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In the Matter of AMERICAN TELEPHONE AND TELEGRAPH COMPANY; GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED; MCI INTERNATIONAL, INC.; SPRINT COMMUNICATIONS COMPANY LIMITED PARTNERSHIP; TELEFONICA LARGA DISTANCIA DE PUERTO RICO; THE ST. THOMAS AND SAN JUAN TELEPHONE COMPANY, INC.; TRT/FTC COMMUNICATIONS, INC.; WORLD COMMUNICATIONS, INC. Joint Application for a License to Land and Operate a High Capacity Digital Submarine Cable System Between and Among the United States Mainland, U.S. Virgin Islands, Brazil, Trinidad and Venezuela

File No. SCL-93-002

**RELEASE-NUMBER:** DA 93-909

FEDERAL COMMUNICATIONS COMMISSION

*8 FCC Rcd 5041; 1993 FCC LEXIS 3800*

July 26, 1993 Released; Adopted July 13, 1993

**ACTION:**

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CABLE LANDING LICENSE

**JUDGES:** By the Acting Chief, Common Carrier Bureau

**OPINION BY:** LEVITZ

**OPINION:**

[\*5041] 1. On November 10, 1992, eight United States international service carriers (hereinafter referred to as Joint Applicants) n1 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 system known as the AMERICAS-1 Cable System, extending from the U.S. mainland to the U.S. Virgin Islands (U.S.V.I.), then to a branching unit which extends to both Brazil and Trinidad and then to Venezuela. Segments of the AMERICAS-1 Cable System operating between the U.S. mainland and the U.S.V.I. will be used in tandem with corresponding segments on the COLUMBUS II Cable System (FCC File Nos. SCL-93-001, ITC-93-029), permitting the balancing of traffic and sharing of restoration capabilities between the two cable systems. These combined segments will be known as the "Common Segment." n2

n1 The Joint Applicants include American Telephone and Telegraph Company (AT&T), GTE Hawaiian

Telephone Company Incorporated (HTC), MCI International, Inc. (MCII), Sprint Communications Company Limited Partnership (Sprint), Telefonica Larga Distancia de Puerto Rico (TLD), The St. Thomas and San Juan Telephone Company, Inc. (STSJ), TRT/FTC Communications, Inc. (TRT/FTC), and World Communications, Inc. (Worldcom).

n2 See infra n.4.

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2. The Joint Application was placed on public notice on November 18, 1992. No comments were received. On March 12, 1993, AT&T filed a letter requesting the Commission to bifurcate the proceeding, and consider TLD's ownership interest apart from the other Joint Applicants. n3 TLD opposed AT&T's request, and AT&T responded. On May 7, 1993, the Commission, in a public notice, requested additional comments on AT&T's request. MCII and TLD filed comments, and AT&T and TLD filed reply comments. For the reasons discussed below, we partially grant this application.

n3 Letter from Elaine R. McHale, Senior Attorney for AT&T, to Donna Searcy, Secretary of the FCC, dated March 12, 1993. AT&T's letter referenced a previously filed request by Sprint on January 19, 1993 that the Commission consider in future proceedings involving TLD both the general issue of reciprocal entry rights, and the issue of how Spain's treatment of U.S. carriers may affect grant of additional Section 214 authority to Spanish-owned carriers.

#### The AMERICAS-1 Cable System

3. The proposed AMERICAS-1 Cable System will land at Vero Beach, Florida in the United States and extend to Magens Bay, St. Thomas, U.S.V.I., [\*\*3] then to a branching unit which extends to both Fortaleza, Brazil and Macqueripe, Trinidad, and then to Camuri, Venezuela. The proposed cable system consists of seven segments. n4 The Common Segments B and N will be comprised of 2 fiber pairs, each employing AT&T's latest SL2000 technology, operating at 2.4 Gigabits per second (Gbps). One fiber pair in each segment will be used for service while the other will be used for restoration. The Joint Applicants will have their traffic on the common segment balanced between Segments B and N in order to minimize circuit failures in the event of a disruption to either cable. In addition, by having a fully redundant restoration pair, 100% fiber-on-fiber restoration [\*5042] and route diversity is possible between Florida and St. Thomas on both AMERICAS-1 and COLUMBUS II, resulting in high circuit reliability.

n4 The Joint Application identifies these as: Segments T1, T2, T3, T4 and T5, which are, respectively, the cable station at Vero Beach, Florida; the cable station at Magens Bay, St. Thomas, U.S.V.I.; the cable station at Macqueripe, Trinidad; the cable station at Camuri, Venezuela; and the cable station at Fortaleza, Brazil; Segment N -- the submarine cable linking Segments T1 and T2; and Segment S -- the submarine cables linking Segments T2, T3, T4, and T5.

The portions of AMERICAS-1 and COLUMBUS II identified as the Common Segment are: (a) AMERICAS-1 -- Segments N, T1 and part of T2; (b) COLUMBUS II -- Segment B, and parts of Segments T2 and T3 of that system (see COLUMBUS II Section 214 authorization, DA 93-910, adopted July 13, 1993, for description of COLUMBUS II segments); and (c) Segment L, a terrestrial fiber optic cable linking the Vero Beach (AMERICAS-1) and West Palm Beach (COLUMBUS II) cable stations. Because Segment L consists of a domestic facility, the Joint Applicants do not include it for purposes of authorization as belonging to either the AMERICAS-1 or COLUMBUS II Cable Systems.

