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In the Matter of TELEFONICA LARGA DISTANCIA DE PUERTO RICO, INC.
Application for a License to Land 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 WORLD COM SERVICES, INC.
Joint Application for a License to Land and Operate a Digital Submarine Cable System
Between the Dominican Republic and Puerto Rico, The ANTILLAS I Cable System

File No. SCL-95-008; File No. SCL-95-012

RELEASE-NUMBER: DA 96-1052

FEDERAL COMMUNICATIONS COMMISSION

11 FCC Rcd 7690; 1996 FCC LEXIS 3482

July 2, 1996 Released; Adopted June 28, 1996

ACTION:

[1]** CABLE LANDING LICENSE

JUDGES: By the Chief, Telecommunications Division

OPINION BY: CORNELL

OPINION:

[*7691] 1. In this Order, we grant the application of Telefonica Larga Distancia de Puerto Rico, Inc. (TLD) under the Cable Landing License Act n1 for authority to land and operate an optical fiber submarine cable system (ANTILLAS I cable system) extending between landing points at Miramar, Puerto Rico; Isla Verde, Puerto Rico; and Cacique, Dominican Republic, on a common carrier basis. n2 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), for authority to land and operate the same cable system, ANTILLAS I, on a common carrier basis. n3 We find that TLD and the Joint Applicants have provided sufficient information to comply with the Cable Landing License Act, and therefore grant the cable landing license, subject to the conditions below. **[**2]**

n1 "An Act Relating to the Landing and Operation of Submarine Cables in the United States," 47 U.S.C. §§ 34-39 (Cable Landing License Act).

n2 In a companion order, we grant TLD's application for Section 214 authority. (File No. 1-T-C-95-490, DA 96-1053, adopted June 28, 1996.)

n3 In a companion order, we grant the Joint Applicants' application for Section 214 authority. (File No. 1-T-C-95-580, DA 96-1053, adopted June 28, 1996).

2. On August 18, 1995, TLD and TUPR filed a joint cable landing license application. Their application was placed on public notice on August 25, 1995. 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. n4 On January 11, 1996, TLD filed a motion to accept supplemental comments in light of the release of the Foreign Carrier Market Entry Order. n5 On February 28, 1996, TLD updated the information on file with the Commission regarding its foreign carrier affiliations. n6 AT&T **[**3]** withdrew its petition to deny TLD's application on April 16, 1996.

n4 Letter from Jorge Guzman, Senior Director, Telecomunicaciones Ultramarinas de Puerto Rico to Mr. William F. Caton, Acting Secretary, Federal Communications Commission (Oct. 5, 1995).

n5 To ensure a complete record, we find that the public interest would be served by including TLD's comments in the record.

n6 Letter from Alfred M. Mamlet, Counsel for TLD, to William F. Caton, Acting Secretary, Federal Communications Commission (Feb. 28, 1996).

3. 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 filed reply comments.

[*7692] 4. TLD is a corporation organized under the laws of the Commonwealth of Puerto Rico, and is a U.S. licensed carrier. n7 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 **[**4]** 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 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. n8 TUPR is a carrier authorized to offer services to other carriers between Puerto Rico and the Dominican 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. n9 All of the principal officers of the Joint Applicants are citizens of the United States.

n7 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.

[5]**

n8 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. See *id.* at 3.

n9 See *Telefonica Larga Distancia de Puerto Rico, Inc.*, 8 FCC Rcd 106, 115-117 (1992).

5. 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.

6. 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 **[**6]** subsegments. Subsegment C1 will comprise the part of 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.

7. Segment D will consist of the whole fiber optic cable provided between, 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 **[*7693]** 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 **[**7]** 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 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.

8. 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 will be comprised of four 155 Mbps Basic System Modules (BSMs), with each BSM containing sixty-three Minimum Investment **[**8]** 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, Puerto Rico, the Dominican Republic and points beyond. n10

n10 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.

