

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of

TELEFÓNICA INTERNATIONAL WHOLESALE
SERVICES USA, INC.,
TI WHOLESALE SERVICES PUERTO RICO, INC.,
AND
TELEFÓNICA INTERNATIONAL WHOLESALE
SERVICES AMÉRICA, S.A.

Application for a License to Land and Operate
a Private Fiber-Optic Submarine Cable System
Connecting Virginia, Puerto Rico, and Brazil

THE BRUSA CABLE SYSTEM

File No. SCL-LIC-2016-_____

**JOINT APPLICATION FOR CABLE LANDING LICENSE—
STREAMLINED PROCESSING REQUESTED**

Pursuant to 47 U.S.C. § 34, Executive Order No. 10,530, and 47 C.F.R. § 1.767, Telefónica International Wholesale Services USA, Inc. (“TIWS USA,” FRN 0006650618), TI Wholesale Services Puerto Rico, Inc. (“TIWS Puerto Rico,” FRN 0022340921), and Telefónica International Wholesale Services América S.A. (“TIWS América,” FRN 0022340871), (collectively, “Applicants”) hereby apply for a license to land and operate within the United States a private fiber-optic submarine cable network connecting Virginia Beach, Virginia; San Juan, Puerto Rico; and Fortaleza and Rio de Janeiro, Brazil. The system will be known as the BRUSA cable system. The Applicants will operate the BRUSA cable system on a non-common-carrier basis, either by using BRUSA capacity as an input for their other services or by providing bulk capacity to wholesale and enterprise customers on particularized terms and conditions

pursuant to individualized negotiations. The existence of robust competition on the U.S.-Brazil route obviate any need for common-carrier regulation on public-interest grounds.

The Applicants intend to commence commercial operation of the BRUSA cable system in the second calendar quarter of 2018. The Applicants therefore seek timely grant of a cable landing license by the Commission no later than December 2016 in order to permit construction activities to proceed on schedule. An expeditious grant of this application will significantly advance the public interest.

First, BRUSA will increase route diversity on U.S.-South America routes with an entirely new landing point on the U.S. mainland. At present, no other cables land at Virginia Beach. Other existing and planned U.S.-Brazil cable systems either land or plan to land in Florida or the New York-New Jersey area. BRUSA will therefore offer a new diverse path on the U.S.-Brazil route. This diverse path helps to minimize the risk that a single event, such as a hurricane or anchor or fishing-net entanglement, will disrupt all U.S.-Brazil communications.

Second, BRUSA will provide new, low-latency connectivity (in connection with terrestrial backhaul facilities) to a cluster of data centers in the Northern Virginia region in and around Ashburn, Dulles, and Vienna, known as “Data Center Alley.” This connectivity will greatly benefit carriers and enterprises using such facilities.

Third, BRUSA will offer significant new capacity on a route where capacity demand is increasing substantially each year and where existing systems are nearing the ends of their useful lives. SAm-1, South American Crossing/Latin American Nautilus, and GlobeNeteach entered into commercial service in 2001, while Americas-II entered into commercial service in 2000. BRUSA will consist of eight fiber pairs with a design capacity of 13.5 Tbps per fiber pair. BRUSA will provide critical new and replacement capacity on the U.S.-Brazil route. It will offer

capacity in large increments until the year 2042, far beyond the useful life of most existing systems serving the U.S.-Brazil route.

This application raises no public-interest concerns. The Applicants request streamlined processing pursuant to 47 C.F.R. § 1.767(k)(3), as they are affiliated with a dominant foreign carrier affiliate in Brazil, and agree to abide by the reporting requirements in 47 C.F.R. § 1.767(l). Below, the Applicants provide information required by 47 C.F.R. § 1.767.

