subject to AT&T's obtaining all necessary licenses and authorizations from the Departments of Treasury and Commerce.

10. IT IS FURTHER ORDERED that this order is subject to revocation without a hearing in the event the Department of State or the Federal [\*\*5] Communications Commission determines that the continuation of communications between the United States and Cuba is no longer in the national interest.

11. IT IS FURTHER ORDERED that the applicant shall file a tariff pursuant to Section 203 of the Communications Act of 1934, as amended, 47 U.S.C. Section 203, and Part 61 of the Commission's Rules, 47 C.F.R. Part 61, for the services authorized in this Order.

12. IT IS FURTHER ORDERED that the applicant shall file the annual reports of overseas telecommunications traffic required by Section 43.61 of the Commission's Rules, 47 C.F.R. Section 43.61.

13. IT IS FURTHER ORDERED that the Petition to Deny filed by TLD is hereby DENIED.

14. IT IS FURTHER ORDERED that the authority granted herein is subject to any action the Commission may take in its *Notice of Proposed Rulemaking*, *IB Docket No. 95-22*, *10 FCC Rcd 4844 (1995)*.

15. This order is issued under Section 0.261 of the Commission's Rules and is effective upon adoption. 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 [\*\*6] 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