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Federal Communications Commission (F.C.C.)

Cable Landing License

*1 IN THE MATTER OF ATLANTICA USA LLC

Application For a License to Land and Operate in the United States a Private
Fiber Optic Submarine Cable System Extending Between The United States,
Venezuela, Brazil and Bermuda (The Atlantica-1 Network)
File No. SCL-LIC-19990602-00010

DA No. 99-2778

Adopted: December 10, 1999

Released: December 10, 1999

**20787 By the Chief, Telecommunications Division:

I. Introduction

1. In this Order, we grant the application of Atlantica USA LLC (Atlantica) under the Cable Landing License Act [FN1] for authority to land and operate a private fiber optic submarine cable system to be called "Atlantica-1," extending between the United States, Venezuela, Brazil and Bermuda. [FN2] Atlantica states that the system will be operated on a non-common carrier basis, consistent with the Commission's longstanding private submarine cable policy. [FN3] For the reasons discussed below, we find that Atlantica has provided sufficient information under our rules to comply with the Cable Landing License Act and that it would serve the public interest to grant the cable landing license subject to the conditions listed below.

II. Application

2. On June 2, 1999, Atlantica filed its application for authority under the Cable Landing License Act to land and operate the "Atlantica-1" cable. The Application states that Atlantica is wholly-owned by Atlantica Network (Bermuda) Ltd. (Atlantica Network Bermuda), a Bermuda company which, **20788 in turn, is a wholly-owned subsidiary of **GlobeNet** Communications Group Limited (**GlobeNet**). [FN4] The Application states that **GlobeNet** is incorporated as an exempt company under the laws of Bermuda and is majority owned and controlled by Canadian interests. [FN5] **GlobeNet** also owns TeleBermuda International Limited (TBI) which, along with its subsidiary TeleBermuda International LLC (TBI LLC), owns and operates the BUS-1 cable extending between Tuckerton, New Jersey, and Bermuda. [FN6]

3. The International Bureau placed the application on public notice on June 18, 1999. [FN7] On July 22, 1999, Atlantica filed an Amendment to its application disclosing that, on July 14, 1999, Atlantic's parent company, **GlobeNet**, completed an equity and debt financing to provide all of the funding necessary to implement the Atlantica-1 cable. The Amendment attaches revised ownership information on Atlantica, to replace the ownership information attached to the original application. The amendment reflects the fact that two U.S. companies now hold interests in **GlobeNet**, along with a Canadian interest. [FN8]

4. According to the Application, the proposed Atlantica-1 Network will be composed of a fiber optic cable network in a self-healing ring configuration with landing points at the following locations: Tuckerton, New Jersey; Boca Raton, Florida; Punta Gorda, Venezuela; Fortaleza, Brazil; Rio de Janeiro, Brazil; and St. David's, Bermuda. [FN9] Atlantica states that the Atlantica-1 Network is designed as two interconnected rings, with the Primary Ring to connect Tuckerton, Boca Raton, Punta Gorda, Fortaleza, and Bermuda, and the Rio Ring to connect Fortaleza and Rio de Janeiro. [FN10] The Application states that Atlantica-1 will be built using advanced fiber optic cable technology combined with dense wavelength division multiplexing (DWDM) channel technology and is designed as a self-healing ring to provide 640 Gbps (4096 STM-1s) of fully-restored service capacity, or 1.28 Tbps of total capacity over ****20789** four fiber pairs. [FN11] According to the Application, the system will initially operate at 20 Gbps (128 STM-1s) of fully-restored capacity and will be upgraded incrementally according to demand. [FN12]