A. Applicant Names, Addresses, and Telephone Numbers¹

Telefónica International Wholesale Services USA, Inc.
1111 Brickell Avenue, Suite 1800
Miami, Florida 33131-3122
+1 305 925 5256 tel

TI Wholesale Services Puerto Rico, Inc.
1111 Brickell Avenue, Suite 1800
Miami, Florida 33131-3122
+1 305 925 5256 tel

Telefónica International Wholesale Services América S.A.
Avenida Luis Alberto de Herrera 1248, piso 4
11300 Montevideo
Uruguay
+598 2 628 00 20 tel

B. Applicant Places of Incorporation²

TIWS USA is a Florida corporation. TIWS Puerto Rico is a Puerto Rico corporation.

TIWS América is a Uruguayan corporation.

¹ See 47 C.F.R. § 1.767(a)(1).

² See *id.* § 1.767(a)(2).

C. Contact Information for All Applicants³

Andrés J. Fígoli Pacheco
Secretaría General
Telefónica International Wholesale Services América S.A.
Avenida Luis Alberto de Herrera 1248, piso 4
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with a copy to:

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Counsel for the Applicants

D. System Description⁴

BRUSA will have a total length of 11,200 kilometers, with a trunk between Virginia Beach, and Rio de Janeiro. It will have two spurs connecting to the trunk via branching units; one spur will connect to San Juan, while the other will connect to Fortaleza. BRUSA will consist of eight optical fiber pairs, with an initial capacity of 1 Tbps and a total design capacity of 108 Tbps. Four “express route” fiber pairs will connect Virginia Beach directly with Rio de Janeiro. Two fiber pairs will connect Virginia Beach, San Juan, and Rio de Janeiro, and two fiber pairs will connect Virginia Beach, Fortaleza, and Rio de Janeiro.

³ See *id.* § 1.767(a)(3).

⁴ See *id.* § 1.767(a)(4).

The Applicants expect the BRUSA cable system to enter into commercial service in the second calendar quarter of 2018. In Appendix 1, the Applicants provide a route map for the system.

E. Landing Points⁵

The Applicants provide specific landing point information (including geographic coordinates and street addresses, where available, for beach manholes and cable landing stations) in the following appendices:

- Appendix 2: San Juan, Puerto Rico
- Appendix 3: Fortaleza, Brazil
- Appendix 4: Rio de Janeiro, Brazil

The Applicants will provide specific landing point information for the Virginia Beach landing in a separate, subsequent landing point notification.

F. Regulatory Classification⁶

The Applicants will operate the BRUSA cable system on a non-common-carrier basis. Non-common-carrier classification of the proposed system is consistent with established Commission policy and precedent and with judicial precedent, and it will advance the public interest.

First, the Commission should not subject the BRUSA cable system to common-carrier regulation because BRUSA will not operate on a common-carrier basis as defined in *NARUC I*.⁷

⁵ See *id.* § 1.767(a)(5).

⁶ See *id.* § 1.767(a)(6).

⁷ See *Nat'l Ass'n of Regulatory Utility Comm'rs v. FCC*, 525 F.2d 630, 642 (D.C. Cir. 1976) ("*NARUC I*") (stating that the court must inquire "whether there are reasons implicit in the nature of [the] operations to expect an indifferent holding out to the eligible user public"), *cert. denied*, 425 U.S. 992 (1976); see also *Virgin Islands Tel. Corp. v. FCC*, 198 F.3d 921

The courts have stated that “[t]he primary *sine qua non* of common carrier status is a quasi-public character, which arises out of the undertaking ‘to carry for all people indifferently.’”⁸ On BRUSA, however, the Applicants will not sell capacity indifferently to the user public. Instead, the Applicants will: (a) use BRUSA capacity as an input for other services offered to retail, enterprise, and government customers in the United States and Latin America, and (b) sell bulk capacity to particular enterprise and government customers pursuant to individually-negotiated indefeasible rights of use (“IRUs”) and capacity leases, the terms of which will vary depending on the characteristics and needs of the particular capacity purchaser. The Commission has consistently found that such offerings do not make an applicant a common carrier.⁹

Second, the Commission should not subject the BRUSA cable system to common-carrier regulation because there is no legal compulsion or other public-interest reason for the Applicants to operate BRUSA in such a manner. Under the *NARUC I* test, the Commission must determine whether the public interest requires common-carrier operation of the cable system.¹⁰

Traditionally, the Commission has focused on whether the applicant has sufficient market power

(D.C. Cir. 1999) (affirming FCC’s use of *NARUC I* test for distinguishing common-carrier and private-carrier services following enactment of the Telecommunications Act of 1996).

