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

In the Matter of)
) File No. ITC-98-342
AT&T CORP.) ITC-98-342A
)
MCI INTERNATIONAL, INC.)
)
PACIFIC GATEWAY EXCHANGE)
(BERMUDA) LIMITED)
)
SPRINT COMMUNICATIONS COMPANY L.P.)
)
LC COMMUNICATIONS)
)
THE ST. THOMAS AND SAN JUAN)
TELEPHONE COMPANY, INC.)
)
TELECOMMUNICACIONES ULTRAMARINAS)
DE PUERTO RICO)
)
TELEFONICA LARGE DISTANCIA DE)
PUERTO RICO, INC.)
)
TRICOM USA, INC.)
)
TELEGLOBE USA, INC.)
)
IMPSAT USA, INC.)
)
GTE COMMUNICATIONS CORPORATION)
)
IDB WORLDCOM SERVICES, INC.)
)
STAR TELECOMMUNICATIONS, INC.)
)
WORLDxCHANGE COMMUNICATIONS)
)
LAMBDA OPERATIONS CORP.)
)
IDT CORPORATION)

)
TELIA NORTH AMERICA, INC.)

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, the AMERICAS-II Cable System)

MEMORANDUM OPINION, ORDER AND AUTHORIZATION

Adopted: November 3, 1998

Released: November 10, 1998

By the Chief, Telecommunications Division:

I. Introduction

1. In this Order, we grant the joint application of the participating parties (Joint Applicants) for authority, pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. 214, to (1) construct, acquire, and operate capacity in a digital submarine cable system, the AMERICAS-II Cable System (AMERICAS-II), among Florida, Puerto Rico, the U.S. Virgin Islands (USVI), Martinique, Curacao, Trinidad, Venezuela, Trinidad, French Guiana and Brazil; (2) acquire by lease or other comparable means such extension facilities as may be required to extend the capacity of AMERICAS-II; and (3) activate capacity in AMERICAS-II and in the aforementioned facilities for the provision of the Joint Applicants' authorized services. We find that the Joint Applicants have provided sufficient information to comply with Section 214 of the Communications Act and therefore grant the authority to construct, acquire, and operate capacity in AMERICAS-II, subject to the conditions discussed below.

II. Application

2. On April 30, 1998, the Joint Applicants filed this application for Section 214 Authorization. Their application was placed on public notice on May 13, 1998, and an amended application was placed on public notice on August 5, 1998. No comments were received.

3. AT&T is a corporation organized under the laws of New York. MCII, TRICOM, TELEGLOBE, IMPSAT, GTECC, WORLDCOM, STAR, CENTENNIAL, IDT and TELIA are corporations organized under the laws of Delaware. PGE is a corporation organized and existing under the laws of Bermuda. STSJ is a corporation organized under the laws of the USVI. TUPR and TLDI are corporations organized and existing under the laws of the Commonwealth of Puerto Rico. Sprint is a limited partnership organized under the laws of Delaware and LCC is a trade name for International Telecom, Inc., a corporation organized and existing under the laws of Delaware. WORLDxCHANGE is the doing business name of Communication TeleSystems International, a corporation organized and existing under the laws of the state of California. Each of the Joint Applicants is a common carrier subject to the Communications Act of 1934, as amended.

4. The Joint Applicants propose to land and operate AMERICAS-II as a common carrier system owned by the Joint Applicants and by entities authorized to land and operate an international submarine fiber optic cable system in Martinique, Curacao, Trinidad, Venezuela, French Guiana, and Brazil. AMERICAS-II will consist of two or four optical fiber pairs operating at 2.5 Gbps per wavelength. Each fiber pair operating at 2.5 Gbps with one wavelength will have a capacity of 1008 Minimum Investment Units (MIUs). The proposed AMERICAS-II system will extend among landing points at cable stations in Hollywood, Florida; St. Croix, USVI; Miramar, Puerto Rico; Le Lamentin, Martinique; Willemstad, Curacao; Chaguaramas, Trinidad; Camuri, Venezuela; Cayenne, French Guiana; and Fortaleza, Brazil and will be connected with the domestic networks in those countries or territories. Shareholder voting interest in AMERICAS-II will be divided among the Joint Applicants. The Joint Applicants expect to activate AMERICAS-II by September 15, 1999.

5. The Joint Applicants plan to use AMERICAS-II in providing their already-existing authorized services. Applicants state that other carriers, including non-owners, may acquire capacity in AMERICAS-II by lease, IRU, or other arrangements. The minimum investment unit (MIU) assignments for each segment and subsegment of AMERICAS-II are included in the attachments to this Order.

