

**APPLICATION FOR CABLE LANDING LICENSE OF SMITCOMS, INC.
ATTACHMENTS AND CERTIFICATIONS
STREAMLINE PROCESSING REQUESTED**

Introduction

This Attachment is filed pursuant to the requirement that the Applicant provide the information and certifications required under 47.C.F.R. §1.767(a). In doing so, Applicant submits its application qualifies for streamlined processing and, accordingly, requests that it be processed in a manner consistent with the provisions set out in Sections 1.767(i) and (k) of the Commission's rules, 47 C.F.R. §§ 1.767(i) and (k)

SMITCOMS, INC. (Applicant) is a wholly-owned subsidiary of SMITCOMS, NV, and an authorized 214 licensee pursuant to and consistent with the rules, regulations and procedures of the Federal Communications Commission (FCC).¹ Applicant is classified as a dominant carrier for the Island Territory of St. Maarten only, without prejudice to its authority to petition the Commission for reclassification as the company may deem appropriate.²

St. Maarten is part of the federal government of the Netherlands Antilles, a country approved for the provision of switched services over private lines under FCC rules.³ The Netherlands Antilles, in turn, is part of the Dutch Kingdom,⁴ which has formally agreed to the Basic Telecommunications Services Accord (Addendum on Telecommunications) of the World Trade Organization (WTO). Applicant has previously stated and reaffirms here its commitment to a liberalized telecommunications marketplace.

¹ See *Public Notice*, Report TEL-00689, August 7, 2003, File No. ITC-214-20030702-00319, under which SMITCOMS, INC is authorized to provide global facilities-based service and global or limited global resale service.

² *Id* at 2.

³ See *International Authorizations Granted*, DA 00-32, January 13, 2000 at ¶ 8.

⁴ The federal government of the Netherlands Antilles is located in Curacao, and operates under a parliamentary system. The five Island territories that comprise the Netherlands Antilles -- Bonaire, Curacao, St. Maarten, St. Eustatius and Saba -- have autonomous status under the *Statute of the Kingdom of the Netherlands* or 1954, as amended. See *Statute by Act of the Kingdom*, Stb 617, PbNA 233 (1975)(Dutch Kingdom). The Netherlands Antilles is regarded as a country under international accords, and is an equal partner in the Dutch Kingdom, along with the Netherlands and Aruba.

The federal government of the Netherlands Antilles is responsible for telecom licensing within the five Island Territories. As such, it has incorporated the WTO principles of competition and open access in its Telecom Law of 1996, and also reaffirmed its commitment to market liberalization. Moreover, having been established on May 8, 2000, SMITCOMS, NV is a direct beneficiary of market liberalization, without which the company would never have emerged as a telecom operator and competitor in the marketplace. Finally, in addition to providing traffic termination services in St. Maarten, Applicant's parent also provides private line service to various sectors of the market, including entities and U.S. carriers offering competing services.⁵

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⁵ Among the International Telecommunications Services (Carrier) Agreements signed by SMITCOMS, NV (parent of wholly-owned subsidiary applicant), it has agreed to and does provision private lease line services to a U.S. carrier (MCI).

INFORMATION AND CERTIFICATIONS REQUIRED UNDER §1.767(a)

1. Name, Address, Contact Numbers

(a) SMITCOMS

Curtis K. Haynes
Managing Director
SMITCOMS, INC.
Dr. A. C. Wathey Cruise & Cargo Facilities
P. O. Box 5710 Pointe Blanche
Philipsburg
St. Maarten, NA
011 (599)542-9140 (v)
011 (599)542-9141 (f)

2. Domicile/Registration of Applicant and Parent

(a) Applicant is incorporated under the laws of the State of Delaware.

(b) Applicant's parent, SMITCOMS, NV, was established under the laws of the Island Territory of Sint Maarten, Netherlands Antilles.

(c) Applicant is also registered as a foreign corporation under the laws of the Commonwealth of Puerto Rico.

3. Primary Contact Information For Landing License Application

Curtis T. White, Esq.
Mannone A. Butler, Esq.
Law Offices of Curtis T. White, PC
4201 Connecticut Avenue, NW
Suite 402
Washington, DC 20008-1158
(202)537-2999 (ctw – direct)
(202)537-1140 (mab – direct)
cwhite@loctw.com
mbutler@loctw.com

4. Description of Submarine Cable, Type, Number of channels

The SMPR-1 cable is designed as a repeaterless fiber optic submarine cable. As explained more fully in Paragraph 5, *infra*, SMPR-1 will be interconnected in a Landing Station in Puerto Rico that currently houses several other existing submarine cable systems. The total extension of the cable is approximately 374 kilometers, and will be free laid on the sea floor within the territorial waters of the U.S. commonwealth (*i.e.*, up to the point the cable enters the mean low water line near the shore for burial and entry into the beach and existing duct).