⁸ *Nat’l Ass’n of Regulatory Utility Comm’rs v. FCC*, 533 F.2d 601, 608 (D.C. Cir. 1976) (quoting *Semon v. Royal Indemnity Co.*, 279 F.2d 737, 739 (5th Cir. 1960)).

⁹ *See AT&T Corp. et al.*, Cable Landing License, 13 FCC Rcd. 16,232, 16,238 (Int’l Bur. 1998) (finding that individualized decisions concerning the sale or lease of capacity on the China-U.S. Cable Network would not constitute the effective provision of a service to the public so as to make the applicant a common carrier); *AT&T Submarine Systems, Inc.*, Cable Landing License, 11 FCC Rcd. 14,885, 14,904 ¶ 64 (Int’l Bur. 1996) (“*St. Thomas-St. Croix Cable Order*”) (finding that an “offer of access, nondiscriminatory terms and conditions and market pricing of IRUs does not rise to the level of an ‘indiscriminate’ offering” so as to constitute common carriage), *aff’d* 13 FCC Rcd. 21,585 (1998), *aff’d sub nom. Virgin Islands Telephone Corp. v. FCC*, 198 F.3d 921 (D.C. Cir. 1999).

¹⁰ *NARUC I*, 525 F.2d at 642 (stating that the court must inquire “whether there will be any legal compulsion . . . to serve [the public] indifferently”).

to warrant common carrier regulation,¹¹ although the Commission “is not limited to that reasoning” and has looked more broadly to determine whether common-carrier licensing is in the public interest.¹² The BRUSA cable system poses no such competitive or other public-interest concerns.

The BRUSA cable system will enhance competition by competing vigorously with other submarine cable systems on all of the international routes it will serve. Specifically, the BRUSA cable system will compete directly with the existing Americas-II, AMX-1, GlobeNet, and South American Crossing/Latin American Nautilus systems, which—on the U.S. end—land either in Florida, Puerto Rico, or the U.S. Virgin Islands. It will also compete directly with the planned Seabras-1 and Monet systems, which will land in New Jersey and Florida, respectively.

The Commission has previously found that it “can rely upon both existing and planned facilities/services in making competitive assessments”¹³ and that facilities need not be identical in order to offer pro-competitive benefits.¹⁴ The existence of ample competing submarine cable facilities providing U.S.-Brazil connectivity ensures that BRUSA would not function as a

¹¹ See *St. Thomas-St. Croix Cable Order*, 11 FCC Rcd. at 14,893 ¶ 30.

¹² See *AT&T Corp. et al.*, Cable Landing License, 14 FCC Rcd. 13,066, 13,080 ¶ 39 (2000) (stating that “[a]lthough this public interest analysis has generally focused on the availability of alternative facilities, we are not limited to that reasoning”); *Australia-Japan Cable (Guam) Limited*, Cable Landing License, 15 FCC Rcd. 24,057, 24,062 ¶ 13 (Int’l Bur. 2000) (stating that “[t]his public interest analysis generally has focused on whether an applicant will be able to exercise market power because of the lack of alternative facilities, although the Commission has not limited itself to that reasoning”); *Telefonica SAM USA, Inc. et al.*, Cable Landing License, 15 FCC Rcd. 14,915, 14,920 ¶ 11 (Int’l Bur. 2000) (stating that “[t]his public interest analysis has focused on the availability of alternative facilities, although the Commission has stated it is not limited to that reasoning”).

¹³ *General Communication, Inc.*, Order on Review, 16 FCC Rcd. 4314, 4315 ¶ 4 (2001).