*2 5. The Application states that the Atlantica-1 Network will provide direct connectivity between the United States, Bermuda, Venezuela, and Brazil, with the following segments: (1) Segment 1 between Tuckerton, New Jersey and Boca Raton, Florida; (2) Segment 2 between Boca Raton, Florida and Punta Gorda, Venezuela; (3) Segment 3 between Punta Gorda, Venezuela and Fortaleza, Brazil; (4) Segment 4 between Fortaleza, Brazil and St. David's, Bermuda; (5) Segment 5 between St. David's Bermuda and Tuckerton, New Jersey (currently the BUS-1 cable); and (6) Segments 6 and 7 between Fortaleza, Brazil and Rio de Janeiro, Brazil. [FN13]

III. Comments

6. As noted above, the International Bureau issued a public notice of the Atlantica-1 private submarine cable application on June 18, 1999. We received no comments on the application. Pursuant to Section 1.767(b) of the Commission's rules, [FN14] the Cable Landing License Act, and [Executive Order No. 10530](#), [FN15] we informed the Department of State of the application and the amendment. [FN16] On December 7, the Department of State, after consulting with the National Telecommunications and Information Administration (NTIA) and the Department of Defense, advised the Commission that that it has no objection to issuance of the cable landing license. [FN17]

****20790** IV. Discussion

A. Private Submarine Cable Policy

7. Atlantica states that the Atlantica-1 Network will be operated on a non-common basis consistent with the Commission's longstanding private submarine cable policy, and that, as a non-common carrier system, capacity on the Atlantica-1 Network will be sold in bulk on an infeasible right of use or lease basis, and capacity will not be sold indifferently to the user public. [FN18] Atlantica requests a license under the Commission's private submarine cable policy, which is intended to promote competition in the provision of international transmission facilities. [FN19] Pursuant to this policy, the Commission has authorized non-common carrier cables where: (1) there is no legal compulsion to serve the public indifferently; and (2) there are no reasons implicit in the nature of the operations to expect an indifferent holding-out to the eligible user public. [FN20]

8. In applying the first prong of the test to submarine cable authorizations, the Commission has stated that there will be no legal compulsion to serve the public indifferently where there is no public interest reason to require facilities to be offered on a common carrier basis. This public interest analysis has generally focused on whether an applicant will be able to exercise market power because of the lack of alternative facilities. Where there are sufficient alternatives, the Commission has found that the licensee will lack market power and will not be able to charge monopoly rates for cable capacity. The Commission has found that, in those circumstances, the public interest would be served by allowing a submarine cable to be offered on a non-common carrier basis. [FN21]

3** 9. No one has suggested that the public interest requires Atlantica-1 to be operated on a common carrier basis. Atlantica is a foreign carrier incorporated in Bermuda and is affiliated with TBI, a foreign carrier in Bermuda, one of the destination countries for Atlantica-1. The Application states that TBI is licensed in Bermuda to provide international telecommunications between Bermuda and foreign points, but that it is not licensed to provide local or domestic service in Bermuda. [FN22] The Application states that, although TBI is a licensed carrier in Bermuda, it lacks sufficient market power in Bermuda to *20791** affect competition adversely in the U.S. market. Specifically, the Application states that TBI lacks 50 percent market share in the international transport and the local access markets in Bermuda, and, therefore that TBI is presumptively classified as nondominant. [FN23] Atlantica has certified that it does not have an affiliation with any other foreign carrier other than TBI. [FN24]

10. We agree with Atlantica that, given TBI's lack of market power, TBI is presumptively classified as nondominant under the Commission's rules, [FN25] and we have previously held so. [FN26] Moreover, Atlantica is not affiliated with any foreign carrier other than TBI.

