

DA 98-2295
November 10, 1998

In the Matter of)
)
 AT&T CORP.)
)
 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 a license to)
 land and operate a digital submarine)
 cable system among Florida, Puerto)
 Rico, the U.S. Virgin islands,)
 Martinique, Curacao, Trinidad,)
 Venezuela, French Guiana and Brazil,)
 the AMERICAS-II Cable System)

File No. SCL-98-003
SCL-98-003A

CABLE LANDING LICENSE

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),^{/1} under the Cable Landing License Act^{/2} for authority to land and operate a digital submarine cable system to be called the AMERICAS-II Cable System (AMERICAS-II) extending among Florida, Puerto Rico, the U.S. Virgin Islands (USVI), Martinique, Curacao, Trinidad, Venezuela, French Guiana, and Brazil. The cable will be operated on a common carrier basis.^{/3} We find that the Joint Applicants have provided sufficient information under our rules to comply with the Cable Landing License Act and therefore grant the cable landing license subject to the conditions listed below.

II. Application

2. 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

^{/1} The Joint Applicants are AT&T Corp. (AT&T); MCI International, Inc. (MCII); Pacific Gateway Exchange (Bermuda) Limited (PGE); Sprint Communications Company, L.P. (Sprint); LC Communications (LCC); The St. Thomas and San Juan Telephone Company, Inc. (STSJ); Telecommunicaciones Ultramarinas de Puerto Rico (TUPR); Telefonica Larga Distancia de Puerto Rico, Inc. (TLDI); Tricom USA, Inc. (TRICOM); Teleglobe USA Inc. (TELEGLOBE); ImpSat USA, Inc. (IMPSTAT); GTE Communications Corporation (GTECC); IDB WorldCom Services, Inc. (WORLDCOM); STAR Telecommunications, Inc. (STAR); WorldxChange Communications (WORLdxCHANGE); Lambda Operations Corp. (CENTENNIAL); IDT Corporation (IDT); and Telia North America, Inc. (TELIA).

^{/2} An Act Relating to the Landing and Operation of Submarine Cables in the United States, 47 U.S.C. ¹¹ 34-39 (1994) (Cable Landing License Act).

^{/3} In a companion order, we grant the joint application for Section 214 authority (File No. ITC-98-342, ITC-98-342A, DA 98-2294) (rel. Nov. 10 1998).

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.

3. 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. The proposed AMERICAS-II system will extend among landing points at cable stations in Hollywood, Florida; Miramar, Puerto Rico; St. Croix, USVI; Le Lamentin, Martinique; Willemstad, Curacao; Canturi, Venezuela; Chaguaramas, Trinidad; Cayenne, French Guiana; and Fortaleza,

Brazil and will be connected with the domestic networks in those countries or territories. The Joint Applicants expect to activate AMERICAS-II by September 15, 1999.

4. AMERICAS-II will include two segments (S and T) and various subsegments and branching units. Segment S and Subsegments SI-S13 will include the whole of the submarine cable and associated equipment./⁴ Segments T1 through T9 consist of the cable stations and necessary land, services, and equipment at Fortaleza, Brazil (T1); Cayenne, French Guiana (T2); Chaguaramas, Trinidad (T3); Camuri, Venezuela (T4); Willemstad, Curacao (T5); Le Lamentin, Martinique (T6); St. Croix, USVI (T7); Hollywood, Florida (T8); and Miramar, Puerto, Rico (T9).

5. AMERICAS-II will consist of three interconnected rings (North, South, and West Systems), each operating at 2.5 gigabits per second (Gbps) per wavelength, initially in separate collapsed ring configurations, and a dedicated link between Curacao and Venezuela not operating in a collapsed ring configuration./⁵ As described below, each fiber pair in each of the three Systems will have a capacity of thirty-two 155 megabits per second (Mbps) Basic System Modules (BSM), with each BSM containing 63 Minimum Investment Units (MIUs)/⁶ and equipped at the outset for a capacity of 1008 MIUs. Subsegments S2, S4, S6, S7, S8, and S10 will consist of two optical fiber pairs operating at 2.5 Gbps per wavelength. Subsegments S1, S3, S5,

/4 See Attached Attachments A and B from the Joint Application for diagrams of the cable system.

/5 For a more complete description of the cable system, see the concurrently filed Joint Section 214 Application, File No. ITC-98-342, at 9-15 (filed Apr. 30, 1998).

/6 A BSM is defined as a 155 Mbps digital line section with interfaces provided in accordance with the appropriate ITU-T Recommendations. A MIU is defined as a nominal 2.0 Mbps bearer, and all the additional overhead bits per second recommended by ITU-T standards for multiplexing in a Collapsed Ring configuration with capability of bidirectional operation, both in the North Ring System and in the South Ring system or in the North Ring System and in the West Ring system. See Joint Application at 6 n.2.