¹⁴ *St. Thomas-St. Croix Cable Order*, 11 FCC Rcd. at 14,898 ¶ 44 (stating that “requiring current identical substitute common carrier facilities before non-common carrier facilities will be authorized would serve as a disincentive for entities to take risks and expend capital to expand and upgrade facilities”).

bottleneck facility on those routes. The Applicants' intended operation of the BRUSA cable system therefore serves the Commission's long-standing policy to encourage competition through private submarine cable transmissions, pursuant to which the Commission has granted numerous cable landing licenses.¹⁵

In addition to offering additional capacity and competition on the U.S.-Brazil route, the BRUSA cable system will further benefit the public interest for the reasons noted in the introductory section above. It will provide much-needed capacity on the U.S.-Brazil routes, where existing cables are reaching the ends of their useful lives. It will provide substantial route diversity by landing in Virginia Beach. It will also provide crucial connectivity for Data Center Alley in Northern Virginia. Indeed, the Applicants have already sold one of the four express fiber pairs between Virginia Beach and Rio de Janeiro, as well as related maintenance, collocation, and Brazil network services, although the Applicants and their affiliates remain solely responsible for contracting for the installation of BRUSA and the overall operation of BRUSA.

G. Cable Ownership Information¹⁶

The Applicants will own BRUSA as follows:

- TIWS USA will own and control the new cable landing station in Virginia Beach and that portion of the BRUSA wet segment in the U.S. territorial sea extending from Virginia Beach.

¹⁵ See *Tel-Optik Ltd.*, Memorandum Opinion and Order, 100 FCC.2d 1033, 1041 (1985).

¹⁶ See 47 C.F.R. § 1.767(a)(7).

- TIWS Puerto Rico owns and controls the existing cable landing station in San Juan and will own that portion of the BRUSA wet segment in the U.S. territorial sea extending from San Juan.
- Telefónica International Wholesale Services Brasil Limitada (“TIWS Brazil”) owns and controls the existing cable landing stations in Fortaleza and Rio de Janeiro and will own those portions of the BRUSA wet segment extending from Fortaleza and Rio de Janeiro.
- TIWS América will own those portions of the BRUSA wet segment in international waters, beyond the U.S. and Brazilian territorial seas.

H. Certifications Regarding Ownership, Citizenship, Principal Business, and Interlocking Directorates¹⁷

As detailed further below and illustrated graphically in Appendix 6, each of the Applicants is a direct or indirect subsidiary of Telefónica S.A. (“Telefónica Parent”).

By its signature below, TIWS USA certifies that it has the following 10-percent-or-greater direct or indirect interest holders:

- (1) Telefónica International Wholesale Services América S.A. (“TIWS América”)**
Address: Avenida Luis Alberto de Herrera 1248, piso 4, 11300 Montevideo, Uruguay
Citizenship: Uruguay
Principal Business: telecommunications
Relationship: TIWS América owns 100 percent of TIWS USA.

¹⁷ See *id.* §§ 1.767(a)(8)(i), 63.18(h).

- (2) **Telefónica International Wholesale Services S.L. (“TIWS S.L.”)**
Address: Distrito C, Calle Ronda de la Comunicación s/n, Edificio Central, 28050 Madrid, Spain
Citizenship: Spain
Principal Business: telecommunications
Relationship: TIWS S.L. owns 26.86 percent of TIWS América.
- (3) **Telefónica DataCorp S.A. (“Telefónica DataCorp”)**
Address: Distrito C, Calle Ronda de la Comunicación s/n, Edificio Central, 28050 Madrid, Spain
Citizenship: Spain
Principal Business: telecommunications
Relationship: Telefónica DataCorp owns 7.49 percent of TIWS S.L.
- (4) **Telefónica S.A. (“Telefónica Parent”)**
Address: Distrito C, Calle Ronda de la Comunicación s/n, Edificio Central, 28050 Madrid, Spain
Citizenship: Spain
Principal Business: telecommunications
Relationship: Telefónica Parent owns 73.14 percent of TIWS América, 92.51 percent of TIWS S.L., and 100 percent of Telefónica DataCorp.