SMPR-1 will be comprised of 16 fibers paired, with an initial bandwidth of 2.5 Gbps. The loading capacity of the cable system when lighted at the 2.5 Gbps capacity will be 500 E-1 circuits, or thirty (30) 64-kbps circuits per each E-1 circuit.

5. Description of Cable Landing Stations (US and Foreign Points)

(a) U.S. Landing Station

The cable of Applicant will connect with the U.S. in the Commonwealth of Puerto Rico, and do so via a Landing Station operated by Telecomunicaciones Ultramarinas de Puerto Rico (ULTRACOM). That Landing Station is located the Isla Verde sector of San Juan, Puerto Rico between Punta El Medio and Punta Las Marias. The street address is Kilometro 7, Avenida Isla Verde, Edificio P.R.P.C., 2nd Piso, Carolina, Puerto Rico 00979. The coordinates for the Beach Manhole are: N 18 26.606 // W 66 01.289.⁶ There is only one beach joint for the ULTRACOM Landing Station, which connects via an existing duct on the beach head wall. The approximate distance between the existing cable beach hole (and pull boxes) and the Landing Station is 356 meters.⁷ ULTRACOM currently provides services to various U.S. carriers at the subject facility, which also serves as an interconnect point for numerous cable systems traversing the Region, including Taino-Carib-1, Americas-1, Eastern Caribbean, Antillas-1 and 2, Arcos-1, Maya-1 and Sam-1.⁸

⁶ See Routing Position Data Sheet for SMPR-1 Submarine Cable (Attachment 2)

⁷ *E.g.*, SMPR – 1 Map and Proposed Co-Lo site in ULTRACOM Landing Station (Attachment 3).

^{8[2]} *E.g.*, www.ultracom.com.

(b) Landing Station in St. Maarten and St. Martin

The Applicant will connect with the Island Territory of St. Maarten, NA via a Landing Station to be located at the Divi Little Bay Hotel in St. Maarten, Netherlands Antilles. The planned coordinates for said Landing Station are N18°01.173 // W063°03.576. As part of a common carrier cable system, the Divi Little Bay is expected to host other carriers and cables on a non-discriminatory basis.

6. Cable Operated on Common-Carrier Basis

Applicant hereby certifies that it will operate the SMPR-1 cable on a common carrier basis.

7. Owners of Cable System and U.S. Cable Landing Station

The 100% owner of the SMPR-1 cable will be SMITCOMS, NV, parent company of Applicant, which includes the wet link portion of the cable system.

The U.S. Landing Station in San Juan, PR is owned by the operator, ULTRACOM. Interconnection will be effected pursuant to an agreement between Applicant and ULTRACOM, with ULTRACOM providing interconnect services.⁹

8. Applicant is Affiliated With a Foreign Carrier Located in a WTO Member State

Applicant is a wholly-owned subsidiary of SMITCOMS, NV, which will own the Landing Station planned for Divi Little Bay in St. Maarten, NA.

63.18(h) – The 100% owner of the Applicant is SMITCOMS, NV, domiciled in St. Maarten, NA. SMITCOMS, NA is 100% owned by the Island Government of St. Maarten. The principal contact and address is as follows:

⁹ *Id.*

Curtis K. Haynes
Managing Director
SMITCOMS, NV
Dr. A. C. Wathey Cruise & Cargo Facilities
P. O. Box 5710 Pointe Blanche
Philipsburg
St. Maarten, NA
011 (599)542-9140 (v)
011 (599)542-9141 (f)

§63.18(k) – The Netherlands Antilles is a Member State of the World Trade Organization (WTO), and formally agreed to the Basic Telecommunications Services Accord of the World Trade Organization (WTO).¹⁰ Accordingly, all Island Territories of the Netherlands Antilles hold member state status in the WTO via their central (federal) government and by virtue of Treaties, Conventions and Statutes governing the rights and obligations of the Island Territories that comprise the Netherlands Antilles.¹¹ In addition, provisions of the WTO Basic Telecom Agreement have been incorporated into the Telecom Act governing telecommunications in St. Maarten, as well as the other four Island Territories that comprise the Netherlands Antilles.