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4. Segment S of the AMERICAS-1 Cable System, which will link the St. Thomas cable station with all of the foreign cable stations, will employ technology operating at 560 Megabits per second (Mbps). All of the fiber pairs in

Segment S will be active, with none reserved for restoration. Subsegments S1 and S2, between St. Thomas and the Branching Unit (BU), and the BU and Macqueripe, Trinidad respectively, will consist of three fiber pairs. Subsegments S3 and S4, between Macqueripe, Trinidad and Camuri, Venezuela, and the BU and Fortaleza, Brazil respectively, will consist of two fiber pairs. The AMERICAS-1 terminal equipment will employ the CCITT Recommendation G.703 paragraph 9.1 (Blue Book Vol. III, Fascicle III.4 November 1989) interface at 139,264,000 bits per second (140 Mbps) which is the Basic System Module (BSM). n5

n5 Each BSM consists of 63 Minimum Investment Units (MIUs).

5. The Design Capacity of the AMERICAS-1 Cable System Segments N and S are as follows:

| SEGMENT<br>OR SUBSEG-<br>MENT | NUMBER OF<br>BASIC<br>MODULES<br>SYSTEM | NUMBER OF<br>MIUs n6<br>(DESIGN) | NUMBER OF<br>64 kbps<br>VOICE<br>PATH |
|-------------------------------|---|----------------------------------|---------------------------------------|
| N                             | 32                                      | 2016                             | 60,480                                |
| S1                            | 12                                      | 756                              | 22,680                                |
| S2                            | 12                                      | 756                              | 22,680                                |
| S3                            | 8                                       | 504                              | 15,120                                |
| S4                            | 8                                       | 504                              | 15,120                                |

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n6 A MIU is the minimum unit of investment for ownership in the AMERICAS-1 Cable System, allowing the use of 2.048 Mbps and the additional approximately 421 kilobits per second (kbps) required for multiplexing in each direction. Each MIU includes thirty 64 kbps voice paths. For voice services, digital circuit multiplication equipment (DCME) can be employed to derive about 150 virtual voice paths from a MIU.

6. The proposed cable system will be jointly owned by the Joint Applicants and foreign telecommunications entities in the following countries: Argentina, Aruba, Australia, Austria, Barbados, Belgium, Brazil, Canada, Chile, Colombia, Dominican Republic, El Salvador, France, Germany, Guatemala, Guyana, Haiti, Honduras, Hong Kong, India, Italy, Japan, Korea, Mexico, Netherlands, Netherlands Antilles, Nicaragua, Panama, Paraguay, Philippines, Portugal, Singapore, Spain, Sweden, Switzerland, Trinidad and Tobago, Taiwan, the United Kingdom, Uruguay and Venezuela.

7. Pursuant to our obligations under 47 U.S.C. §§ 34-39, the Department of State has been notified and, after having coordinated with the National Telecommunications and Information Administration [\*\*6] and the Defense Information System Agency, has approved the landing of AMERICAS-1 in the United States on the condition that approval of TLD's ownership interests in that portion of the cable system designated for service to Spain be deferred pending further review. n7

n7 Letter from Michael T. N. Fitch, Acting U.S. Coordinator and Director, Bureau of International Communications and Information Policy, Department of State to Kathleen Levitz, Acting Chief, Common Carrier Bureau, Federal Communications Commission, dated June 30, 1993.

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).

n8 Consequently, no environmental assessment is required to be submitted with this Joint Application under Section 1.1311 of the Commission's Rules.

n8 See Section 214 Application, File No. ITC-93-030, at p. 25.

9. Concurrent with consideration of this application, [\*\*7] this Commission has granted the Joint Applicants authority under Section 214 of the Communications Act of 1934, as amended, to construct and operate the AMERICAS-1 Cable System (DA 93-911, adopted July 13, 1993, File No. I-T-C-93-030). As detailed in the companion Section 214 authorization of AMERICAS-1, we find that the proposed AMERICAS-1 Cable System is in the public interest. However, we also incorporate by reference our findings there that consideration of TLD's proposed ownership interest shall be deferred to a separate proceeding. Therefore, we grant to the Joint Applicants, except TLD, a cable landing license for the AMERICAS-1 Cable System.

#### 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), reprinted in 3 U.S.C.A. § 301 at 1052 (1985), to Joint Applicants AT&T, HTC, MCII, Sprint, STSJ, TRT/FTC, and [\*\*8] Worldcom a license to land and operate one high capacity digital submarine cable system, having a capacity of: (a) 2.4 Gbps on each of two fiber pairs, extending between Vero Beach, Florida and St. Thomas, U.S. Virgin Islands, (b) 560 Mbps on each of three fiber pairs between St. Thomas and the Branching Unit (BU), and the BU and Macqueripe, Trinidad, and (c) 560 Mbps on each of two fiber pairs between Macqueripe, Trinidad and Camuri, Venezuela, and the BU and Fortaleza, Brazil. 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) all relevant rules and regulations of the Federal Communications Commission; (5) any treaties or conventions to which the United States of America is now or may hereafter become a party; (6) 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 (7) the following conditions:

(1) The location [\*\*9] of the cable within the territorial waters of the United States of America, its territories and possessions, and upon the foreshore thereof, shall [\*5043] 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 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 controlling them or controlled by them do not enjoy and shall not acquire 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 [\*\*10] 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, 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 requirement specified in Section 2 of "An Act Relating to the Operation of Submarine Cables in 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 [\*\*11] 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.

11. This order is issued under Section 0.291 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 of public notice of this order (see Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

Kathleen B. Levitz

Acting Chief, Common Carrier Bureau

**Legal Topics:**

For related research and practice materials, see the following legal topics:

Communications Law Broadcasting Licensing Allocation Methods General Overview Communications Law Ownership General Overview Communications Law U.S. Federal Communications Commission Authority