

C

DA 92-1560

\*1 IN THE MATTER OF  
AMERICAN TELEPHONE AND TELEGRAPH COMPANY  
CICI, INC.  
GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED  
IT & E OVERSEAS, INC.  
MCI INTERNATIONAL, INC.  
SPRINT COMMUNICATIONS COMPANY LIMITED PARTNERSHIP  
TRT/FTC COMMUNICATIONS, INC.  
JOINT APPLICATION FOR A LICENSE TO LAND AND OPERATE A HIGH CAPACITY DIGITAL  
SUBMARINE CABLE NETWORK BETWEEN AND AMONG THE UNITED STATES MAINLAND, THE STATE  
OF HAWAII, THE ISLAND OF GUAM AND JAPAN

File No. S-C-L-92-005

Adopted: November 12, 1992; Released: November 25, 1992

## CABLE LANDING LICENSE

**\*\*7674** By the Chief, Common Carrier Bureau:

1. On June 4, 1992, seven United States international service carriers (hereinafter referred to as Joint Applicants) [FN1] filed the above-captioned Joint Application requesting authority pursuant to "An Act Relating to the Landing and Operation of Submarine Cables in the United States," 47 U.S.C. §§ 34-39, to land and operate a high capacity digital submarine cable network known as the TPC-5 Cable Network (TPC-5), extending between and among the United States Mainland, the State of Hawaii, the Island of Guam, and Japan.

2. The Joint Application was placed on public notice on June 10, 1992. STC Submarine Systems Inc. (STC) filed comments requesting the Commission to condition the cable landing license and the accompanying Section 214 authorization. [FN2] The Joint Applicants [FN3] filed a Reply to which STC subsequently responded. For the reasons discussed below, we grant this application.

## The TPC-5 Cable Network

3. TPC-5 will land at Coos Bay, Oregon (U.S.), San Luis Obispo, California (U.S.), Keawaula, Hawaii (U.S.), Tumon Bay, Guam (U.S.), and extend to Miyazaki and Ninomiya, Japan. The proposed cable network consists of twelve segments. [FN4]

4. TPC-5 will employ the latest SL2000 technology operating at 4.8 Gigabits per

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second (Gbit/s) on each of the two fiber pairs. One fiber pair will be used for service while the other will be used for restoration. The "loop" configuration of TPC-5, along with the fully redundant restoration pair, provides 100 percent fiber-on-fiber restoration and route diversity within the network, resulting in a much higher circuit reliability. The operating capacity of 4.8 Gbit/s for each pair, service and restoration, consists of 32 Basic System Modules (BSM) operating at 155 Megabits per second (Mbit/s), with each BSM consisting of 63 Minimum Investment Units (MIUs). [FN5] The design capacity per fiber pair is 2,016 MIUs. For voice services, digital circuit multiplication equipment (DCME) can be employed to derive about 150 virtual voice paths from each MIU.

5. The proposed cable network will be owned by the Joint Applicants and 37 foreign telecommunications administrations and entities in the following locations: Argentina, Australia, Austria, Belgium, Canada, China, Denmark, Finland, France, Germany, Hong Kong, Ireland, Indonesia, Italy, Japan, Korea, Luxembourg, Malaysia, Mexico, Netherlands, New Zealand, Norway, Peru, Philippines, Portugal, Singapore, Sweden, Switzerland, Taiwan, Turkey and the United Kingdom.

\*2 6. Although expressly supporting the construction of TPC-5, STC requests the Commission to condition approval of the cable landing license and accompanying Section 214 authorization by requiring the Joint Applicants to use a fair and open procurement process in awarding the construction contracts for TPC-5 as it did in Pacific Telecom Cable. [FN6] As we decided in TPC-4, given competitive market circumstances, we can find no public interest benefit to involving the Commission in the management of the TPC-5 procurement decisions and do not believe that it is necessary to condition the grant of TPC-5 on assurances of competitive procurement practices. [FN7]

7. Pursuant to our obligations under 47 U.S.C. §§ 34-39, the Department of State, after having coordinated with the National Telecommunications and Information Administration and the Defense Information Systems Agency, has approved the landing of TPC-5 in the United States. [FN8]

8. Based on the information provided by the Joint Applicants, we conclude that the grant of the requested authorization will not have a significant effect on the environment as defined in Section 1.1307 of the Commission's Rules and Regulations implementing the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321-4335 (1976). [FN9] Consequently, no environmental assessment is required to be submitted with this Joint Application under Section 1.1311 of the Commission's Rules.

9. Concurrent with consideration of this application, this Commission has granted the Joint Applicants authority under Section 214 of the Communications Act of 1934, as amended, to construct and operate TPC-5 (DA 92- 1559, adopted November 12, 1992, File No. I-T-C-92-179). As detailed in the companion Section 214 authorization of TPC-5, we find that the proposed TPC-5 Cable Network is in the public interest, and we find that this application requesting a cable landing license

should be granted.