§63.18(o) – Applicant hereby certifies that no party to this application is subject to denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, as amended.

9. Applicant Certifies to Comply With Routine Conditions Under Subsection (g)

Applicant hereby certifies that it accepts and will abide by the routine conditions specified in paragraph (g) of this Section 1.767 of the Commission's rules.

¹⁰ The Dutch Kingdom (of which the Netherlands Antilles is an equal partner), through its Member State participation in the WTO, accepted the Basic Telecommunications Services Accord. *See Introduction, supra* at pp. 1-2.

¹¹ *E.g., fn 4, supra*

10. Additional Information – Joint Permit Application in Puerto Rico

Applicant has prepared and caused to be filed its Joint Permit Application for the SMPR-1 Submarine Cable with the Department of Environmental Resources of Puerto Rico (ONER).¹² This Joint Permit Application seeks all clearances necessary for the installation of submarine cables on the ocean floor, and requests the issuance of permits, certificates or concessions necessary for the installation of cable on the ocean floor and the maritime-terrestrial zone of the U.S. and within the jurisdiction of the Commonwealth of Puerto Rico. More specifically, the Joint Permit application seeks the following: (i) a permit from the U.S. Army Corps of Engineers for work in navigable waters of the United States pursuant to Section 10 of the Rivers and Harbors Act, as well as for the placement of fill in waters of the United States pursuant to Section 404 of the Clean Water Act; (ii) a concession for the use of submerged lands and the maritime terrestrial zone from the Puerto Rico Department of Natural and Environmental Resources; (iii) a Water Quality Certificate from the Puerto Rico Environmental Quality Board; and (iv) a Certificate of Consistency with the Coastal Zone Management Program from the Puerto Rico Planning Board.

11. Environmental Assessment

Applicant is preparing an Environmental Assessment which will be reviewed and approved by the Department of Environmental Resources of Puerto Rico as well as the Environmental Quality Board before the issuance of the requested permits, certifications and/or clearances.

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¹² Applicant's Joint Permit Application was filed on November 21, 2003 (No. 525).

**APPLICATION FOR CABLE LANDING LICENSE OF SMITCOMS, INC.
CERTIFICATIONS REGARDING STREAMLINE PROCESSING**

Applicant submits the following information in accordance with the provisions contained in subsections (i) and (j) of this §1.767 of the Commission's rules, 47 C.F.C. §§1.767 (i) and (j).

12. Certification of Service

Applicant, through counsel, hereby certifies that a true copy of this Application for a Landing License of SMITCOMS, Inc., along with attachments, was forwarded, via Federal Express, this 26th day of November, 2003 to the following:

U.S. Coordinator, EB/CIP
U.S. Department of State
2201 C Street , NW
Washington, DC 20520-5818

Office of Chief Counsel
NTIA
U. S. Department of Commerce
14th & Constitution Avenue, NW
Washington, DC 20230

Defense Information Systems Agency
Code RGC
701 S. Courthouse Road
Arlington, VA 22204

13. Destination Market is WTO Member State

As shown *supra*, the Island Territory of St. Maarten holds membership in the WTO by virtue of treaties, conventions and statutes governing the rights and obligations of members of the Dutch Kingdom.¹³

¹³ *Supra* at p. 5.

14. Certification to Abide by Requirements of §1767(k) – Applicant fully agrees to abide by the rules and reporting requirements set out under subsections (1) and (2) of Section 1.767(k) of the Commission’s rules.

CONCLUSION

In view of the foregoing, Applicant respectfully requests that the Commission grant its application for a Landing License, and process its request under applicable Streamline Processing Rules.

Respectfully submitted,

SMITCOMS, INC.

/s/

By: _____

Curtis T. White
Mannone A. Butler
Law Offices of Curtis T. White
4201 Connecticut Ave., NW
Suite 402
Washington, DC 20008-1158

November 26, 2003

Annex – Delineation of Attachments To Landing License Application

In addition to this Attachment providing Certifications, and as referenced herein, Applicants attached copies of the following:

Attachment 1 - Narrative responding certifications required under Sections 1.767(i) and (k) of the Commission's rules, 47 C.F.R. §§ 1.767(i) and (k).

Attachment 2 – Routing Map with coordinates for interconnection with the ULTRACOM Landing Station, Isla Verde, San Juan, Puerto Rico.

Attachment 3 – Map of SMPR-1 interconnection and site of proposed co-location of SMPR-1 in ULTRACOM Landing Station.