S9, S11, S12, and S13 will consist of four optical fiber pairs operating at 2.5 Gbps per wavelength./⁷ AMERICAS-II will be connected at all of the landing points with the domestic networks in those places. In addition, AMERICAS-II will be extended by suitable facilities to the borders of other countries or to the terminals of other international communications systems, including other cable terminals and satellite earth stations.

6. The North System will contain four fiber pairs in a collapsed ring configuration with ten wavelengths per fiber pair resulting in a total capacity of 20,160 MIUs for operation and 20,160 MIUs for protection, the cable station at Hollywood, Florida, an appropriate share of the cable station at St. Croix, USVI, and the system interfaces. These four fiber pairs will initially be configured as two independent bidirectional rings, each consisting of two fiber pairs directly interconnecting St. Croix, USVI and Hollywood, Florida!

7. The South System capacity will support the South Ring System and the Southwest System. The South Ring System will contain four fiber pairs in a collapsed ring configuration with eight wavelengths per fiber pair resulting in a total capacity of 16,128 MIUs for operation and 16,128 MIUs for protection, the cable station at Fortaleza, Brazil, an appropriate share of the cable station at St. Croix, USVI, the Branch cable stations or an appropriate share of those cable stations, and the system interfaces. These four fiber pairs will be initially configured as two independent bidirectional rings, each consisting of two fiber pairs.

8. The West System will contain four fiber pairs interconnecting St. Croix, USVI and Puerto Rico, with only two fiber pairs initially equipped with four wavelengths each, in a bi-directional collapsed ring configuration, resulting in a total capacity of 4,032 MIUs for operation and 4,032 MIUs for protection (including the cable station at Puerto Rico), an appropriate share of the cable station at St. Croix, USVI, and the system interfaces. These four fiber pairs will initially be configured as two independent bidirectional rings, each consisting of two fiber pairs directly interconnecting St. Croix, USVI and Miramar, Puerto Rico./9

III. Comments

9. The AMERICAS-II joint application was placed on public notice on May 13, 1998. The amended joint application was placed on public notice on August 5, 1998. No comments were received. Pursuant to Section 1.767(b) of the Commission's rules,/10 the Cable Landing License Act, and Executive Order No. 10530, we informed the Department of State of the application and the

/7 See Joint Application at 5-6.

/8 Of the 20,160 MIUs, up to 16,128 MIUs may be connected to corresponding equivalent capacity in the South Ring System, and up to 4,032 MIUs may be connected to corresponding capacity in the West Ring System.

/9 See Joint Application at n. 2.

/10 47 C.F.R. ¹ 1.767(b) (1996).

amended application./11 The Department of State advised the Commission that it has no objection to the issuance of the cable landing license./12

IV. Discussion

10. The Joint Applicants have all certified that they have not agreed and will not agree to accept special concessions from any foreign carrier./13 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./14 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./15

11. AMERICAS-II will have three landing points in the United States: Hollywood, Florida; Miramar, Puerto Rico; and St. Croix, USVI. The new Hollywood, Florida cable terminal will be located at 460 NE 215th Street,

/11 Letters from Diane J. Comell, Chief, Telecommunications Division, International Bureau, Federal Communications Commission, to Steven W. Lett, Deputy U.S. Coordinator, Office of International Communications and Information Policy, U.S. Department of State (May 12, June 17, mid Aug. 20, 1998).

/12 Letter from Amb. Vonya B. McCann, U.S. Coordinator Information Communications and Information Policy, U.S. Department of State, to Regina M. Keeney, Chief, International Bureau, FCC (Nov. 3, 1998).

/13 47 C.F.R. \pm 63.18(i) (1996).

/14 47 C.F.R. \pm 63.18(h)(6)(ii) (1996); see Joint Application, Attachment C; Amendment to Joint Application, Attachment D; and Supplemental Certification. MCII is affiliated with Empresa Brasileira de Telecomunicacoes S.A.-EMBRATEL (Embratel), the Brazilian long-distance carrier. Letter from Kenneth A. Schagrin, Associate Counsel, MCI Communications Corporation to Troy F. Tanner, Chief, Policy and Facilities Branch, FCC (Sept. 14, 1998). GTECC is affiliated with Compania Anomina Nacional Telefonos de Venezuela (CANTV) in Venezuela. GTE Telecom Incorporated, ITC 95-443, ITC 96-313, ITC 96-314, ITC 95-561, Order, Authorization and Certificate, DA 98-348 (rel. Feb. 23, 1998).

/15 47 U.S.C. \pm 35 (1994).

Miami, Florida 33179. The beach manhole is planned for Cody Street in Hollywood, Florida. The other two U.S. landing points are a matter of public record./36 We find that the application's descriptions of AMERICAS-II's landing points are sufficient to satisfy the requirement of Section 1.767(a)(5) of the Commission's rules.