#### Ordering Clauses

10. Accordingly, this Commission HEREBY GRANTS AND ISSUES under the provisions of "An Act Relating to the Landing and Operation of Submarine Cables in the United States," 47 U.S.C. §§ 34-39, and pursuant to authority delegated to this Commission under Executive Order No. 10530, dated May 10, 1954, 3 C.F.R. 1954-1958 Comp., p. 189 (1961), reprint in 3 U.S.C.A. § 301 at 1052 (1985), to the Joint Applicants (AT & T, IDB, HTC, IT & E, MCII, Sprint and TRT/FTC) a license to land and operate one high capacity digital submarine cable, having a capacity of 4.8 Gbit/s per fiber pair, extending between Coos Bay, Oregon (U.S.), San Luis Obispo, California (U.S.), Keawaula, Hawaii (U.S.), Tumon Bay, Guam (U.S.), Miyazaki, Japan and Ninomiya, Japan. This license is subject to: (1) "An Act Relating to the Landing and Operation of Submarine Cables in the United States," 47 U.S.C. §§ 34-39; (2) the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-609; (3) subsequent applicable acts; (4) any treaties or conventions relating to communications to which the United States of America is now or may hereafter become a party; (5) any actions by the Commission or the Congress of the United States of America rescinding, changing, modifying, or amending any rights accruing to any person; and (6) the following conditions:

\*3 (1) The location of the cable within the territorial waters of the United States of America, its territories and possessions, and upon the foreshore thereof, shall be in conformity with plans approved by the Secretary of the Army, and the cable shall be moved or shifted by the Licensees at their expense upon the request of the Secretary of the Army whenever he or she considers such course necessary in the public interest, for reasons of national defense, or for the maintenance or improvement of harbors for navigational purposes;

(2) The Licensees shall at all times comply with any requirements of the United States' Government authorities regarding the location and concealment of the cable facilities, buildings, and apparatus with a view to protecting and safeguarding the cable from injury or destruction by enemies of the United States of America;

(3) The Licensees or any persons or companies directly or indirectly controlling them or controlled by them or under direct or indirect common control with any of them shall not acquire or enjoy any right, for the purpose of handling traffic to or from the United States, its territories or possessions, to land, connect or operate cables or landlines, to construct or operate radio stations, or to interchange traffic, which is denied to any other United States company by reason of any concession, contract, understanding, or working arrangement to which the Licensees or any persons or companies controlling them or controlled by them are parties;

(4) Neither this license, nor the rights granted herein, shall be transferred,

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assigned, or in any manner either voluntarily or involuntarily disposed of or disposed of indirectly by transfer of control of the Licensees to any persons, unless the Federal Communications Commission shall give prior consent in writing;

(5) This license is revocable after due notice and opportunity for hearing by the Federal Communications Commission in the event of breach or nonfulfillment of any requirements specified in Section 2 of "An Act Relating to the Landing And Operation of Submarine Cables of the United States," 47 U.S.C. §§ 34-39, or for failure to comply with the terms of the authorization;

(6) The Licensees shall notify the Commission in writing of the date on which the cable is placed in service; and this license shall expire 25 years from that date, unless renewed or extended upon proper applications duly filed no less than six months prior to the expiration date; and, upon expiration of the license, all rights granted under it shall be terminated; and

(7) The terms and conditions upon which this license is given shall be accepted by the Licensees by filing a letter with the Secretary, Federal Communications Commission, Washington, D.C. 20554, within 30 days of the release of this order.

**\*\*7676** 11. IT IS FURTHER ORDERED that STC's request to condition the TPC-5 cable landing license is hereby denied.

12. This order is issued under Section 0.291 of the Rules and is effective upon adoption. Petitions for consideration under Section 1.106 or applications for review under Section 1.115 of the Rules may be filed within 30 days of public notice of this order (see Section 1.14(b)(2)).

**\*4 FEDERAL COMMUNICATIONS COMMISSION**

Cheryl A. Tritt

Chief, Common Carrier Bureau

FN1. The Joint Applicants include American Telephone and Telegraph Company (AT & T), CICI, Inc., d/b/a IDB International (IDB), GTE Hawaiian Telephone Company, Inc. (HTC), IT & E Overseas, Inc. (IT & E), MCI International, Inc. (MCII), Sprint Communications Company Limited Partnership (Sprint), and TRT/FTC Communications, Inc. (TRT/FTC).

FN2. See File No. ITC-92-179.

FN3. Sprint and MCII did not join in this reply.

FN4. Segments A, B, C, D, E, and F, are, respectively, the new cable station at Coos Bay, Oregon; the cable station at San Luis Obispo; the cable station at Keawaula, Hawaii; the cable station at Tumon Bay, Guam; the cable station at Miyazaki, Japan and the cable station at Ninomiya, Japan. Segment G is the whole of the submarine cable network linking Segments B and C. Segment H is the whole

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of the submarine cable network linking Segments C and D. Segment I is the whole of the submarine cable network linking Segments D and E. Segment J is the whole of the submarine cable network linking Segments F and A. Segment T1 is the whole of the submarine cable network linking Segments A and B. Segment T2 is the whole of the submarine cable network linking Segments E and F.

FN5. A MIU is a 2.048 Mbit/s digital stream jointly assigned between two partners or wholly assigned to a party which is used for purposes of ownership allocation.

FN6. [Pacific Telecom Cable, Inc., 2 FCCRcd 2686 \(1987\)](#) (Conditional license); [4 FCCRcd 8061 \(1989\)](#) (Final license).

FN7. See [American Telephone & Telegraph, et. al., 4 FCCRcd 8046 at 8 \(1989\)](#) (TPC-4 Decision). See also TPC-5 Section 214 authorization, para. 22 and 23, DA 92-1559, adopted November 12, 1992.

FN8. Letter from Michael T.N. Fitch, Senior Deputy U.S. Coordinator and Director for the Bureau of International Communications and Information Policy, Department of State to George S. Li, Chief, International Facilities Division, Common Carrier Bureau, Federal Communications Commission (October 20, 1992).

FN9. See Section 214 Application, File No. I-T-C-92-179, at p. 23.

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