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Federal Communications Commission (F.C.C.)

Cable Landing License

*1 IN THE MATTER OF AT&T CORP.

BELLSOUTH COMMUNICATIONS, INC.

MCI WORLDCOM, INC.

RSL COM U.S.A.

SPRINT COMMUNICATIONS COMPANY L.P.

STAR TELECOMMUNICATIONS, INC.

TELEGLOBE USA, INC.

TRICOM USA, INC.

WORLDXCHANGE COMMUNICATIONS

Joint Application for a license to land and operate a digital submarine cable system between the United States, the Cayman Islands, Colombia, Costa Rica, Honduras, Mexico and Panama, the **MAYA-1** Cable Network
File No. SCL-LIC-19990325-00006

DA 99-2579

Adopted: November 18, 1999

Released: November 18, 1999

****19456** By the Chief, Telecommunications Division:

I. Introduction

1. In this Order, we grant the joint application of AT&T Corp. (AT&T), BellSouth International, Inc. (BSI), MCI WorldCom, Inc. (MCI WorldCom), RSL COM U.S.A. (RSL), Sprint Communications Company L.P. (Sprint), Star Telecommunications, Inc. (Star), Teleglobe USA, Inc. (Teleglobe USA), Tricom USA, Inc. (Tricom) and Worldx-Change Communications (WorldxChange) (collectively Joint Applicants) under the Cable Landing License Act [FN1] and [Executive Order No. 10530](#) [FN2] ****19457** for authority to land and operate a digital submarine cable system to be called the

MAYA-1 Cable Network (**MAYA-1**), extending between the United States, the Cayman Islands, Colombia, Costa Rica, Honduras, Mexico, and Panama. The cable will be operated on a common carrier basis. [FN3] 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. On March 25, 1999, the Joint Applicants filed this application for a submarine cable landing license. We placed their application on public notice on March 31, 1999. On April 21, 1999, the Joint Applicants amended the application to clarify the initial capacity of **MAYA-1** and to supplement certain of the Joint Applicant's certifications. MCI WorldCom and AT&T filed additional supplemental certifications on November 15, 1999, and November 17, 1999, respectively. [FN4]

3. AT&T is a corporation organized under the laws of the state of New York. RSL, Star, Tricom, and Teleglobe USA are corporations organized under the laws of the state of Delaware. BSI and MCI WorldCom are corporations organized under the laws of the state of Georgia. Sprint is a limited partnership organized under the laws of Delaware. WorldxChange is the doing business name of Communications TeleSystems International, a corporation organized 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. [FN5] The Joint Applicants and other carriers will own **MAYA-1** in the approximate proportions identified in the attachments to this Order. The Joint Applicants' management of **MAYA-1** will be in accordance with the Construction and Maintenance Agreement (C&MA) included in the Application.

*2 4. The Joint Applicants propose to land and operate **MAYA-1** 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 the Cayman Islands, Colombia, Costa Rica, Honduras, Mexico and Panama. The proposed **MAYA-1** system will extend between landing points at cable stations in Hollywood, Florida; Cancun, Mexico; Half Moon Bay, Cayman Islands; Puerto Cortes, Honduras; Puerto Limon, Costa Rica; Colon, Panama; and Tolu, Colombia and will be connected with the domestic networks in those countries. The Joint Applicants state that there is a possibility of including a landing point in Venezuela, and further state that the Joint Applicants will notify the Commission in the event Venezuela is added as a landing point to **MAYA-1**. The Joint Applicants expect to activate **MAYA-1** by May 17, 2000.