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11. In addition, we note that Atlantica asserts that there are sufficient existing and planned facilities on the routes to prevent it from exercising market power in offering services to the public. [FN27] Atlantica asserts that there are a number of existing and planned common carrier and private cable systems in this region, [FN28] including the following cables extending to Venezuela and to Brazil: (1) Americas I; [FN29] (2) ARCOS; [FN30] (3) Americas II; [FN31] (4) South American Crossing (SAC); [FN32] and (5) South ****20792** American-1 (SAM-1). [FN33]

12. The Application also mentions the Project Oxygen cable, [FN34] extending to all three destinations for the proposed Atlantica cable (Bermuda, Venezuela, and Brazil). While the Application does not list the landing points for the Project Oxygen cable, this information is available in an Order, released March 15, 1999, in which the International Bureau's Telecommunications Division granted Project Oxygen (USA) LLC (O sub2 (USA)) authority under the Cable Landing License Act to land and operate a private fiber optic submarine cable system extending between the United States and various international points including Brazil, Venezuela, and Bermuda. [FN35] In addition, other cables serving Bermuda include: (1) the Atlantic Express II cable system, a digital fiber optic submarine cable system authorized by the Commission to operate on a private carrier basis between the U.S., Bermuda, and the UK [FN36] (with no Commission record of any construction yet); (2) the "Bermuda branch" of CANUS-1, extending from a CANUS-1 branching unit in the Atlantic Ocean to a landing point in Bermuda, which provides services between the United States, Bermuda, and Canada [FN37] (the CANUS-1 cable is currently in service on a private carrier basis); (3) a spur of the Private Transatlantic Cable System (PTAT-1, a Commission-authorized private cable in service since 1989); and (4) the Caribbean Atlantic Cable System (CARAC, a Commission-authorized common carrier cable in service since 1989). [FN38] We note that ****20793** the BUS-1 cable, a private cable currently selling capacity, [FN39] also extends to Bermuda but is owned and operated by TBI and TBI LLC, affiliates of the Applicant. [FN40]

***4** 13. Given Atlantica's ownership structure, and the unopposed evidence regarding alternative facilities, we conclude that Atlantica will not be able to exercise market power in offering services to the public. Accordingly, we find that it would not serve the public interest to impose common carrier regulation on the operations of Atlantica-1 at this time. We note, however, that we always have the ability to impose common carrier or common-carrier-like obligations on the operations of this or any other submarine cable system if the public interest so requires. Furthermore, we have always maintained the authority to classify facilities as common carrier facilities subject to Title II of the Communications Act if the public interest requires that the facilities be offered to the public indifferently. [FN41]

14. Regarding the second prong of the test, we conclude that there is no reason to expect that capacity in the proposed cable system would be held out to the public indifferently. As noted above, Atlantica states that capacity will not be sold indifferently to the user public. [FN42] We find that Atlantica will not offer ca-

capacity in Atlantica-1 to the public on a common carrier basis and that the public interest does not require that they do so. Accordingly, we conclude that it is appropriate to license Atlantica-1 on a non-common carrier basis. We also find that Atlantica will not provide a telecommunications service for a fee to such a class of users as to be "effectively available directly to the public" [FN43] and thus will not be a "telecommunications carrier" under the Telecommunications Act of 1996. [FN44]

B. Ownership and Landing Points

15. Atlantica has provided the ownership information required by sections 1.767(a)(6), 63.18(e)(6), and 63.18(h) of the Commission's rules. [FN45] The Application states that the U.S. portion of the ****20794** Atlantica-1 Network will consist of the landing stations at Tuckerton, New Jersey, and Boca Raton, Florida, as well as the portion of the cable from these landing stations to the limit of U.S. territorial waters. [FN46] The Application states further that Applicant's affiliate, TBI LLC, currently leases space in the Tuckerton, New Jersey cable landing station for operation of the BUS-1 Cable, and that Applicant will either expand that lease to serve as a landing station for Segment 1 as well as Segment 5, or will construct a new landing station in Tuckerton. [FN47] The Application also states that Applicant will build a cable station in Boca Raton, Florida, and that Applicant and TBI LLC will own all terminal equipment in these two landing stations and the portion of the cable from these landing stations to the limit of U.S. territorial waters. According to Applicant, Atlantica Network Bermuda, the Applicant's parent, will own the international portion of the cable, except with respect to Segment 5, which will continue to be owned by TBI and TBI LLC. [FN48] The Application states that the cable landing stations in Venezuela and Brazil, and the portion of the cable in the territorial waters of those countries will be owned either by Atlantica Network Bermuda or its wholly-owned subsidiaries in those countries. [FN49] The Application also states that TBI will continue to lease the cable landing station in St. David's, Bermuda, will lease additional space in Bermuda, and will continue to own the portion of the cable in Bermudian territorial waters. [FN50]