9. 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 cable system. n11 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. **[**9]** n12

n11 Letter from Alfred M. Mamlet, Counsel for TLD, to William F. Caton, Acting Secretary, Federal Communications Commission (Feb. 28, 1996).

n12 AT&T Reply at 2-3 (Dec. 13, 1995).

10. Consistent with our decision regarding TLD's participation in the COLUMBUS II and AMERICAS-1 cable systems, we do not require TLD to make a reciprocity showing under the Cable Landing License Act. n13 As TLD notes, it does not have any affiliates in the Dominican Republic, and thus we decline to require such a showing in the case.

n13 See *Telefonica Larga Distancia de Puerto Rico, Inc.*, 9 FCC Rcd 4041 (1994).

11. Pursuant to our obligations under 47 U.S.C. §§ 34-39, the Department of State has **[*7694]** been notified. After having coordinated with the National Telecommunications and Information Administration and the Department of Defense, the Department of State stated that they have no objection to the issuance of the cable landing license for the ANTILLAS I. n14

n14 The Department of State notes the absence of any ownership interest by TLD in the Dominican Republic. It also states that its position on these applications is without prejudice to on-going consideration of other pending license applications, including those of the applicants herein. Letter from Michael T.N Fitch, Deputy U.S. Coordinator, Office of International Communications and Information Policy to Donald H. Gips, Chief, International Bureau, Federal Communications Commission (June 3, 1996).

[10]**

12. Based on the information provided by the TLD and 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. Consequently, no environmental assessment is required to be submitted with these applications under Section 1.1311 of the Commission's Rules.

13. We find that the proposed ANTILLAS I cable system is in the public interest. Therefore, we grant to TLD and the Joint Applicants a cable landing license for the ANTILLAS I cable system.

ORDERING CLAUSES

14. Consistent with the foregoing, the Commission hereby GRANTS AND ISSUES, under the provisions of the Cable Landing License Act, 47 U.S.C. §§ 34-39, and Executive Order 10530, 3 C.F.R. §§ 1954-1958, to TLD and the Joint Applicants, AT&T, HTC, ITC, MCII, PGE, Sprint, STSJ, TUPR and WorldCom, a license to land and operate one high capacity digital submarine cable system between and among Miramar, Puerto Rico; Isla Verde, Puerto **[**11]** Rico; and Cacique, Dominican Republic, comprised of six optical fiber pairs, each having a capacity of four 155 Mbps Basic System Modules (BSM) with each BSM containing sixty-three MIUs for a total capacity, on each fiber pair, of 252 MIUs. This license is subject to all rules and regulations of the Federal Communications Commission; any treaties or conventions relating to communications to which the United States is or may hereafter become a party; any action by the Commission or the Congress of the United States rescinding, changing, modifying or amending any rights accruing to any person hereunder; and the following conditions:

(1) The location of the cable within the territorial waters of the United States of America, its territories and possessions, and upon its shore, 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 **[**12]** times comply with any requirements of United States Government authorities regarding the location and concealment of the cable facilities, **[*7695]** buildings, and apparatus with a view of 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 it or controlled by it, or under direct or indirect common control with it, shall not acquire or enjoy any right, for the purpose of handling or interchanging 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 carrier by reason of any concession, contract, understanding, or working arrangement to which the Licensees or any persons controlling it or controlled by it 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 **[**13]** Communications Commission shall give prior consent in writing;

(5) The Licensees shall maintain 100 percent ownership in the cable stations in the United States and in the U.S. land portion of the cable from the station to the U.S. beach joint of the submersible portion of the proposed cable;

(6) This license is revocable after due notice and opportunity for hearing by the 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 in the United States," 47 U.S.C. Sections 34-39, or for failure to comply with the terms of the authorizations;

(7) 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 such date, unless renewed or extended upon proper application, and, upon expiration of this license, all rights granted under them shall be terminated; and

(8) 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, **[**14]** within 30 days of the release of this cable landing license.

15. 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 public notice of this order (see 47 C.F.R. 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

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Telecommunications Division

International Bureau

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