6. The Joint Applicants state that the facilities covered by this application will be used to supplement their existing cable and satellite facilities in providing the services that they are presently furnishing or may subsequently furnish. These include satellite circuits between United States earth stations and the INTELSAT Atlantic Ocean Region satellites acquired by the Joint Applicants from the COMSAT Corporation ("COMSAT") pursuant to COMSAT's applicable tariffs and are used in conjunction with connecting circuits between the satellites and foreign earth stations provided by the Joint Applicants' foreign correspondents, or, in some instances, other telecommunications entities. The existing cable facilities used to provide service between the United States and those locations proposed to be served by AMERICAS-II consist of circuits in the AMERICAS-1 cable system. In addition, the

Joint Applicants state that not all of them may be certified to directly serve all territories that AMERICAS-II facilities are capable of serving. The Joint Applicants state, however, that individual applicants proposing future extensions into such territories by means of AMERICAS-II facilities will seek the required authorization as necessary.

III. Discussion

7. The Joint Applicants have all certified that they have not agreed and will not agree to accept special concessions from any foreign carrier. The Joint Applicants, with the exception of MCII and GTECC, further certify that any affiliated foreign carriers do not have market power or the ability to discriminate against unaffiliated carriers through control of bottleneck services and facilities on any of the routes served by Americas-II. To the extent that MCII and GTECC or any of the Joint Applicants provide common carrier service over AMERICAS-II between the United States and a market for which they are regulated as a dominant carrier under Section 63.10 of the Commission's rules, their use of AMERICAS-II on those routes will be subject to the Commission's dominant carrier safeguards of Section 63.10. Accordingly, we find that the Joint Applicants' foreign affiliations do not raise concerns that could persuade us to deny the application under Section 2 of the Cable Landing License Act.

8. Section 214 of the Communications Act requires the Commission to determine that the authorization of the AMERICAS-II facilities will serve the public interest, convenience and necessity. The proposed Section 214 authorization will improve the telecommunications infrastructure and enhance services on the routes served by AMERICAS-II. The Commission has previously stressed the importance of making advanced telecommunications available to further economic development of the Caribbean region. The improvement in telecommunications systems would also improve services to areas in South and Central America. The Joint Applicants have also stated that other carriers, including non-owners, may acquire capacity in AMERICAS-II, so the pro-competitive goals of the Commission are met by granting the Section 214 authorization.

9. Accordingly, we conclude that the public interest will be served by granting the Joint Applicants authority to construct, acquire and operate capacity in AMERICAS-II. Therefore, we find that the present and future public convenience and necessity require a grant of the application, as conditioned below.

IV. Ordering Clauses

10. IT IS ORDERED that application File Nos. ITC-98-342 and ITC-98-342A ARE GRANTED and the Joint Applicants, AT&T, MCII, PGE, Sprint, LCC, STSJ, TUPR, TLDI, TRICOM, TELEGLOBE, IMPSAT, GTECC, WORLDCOM, STAR, WORLDxCHANGE, CENTENNIAL, IDT, and TELIA are authorized, pursuant to Section 214 of the Communications Act, as amended, to (1) construct, acquire, and operate capacity in a digital submarine cable system known as the AMERICAS-II Cable System among Florida, Puerto Rico, the U.S. Virgin Islands, Martinique, Curacao, Venezuela, Trinidad, French Guiana, and Brazil in accordance with the interests indicated in the Attachments; (2) acquire by lease or other comparable means such extension facilities as may be required to extend the capacity of AMERICAS-II; and (3) activate capacity in AMERICAS-II and in the aforementioned facilities for the provision of their authorized services.

11. IT IS FURTHER ORDERED that Joint Applicants' tariffs 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 that the Commission will permit the provision of switched services over private lines between the United States and that country. See Market Entry and Regulation of Foreign-Affiliated Entities, IB Docket No. 95-22, Report and Order, 11 FCC Rcd 3873 (1995); Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, IB Docket Nos. 97-142, 95-22, Report and Order and Order on Reconsideration, FCC 97-398 (rel. Nov. 26, 1997), recon. pending. 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) (1996).

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

13. IT IS FURTHER ORDERED that the Commission retains jurisdiction to reallocate U.S. carriers' interests 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.

14. IT IS FURTHER ORDERED that the Commission retains jurisdiction over all matters relating to 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 Caribbean Region.

15. IT IS FURTHER ORDERED that the Joint Applicants shall include AMERICAS-II facility use in all circuit reports that may be required by the Commission's rules.

16. This Order is issued under Section 0.261 of the Commission's rules, 47 C.F.R. 0.261, 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, 47 C.F.R. 1.106, 1.115, may be filed within 30 days of the date of public notice of this order (see 47 C.F.R. 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

Diane J. Cornell
Chief, Telecommunications Division
International Bureau