5. According to the application, **MAYA-1** will consist of two segments (S and T) and **19458 various subsegments. Segment S will include the whole of the submarine cable and associated equipment. Segment T will include all of the cable stations and related equipment. As shown in attachments to this order, **MAYA-1** will employ an interconnected collapsed ring configuration that will contain two fiber pairs

with five branching units connecting to the landing points. Segment S will consist of two fiber optic pairs operating at 2.5 Gbps per wavelength in one interconnected collapsed ring configuration. The initial design capacity of each fiber pair is equivalent to 48 Basic System Modules (BSMs), [FN6] with a maximum upgrade capacity equivalent to 128 BSMs. Each fiber pair will be equipped at the outset with a capacity of 3024 Ring-MIUs. [FN7]

6. Segment T will consist of the following sub-segments: T1 will comprise the land segment at Hollywood, Florida; T2 will comprise the land segment at Cancun, Mexico; T3 will comprise the land segment at Puerto Cortes, Honduras; T4 will comprise the land segment at Half Moon Bay, Cayman Islands; T5 will comprise the land segment at Puerto Limon, Costa Rica; T6 will comprise the land segment at Colon, Panama; T7 will comprise the land segment at Tolu, Colombia. If an additional landing point is added, T8 will comprise the land segment in Venezuela. Each sub-segment of Segment T will be owned by the terminal party. AT&T will own the landing station at Hollywood, Florida.

III. Comments

7. The **MAYA-1** joint application was placed on public notice on March 31, 1999. Tyco Submarine Systems Ltd. filed comments in support of the application. We received no other comments on the application. Pursuant to Section 1.767(b) of the Commission's rules, [FN8] the Cable Landing License Act, and [Executive Order No. 10530](#), we informed the Department of State of the application and the amended application. [FN9] On October 20, 1999, the Department of State advised the Commission that it has no objection to the issuance of the cable landing license. [FN10]

****19459** IV. Discussion

***3** 8. The Joint Applicants 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 **MAYA-1**. [FN11] Further, the Joint Applicants all certify that they have not agreed and will not agree to accept special concessions from any foreign carrier with market power. [FN12] Accordingly, we find that grant of a license to land **MAYA-1** to the Joint Applicants would not raise competitive concerns that could persuade us to deny the application under Section 2 of the Cable Landing License Act. [FN13]

9. **MAYA-1** will have one landing point in the United States: Hollywood, Florida. The location of the Hollywood Beach Manholes in Florida is at the following V&H coordinates: 26° 02.408' North, 080° 06.853' West. We find the Joint Applicants' description of the likely locations of the remaining landing points to be sufficient to determine that the proposed cable system will comply with the provisions of the Cable Landing License Act and Commission rules. Section 1.767(a) of the Commission's rules permits applicants in an initial application to provide a gen-

eral description of the landing points. [FN14] The applicant must file a specific description of the remaining landing points, including a map, no later than 90 days prior to construction at that landing point. The Commission will give public notice of the filing of the specific description, and grant of the license will be considered final with respect to that landing point unless the Commission notifies the applicant to the contrary no later than 60 days after receipt of the specific description of the landing points.

10. Based on the information provided by the Joint Applicants and pursuant to the Commission's procedures implementing the National Environmental Policy Act of 1969, [FN15] 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.

****19460** 11. 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 **MAYA-1**, as conditioned below.

V. Ordering Clauses

12. 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 fiber pairs depending on subsegment, operating at 2.5 Gbps per wavelength) extending between landing points at cable stations in Hollywood, Florida; Cancun, Mexico; Half Moon Bay, Cayman Islands; Puerto Cortes, Honduras; Puerto Limon, Costa Rica; Colon, Panama; and Tolu, Colombia under the provisions of the Cable Landing License Act and [Executive Order No. 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:

***4** (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;

(2) The Joint Applicants 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 Joint Applicants or any persons or companies controlling them, con-

trolled 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 Joint Applicants 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 Joint Applicants or any persons controlling them, controlled by them, or under direct or indirect common control with them are parties;

****19461** (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 Joint Applicants to any persons, unless the Federal Communications Commission shall give prior consent in writing;