By its signature below, TIWS Puerto Rico certifies that it has the following 10-percent-or-greater direct or indirect interest holders:

- (1) **Telefónica International Wholesale Services América S.A. (“TIWS América”)**
Address: Avenida Luis Alberto de Herrera 1248, piso 4, 11300 Montevideo, Uruguay
Citizenship: Uruguay
Principal Business: telecommunications
Relationship: TIWS América owns 100 percent of TIWS Puerto Rico.
- (2) **Telefónica International Wholesale Services S.L. (“TIWS S.L.”)**
Address: Distrito C, Calle Ronda de la Comunicación s/n, Edificio Central, 28050 Madrid, Spain
Citizenship: Spain
Principal Business: telecommunications
Relationship: TIWS S.L. owns 26.86 percent of TIWS América.
- (3) **Telefónica DataCorp S.A. (“Telefónica DataCorp”)**
Address: Distrito C, Calle Ronda de la Comunicación s/n, Edificio Central, 28050 Madrid, Spain
Citizenship: Spain
Principal Business: telecommunications
Relationship: Telefónica DataCorp owns 7.49 percent of TIWS S.L.

(4) Telefónica S.A. (“Telefónica Parent”)

Address: Distrito C, Calle Ronda de la Comunicación s/n, Edificio Central, 28050 Madrid, Spain

Citizenship: Spain

Principal Business: telecommunications

Relationship: Telefónica Parent owns 73.14 percent of TIWS América, 92.51 percent of TIWS S.L., and 100 percent of Telefónica DataCorp.

By its signature below, TIWS América certifies that it has the following 10-percent-or-greater direct or indirect interest holders:

(1) Telefónica International Wholesale Services S.L. (“TIWS S.L.”)

Address: Distrito C, Calle Ronda de la Comunicación s/n, Edificio Central, 28050 Madrid, Spain

Citizenship: Spain

Principal Business: telecommunications

Relationship: TIWS S.L. owns 26.86 percent of TIWS América.

(2) Telefónica DataCorp S.A. (“Telefónica DataCorp”)

Address: Distrito C, Calle Ronda de la Comunicación s/n, Edificio Central, 28050 Madrid, Spain

Citizenship: Spain

Principal Business: telecommunications

Relationship: Telefónica DataCorp owns 7.49 percent of TIWS S.L.

(3) Telefónica S.A. (“Telefónica Parent”)

Address: Distrito C, Calle Ronda de la Comunicación s/n, Edificio Central, 28050 Madrid, Spain

Citizenship: Spain

Principal Business: telecommunications

Relationship: Telefónica Parent owns 73.14 percent of TIWS América, 92.51 percent of TIWS S.L., and 100 percent of Telefónica DataCorp.

Telefónica Parent’s shares trade publicly on the Bolsa de Madrid (the Madrid Stock Exchange).

As there is an active market in Telefónica Parent’s shares, Telefónica Parent’s share ownership is always fluid. Moreover, Telefónica Parent can ascertain its significant shareholders only on the basis of its records and may not know of possibly related or affiliated shareholders that are not disclosed to it. Recognizing these limitations, as of February 29, 2016, no Telefónica Parent

shareholder holds an interest sufficient to give it a 10-percent-or-greater direct or indirect interest in any of the Applicants.

By its signature below, TIWS USA certifies that it has no interlocking directorates with foreign carriers.

By its signature below, TIWS Puerto Rico certifies that it has no interlocking directorates with foreign carriers.

By its signature below, TIWS América certifies that it has the following interlocking directorates with foreign carriers:

- Juan Vicente Revilla, who is President and Director of TIWS América, is Consejero (Director) also of Telefónica International Wholesale Services, S.L., Telefonica International Wholesale Services Argentina S.A., Telefonica International Wholesale Services Chile S.A., Telefonica International Wholesale Services Colombia S.A., Telefonica International Wholesale Services Ecuador S.A., Telefonica International Wholesale Services Guatemala S.A., and Telefonica Global Solutions Panamá S.A.
- Luis Prendes, who is Director of TIWS América, is also Consejero (Director) of Telefónica Innovación Alpha, S.L., Synergic Partners, S.L. and Consejero Suplente (Director alternate) of Colombia Telecomunicaciones, S.A., E.S.P.