***5** 16. The Application states that Atlantica-1 will land at Tuckerton, New Jersey; Boca Raton, Florida; Punta Gorda, Venezuela; Fortaleza, Brazil; Rio de Janeiro, Brazil; and St. David's, Bermuda. [FN51] We find the applicant's description of the likely 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 general description of the landing points. [FN52] Under Section 1.767(a)(5), an applicant must file a specific description of the landing points, including a map, no later than 90 days prior to construction at that landing point. [FN53] 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 ****20795** specific description of the landing points. [FN54]

C. Environmental Impact

17. The Commission has found that the construction of new submarine cable systems, individually and cumulatively, will not have a significant effect on the environment and therefore should be expressly excluded from our procedures implementing the National Environmental Policy Act of 1969. [FN55] Therefore, the Applicant is not required to submit an environmental assessment, and this application is categorically excluded from environmental processing.

V. Conclusion

18. We grant Atlantica's application for authority to land and operate a non-common carrier fiber optic submarine cable extending between the United States, Venezuela, Brazil and Bermuda, subject to the conditions listed below.

VI. Ordering Clauses

19. Consistent with the foregoing, we hereby GRANT AND ISSUE Atlantica USA LLC (Applicant) a license to land and operate a non-common carrier fiber optic submarine cable system using advanced fiber optic cable technology combined with dense wavelength division multiplexing channel technology, and designed as a self-healing ring to provide 640 Gbps (4096 STM-1s) of fully-restored service capacity, or 1.28 Tbps of total capacity over four fiber pairs (and to initially operate at 20 Gbps, 128 STM-1s, of fully-restored capacity and to be upgraded incrementally according to demand) extending between landing points at cable stations in Tuckerton, New Jersey; Boca Raton, Florida; Punta Gorda, Venezuela; Fortaleza, Brazil; Rio de Janeiro, Brazil; and St. David's, Bermuda, 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 (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:

***6** (1) The location of the cable system within the territorial waters of the United States, 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 Applicant at its 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;

****20796** (2) The Applicant shall at all times comply with any requirements of

U.S. government authorities regarding the location and concealment of the cable facilities, buildings, and apparatus for the purpose of protecting and safeguarding the cable from injury or destruction by enemies of the United States;

(3) The Applicant or any persons or companies controlling it, controlled by it, or under direct or indirect common control with it do not enjoy and shall not acquire any right to handle traffic on a common carrier basis 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 Applicant or any persons or companies controlling it, controlled by it, or under direct or indirect common control with it 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 Applicant or any persons controlling it, controlled by it, or under direct or indirect common control with it 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 Applicant to any persons, unless the Federal Communications Commission shall give prior consent in writing;

(6) The Applicant shall notify the Commission in writing of the precise locations at which the cable will land. Such notification with respect to any given landing location shall occur no later than ninety 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 sixty days after receipt of the specific description;

(7) The Commission reserves the right to require the Applicant to file an environmental assessment or environmental impact statement should it determine that the landing of the cable 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 (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 common carrier regulation or other regulation consistent with the Cable Landing License Act on the operations of the cable system if it finds that the public interest so requires;

(9) The Applicant shall maintain de jure and de facto control of the U.S. por-

tion of the cable system, including the cable landing stations in the United States, sufficient to comply with the ****20797** 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 Applicant 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

(12) The terms and conditions upon which this license is given shall be accepted by the Applicant 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.