(6) The Joint Applicants shall notify the Commission in writing of the precise locations at which the cable will land in Cancun, Mexico; Half Moon Bay, Cayman Islands; Puerto Cortes, Honduras; Puerto Limon, Costa Rica; Colon, Panama; and Tolu, Colombia. Such notification with respect to any given landing location shall occur no later than 90 days prior to commencing construction at that landing location. The Commission will give public notice of the filing of each description, and grant of this license will be considered final with respect to that landing location unless the Commission issues a notice to the contrary no later than 60 days after receipt of the specific description;

(7) The Commission reserves the right to require the Joint Applicants 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;

***5** (8) Pursuant to Section 2 of the Cable Landing License Act, [47 U.S.C. § 35](#); [Executive Order No. 10530](#), as amended; and Section 214 of the Communications Act of 1934, as amended, [47 U.S.C. § 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;

(9) The Joint Applicants 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;

(10) 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. § 35](#), or for failure to comply with the terms of the authorizations;

(11) The Joint Applicants 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

****19462** (12) The terms and conditions upon which this license is given shall be accepted by the Joint Applicants 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.

13. 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

Rebecca Arbogast

Chief

Telecommunications Division

International Bureau

FN1. An Act Relating to the Landing and Operation of Submarine Cables in the United States, [47 U.S.C. §§ 34-39 \(1994\)](#) (Cable Landing License Act).

FN2. [Exec. Ord. No. 10530](#) reprinted as amended in [3 U.S.C. § 301](#).

FN3. In a companion order, we grant the joint application for [Section 214](#) authority (File No. ITC-214-19990325-00153, DA 99-2578) (rel. Nov. 18, 1999).

FN4. Tyco Submarine Systems Ltd. filed comments in support of the application. We received no other comments on the application.

FN5. A complete list of the owners of **MAYA-1** is included in the attachments to this Order.

FN6. A BSM is defined in the Construction and Maintenance Agreement (C&MA) (Attachment A of the concurrently filed [Section 214](#) application) as an STM-1 (155.52 Mbps) digital line section with interfaces provided in accordance with the appropriate ITU-T Recommendations.

FN7. A ring-MIU is defined in the C&MA as a "nominal 2 Mbps bearer and all the additional overhead bits per second recommended by ITU-T standards for multiplexing in a Collapsed Ring configuration with the capability of bi-directional operation." It is the equivalent of 30 uncompressed digital channels, each operating at

64 kilobits per second (Kbps).

FN8. 47 C.F.R. § 1.767(b).

FN9. Letters from Rebecca Arbogast, 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 (April 13, 1999).

FN10. Letter from Steven W. Lett, Deputy U.S. Coordinator Information Communications and Information Policy, U.S. Department of State, to Donald Abelson, Chief, International Bureau, FCC (October 20, 1999).

FN11. 47 C.F.R. § 63.18(k)(2); see Joint Application at Attachment B, Amendment thereto dated April 21, 1999, MCI WorldCom supplemental certification dated November 15, 1999, and AT&T supplemental certification dated November 17, 1999.

FN12. 47 C.F.R. § 63.18(n).

FN13. See [Rules and Policies on Foreign Participation in the U.S. Telecommunications Market](#), 12 FCC Rcd 23,891, 23,932-35, 23,945-46 (1997) ("Foreign Participation Order"); [Market Entry and Regulation of Foreign-affiliated Entities](#), 11 FCC Rcd 3873, 3887 (1995) ("Foreign Carrier Entry Order") ("The [ECO] test adopted here applies only to carriers with market power.").

FN14. 47 C.F.R. § 1.767(a)(5).

FN15. 47 C.F.R. §§ 1.1301-.1319.

****19463 Attachments**

*6 Attach System Map (Exhibit 1) and Schedules A, B of the **MAYA-1** Construction and Maintenance Agreement.

1999 WL 1044421 (F.C.C.), 14 F.C.C.R. 19,456, 14 FCC Rcd. 19,456

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