12. Based on the information provided by the Joint Applicants and pursuant to the Commission's procedures implementing the National Environmental Policy Act of 1969,/17 we conclude that the grant of the requested authorization would not significantly affect the environment. Consequently, the Joint Applicants are not required to submit an environmental assessment, and this application is categorically excluded from environmental processing.

13. Accordingly, we conclude that U.S. interests under the Cable License Landing Act will be served by grant of the license to the Joint Applicants to land and operate AMERICAS-II, as conditioned below.

V. Ordering Clauses

14. Consistent with the foregoing, we hereby GRANT AND ISSUE the Joint

Applicants a license to land and operate an optical fiber submarine cable system (consisting of two or four fiber pairs depending on subsegment, operating at 2.5 Gbps per wavelength) extending among landing points at cable stations in Hollywood, Florida; St. Croix, U.S. Virgin Islands; Miramar, Puerto Rico; Le Lamentin, Martinique; Willemstad, Curacao; Camuri, Venezuela; Chaguaramas, Trinidad; Cayenne, French Guiana; and Fortaleza, Brazil under the provisions of the Cable Landing License Act and Executive Order 10530. This grant 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 system 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 cables 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;

/16 The St. Croix, USVI landing point is the cable station at which the PAN AMERICAN cable was authorized to land. See St. Croix, US Virgin Islands, PAN AMERICAN Cable System, File No. SCL-97-001, DA 98-81 (rel. January 20, 1998). The Miramar, Puerto Rico landing point is the cable station at which the TAINO-CARIB cable was authorized to land. See Telefonica Largo Distancia de Puerto Rico, et. al., SCL 92-002, Cable Landing License, 7 FCC Rcd 4275 (1992) (TAINO-CARIB Cable Order).

/17 47 C.F.R. ¹¹ 1.1301-.1319 (1996).

- (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 for the purpose of protecting and safeguarding the cables from injury or destruction by enemies of the United States of America;
- (3) The Licensees or any persons or companies controlling them, controlled by them, or under direct or indirect common control with them do not enjoy and shall not acquire any right to handle traffic to or from the United States, its territories, or its possessions unless such service be authorized by the Commission pursuant to Section 214 of the Communications Act, as amended;
- (4) The Licensees or any persons or companies controlling them, controlled by them, or under direct or indirect common control with them shall not acquire or enjoy any right to land, connect, or operate submarine cables that 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 controlling them, controlled by them, or under direct or indirect common control with them are parties;

- (5) 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;
- (6) The Commission reserves the right to require the Licensees to file an environmental assessment or environmental impact statement should it determine that the landing of the cables at those locations and construction of necessary cable landing stations would significantly affect the environment within the meaning of Section 1.1307 of the Commission's procedures implementing the National Environmental Policy Act of 1969; this license is subject to modification by the Commission upon its review of any environmental assessment or environmental impact statement that it may require pursuant to its rules;
- (7) Pursuant to Section 2 of the Cable Landing License Act, 47 U.S.C. ¹ 35; Executive Order No. 10530, as amended; and Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. ¹ 214, the Commission reserves the right to impose additional common carrier or common-carrier-like regulation on the operations of the cable system if it finds that the public interest so requires;
- (8) The Licensees shall maintain de jure and de facto control of the U.S. portion of the cable system, including the cable landing stations in the United States, sufficient to comply with the requirements of this license;
- (9) This license is revocable by the Commission after due notice and opportunity for hearing pursuant to section 2 of "An Act Relating to the Landing and Operation of Submarine Cables in the United States," 47 U.S.C. ¹ 35, or for failure to comply with the terms of the authorizations;
- (10) 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 it shall be terminated; and
- (11) 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 the cable landing license.
15. This Order is issued under Section 0.261 of the Commission's rules, 47 C.F.R. ¹ 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 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 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

Diane J. Cornell
Chief, Telecommunications Division
International Bureau

ATTACHMENT A

Americas-II Cable System

Physical Configuration

| | | | | | |
|--------|-------------|---------------|----|-----------|-----|
| | | | | T8 | |
| | | | | Florida | |
| | | | | | S12 |
| | T9 | S13 | | T7 | |
| | Puerto Rico | | | St. Croix | |
| | | | | | S11 |
| | T6 | S10 | | | BU5 |
| | Martinique | | | | |
| | T5 | | | | S9 |
| | Curacao | | | | |
| | | S7 | | | |
| | T4 | S8 | S6 | | BU3 |
| | Venezuela | | | | S5 |
| | BU4 | | | | BU2 |
| | T3 | | S4 | | S3 |
| | Trinidad | | | | BU1 |
| | T2 | | S2 | | S1 |
| Guyana | Suriname | French Guiana | | | |
| | | | T1 | | |
| | | | | Brazil | |

ATTACHMENT B

Americas-II Cable System

Ring Operating Configuration

*** ATTACHMENT B AVAILABLE IN HARD COPY (Flow Chart) ***