20. 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 of the Commission's rules, 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](#) (Cable Landing License Act).

FN2. See Atlantic USA LLC Application for a License to Land and Operate a Submarine Cable System, filed June 2, 1999, at 1 (Application).

FN3. See *id.* at 4.

FN4. See *id.* at 1-2.

FN5. See *id.* at 2.

FN6. See *id.* at 2. In an Order released October 29, 1999, the International Bureau's Telecommunications Division, granted the application of TBI LLC and TBI Ltd. to transfer control of TBI LLC to TBI Ltd. See TeleBermuda International, LLC, Ap-

plication for Consent to Transfer of Control of TeleBermuda International, LLC to TeleBermuda International Limited, Memorandum Opinion and Order, DA 99-2381 (rel. Oct. 29, 1999) (TeleBermuda Transfer of Control Order).

FN7. See Non Streamlined International Applications Accepted for Filing, Public Notice, Report No. TEL-00100NS (rel. June 18, 1999).

FN8. See Atlantica USA LLC Amendment No. 1 to Application File No. SCL-LIC-19990602-00010 (filed Jul. 22, 1999).

FN9. See Application at 1.

FN10. See *id.* at 3.

FN11. See *id.* at 3.

FN12. See *id.* at 3.

FN13. See *id.* at 3-4.

FN14. [47 C.F.R. § 1.767\(b\)](#).

FN15. [Exec. Ord. No. 10530](#), reprinted as amended in [3 U.S.C. § 301](#) (1994).

FN16. 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 (June 25, 1999 and July 28, 1999).

FN17. See Letter from Richard C. Beard, Acting United States Coordinator, Office of International Communications and Information Policy, United States Department of State, to Donald Abelson, Chief, International Bureau, Federal Communications Commission (Dec. 7 1999).

FN18. See Application at 4-5.

FN19. See [Tel-Optik, Ltd., Memorandum Opinion and Order, 100 F.C.C.2d 1033, 1040-42 \(1985\)](#); see also [Cable & Wireless, PLC, Cable Landing License, 12 FCC Rcd 8516 \(1997\)](#) (Cable & Wireless).

FN20. See [Cable & Wireless, 12 FCC Rcd at 8522](#); see also [Optel Communications, Inc., Conditional Cable Landing License, 8 FCC Rcd 2267, 2268- 69 \(1993\)](#); [National Association of Regulatory Utility Commissioners v. FCC, 525 F.2d 630, 642 \(D.C. Cir.\) \(NARUC I\), cert. denied, 425 U.S. 992 \(1976\)](#).

FN21. See, e.g., [Cable & Wireless, 12 FCC Rcd at 8522-23](#).

FN22. See Application at 6.

FN23. See *id.* at 6.

FN24. See *id.* at 6.

FN25. See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Market Entry, IB 97-142, Market Entry and Regulation of Foreign Affiliated Entities, IB 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23959-61, paras. 161-163 (1997) (Foreign Participation Order), recon. pending.

FN26. See TBI Transfer of Control Order.

FN27. See Application at 4.

FN28. See *id.* at 4.

FN29. According to Atlantica, the route for the Americas I cable is Florida-St. Thomas-Brazil-Trinidad-Venezuela. See Application at n.4. The Americas I cable, which was authorized by the Commission on a common carrier basis, is currently in service, and the capacity has been nearly, or completely, allocated for some time.

FN30. According to Atlantica, the route for the ARCOS cable is Caracas-Puerto Rico-Dominican Republic-Turks and Caicos-El Salvador-Bahamas-Mexico-Belize-Guatemala-Honduras-Nicaragua-Costa Rica-Panama- Colombia. See Application at n.4. The ARCOS cable was recently authorized by the Commission on a private carrier basis, and we are not aware that it is currently in service.

FN31. According to Atlantica, the route for the Americas II cable is Trinidad-Martinique-Caracas-Puerto Rico. See Application at n.4. The Americas II cable, which was authorized by the Commission on a common carrier basis, is on schedule to be in service in February 2000.

FN32. According to Atlantica, the route for the South American Crossing (SAC) cable is U.S.V.I.-Brazil-Argentina -Chile-Peru-Colombia-Panama. See Application at n.4. The Commission has pending before it an application filed by Global Crossing for authority to land and operate the SAC cable on a private carrier basis.

FN33. According to Atlantica the route for the South American-I (SAM-1) cable is U.S.-Guatemala-Brazil-Argentina-Chile-Peru-Colombia). See Application at n.4. While it appears that the SAM-1 cable is under construction by TYCO and is scheduled to be in service by July 2001 (See www.simplextech.com/news/pr990511.html, downloaded 12/1/99), there is no Commission record of an application for a cable landing license for SAM-1.

FN34. See Application at n.4.

FN35. See Project Oxygen (USA) LLC Application for a License to Land and Operate in the United States a Private Fiber Optic Submarine Cable System Extending

between the United States and Various Overseas Points, Cable Landing License, [File No. SCL-LIC-19981014-00020](#), [14 FCC Rcd 3924](#), Appendix (1999).

FN36. See Atlantic Express Communications, L.L.C., Application For a License to Land and Operate a Submarine Fiber Optic Cable Between the Northeastern United States and the United Kingdom, Atlantic Express Communications II, L.L.C., Application For a License to Land and Operate a Submarine Fiber Optic Cable Between the Northeastern United States, Bermuda and The United Kingdom, File Nos. SCL 95-005 and SCL-95-006, [Cable Landing Licenses](#), [11 FCC Rcd 7033 \(1996\)](#) (Atlantic Express).

FN37. See Optel Communications, Inc., Application for a Modification to License to Land and Operate a Submarine Fiber Optic Cable Between the United States and Canada, Cable Landing License Modification, File No. SCL-95-004(M), [11 FCC Rcd 7121 \(1996\)](#).

FN38. See [Atlantic Express 11 FCC Rcd 7033 at para. 8, n.18 \(1996\)](#).

FN39. See [www.logic.bm/98-09-30.html](#) (downloaded 12/2/99).

FN40. See Application at 2. See also TeleBermuda International, L.L.C., Application to Land and Operate a Private Submarine Fiber Optic Cable Between the United States and Bermuda, Cable Landing License, File No. SCL-95-009, [11 FCC Rcd 21141 \(1996\)](#).

FN41. See, e.g., [Foreign Participation Order](#), [12 FCC Rcd at 23934, para. 95](#); [Cable & Wireless](#), [12 FCC Rcd at 8530, para. 39](#); AT&T Corp. et al., Cable Landing License, [13 FCC Rcd 16232, 16237, para. 15 \(Int'l Bur. 1998\)](#) (China-US Cable Landing License)

FN42. See Application at 4.

FN43. [47 U.S.C. § 153\(46\)](#) (defining "telecommunications service").

FN44. [47 U.S.C. § 153\(44\)](#) (defining "telecommunications carrier"); [Cable & Wireless](#), [12 FCC Rcd at 8523](#).

FN45. [47 C.F.R. §§ 1.767\(a\)\(6\), 63.18\(e\)\(6\), 63.18\(h\)](#).

FN46. See Application at 5.

FN47. See *id.* at 5.

FN48. See *id.* at 5.

FN49. See *id.* at 5.

FN50. See *id.* at 5.

FN51. See *id.* at 1.

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FN52. 47 C.F.R. § 1.767(a)(5).

FN53. Id.

FN54. Id.

FN55. See 47 C.F.R. § 1.1306 Note 1 (as amended 1999); 1998 Biennial Regulatory Review - Review of International Common Carrier Regulations, IB Docket No. 98-118, Report and Order, 14 FCC Rcd 4909, paras. 67-69 (1999).

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