I. Certification Regarding the Anti-Drug Abuse Act of 1988¹⁸

By their respective signatures below, each Applicant certifies that no party to this application is subject to a denial of federal benefits under Section 5301 of the Anti-Drug Abuse Act of 1988, as amended.¹⁹

¹⁸ See *id.* §§ 1.767(a)(8)(i), 63.18(o).

¹⁹ 21 U.S.C. § 862(a). Pub. L. 100-690, title V, Section 5301 (Nov. 18, 1988), 102 Stat. 4310, which related to denial of Federal benefits to drug traffickers and possessors—previously codified at 21 U.S.C. § 853(a)—was renumbered section 421 of the Controlled Substances Act by Public Law 101-647, title X, Section 1002(d)(1) (Nov. 29, 1990), 104 Stat. 4827, and has been recodified as 21 U.S.C. § 862(a). 47 C.F.R. § 63.18(o) does not reflect this recodification.

J. Certification Regarding Foreign Carrier Status and Foreign Affiliations²⁰

By its signature below, TIWS USA certifies that it:

(A) is not a foreign carrier in any foreign country;

(B) does not own or control a cable landing station in any foreign country; and

(C) is affiliated with foreign carriers, including foreign carriers that control cable landing stations in foreign countries, as summarized in Table 1 below.

By its signature below, TIWS Puerto Rico certifies that it:

(A) is not a foreign carrier in any foreign country;

(B) does not own or control a cable landing station in any foreign country; and

(C) is affiliated with foreign carriers, including foreign carriers that control cable landing stations in foreign countries, as summarized in Table 1 below.

By its signature below, TIWS América certifies that it:

(A) is not a foreign carrier in any foreign country;

(B) does not own or control a cable landing station in any foreign country; and

(C) is affiliated with foreign carriers, including foreign carriers that control cable landing stations in foreign countries, as summarized in Table 1 below.

TABLE 1: AFFILIATED FOREIGN CARRIERS

Country	Entity	Owns/Controls Cable Landing Station? Y/N
Argentina	Córdoba TV, S.A.	N
	Telefónica International Wholesale Services Argentina S.A.	Y
	Telefónica Móviles Argentina, S.A.	N
	Telefónica de Argentina, S.A.	Y
Austria	Telefónica International Wholesale Services II, S.L.U. (Austria branch)	N

²⁰ See 47 C.F.R. § 1.767(a)(8)(ii).

Country	Entity	Owns/Controls Cable Landing Station? Y/N
Belgium	Telefónica International Wholesale Services II, S.L.U. (Belgium branch)	N
Brazil	Global Village Telecom S.A	N
	Media Networks Brasil Ltda.	N
	Telefónica Brasil, S.A.	N
	Telefónica International Wholesale Services Brasil Limitada	Y
Bulgaria	Telefónica International Wholesale Services II, S.L. (Bulgaria branch)	N
Chile	Telefónica Chile, S.A.	Y
	Telefónica International Wholesale Services Chile S.A.	Y
	Telefónica Móviles Chile, S.A.	N
	TIWS Chile II, S.pA.	N
Colombia	Colombia Telecomunicaciones, S.A. ESP	Y
	Telefónica International Wholesale Services Colombia S.A.	N
Costa Rica	Telefónica de Costa Rica TC, S.A.	N
Cyprus	Telefónica International Wholesale Services II, S.L.U. (Cyprus branch)	N
Denmark	Telefónica International Wholesale Services II, S.L.U. (Denmark branch)	N
Ecuador	Otecel, S.A.	N
	Telefónica International Wholesale Services Ecuador S.A.	Y
	TIWS Ecuador II, S.A.	N
El Salvador	Telefónica Móviles El Salvador, S.A. de C.V.	N
Estonia	Telefónica International Wholesale Services II, S.L.U. (Estonia branch)	N
Finland	Telefónica International Wholesale Services II, S.L.U. (Finland branch)	N
France	Telefónica International Wholesale Services France SAS	N
Germany	E-Plus Mobilfunk GmbH	N
	Telefónica Germany GmbH & Co. OHG	N
Greece	TIWS Greece Telecommunications Services Company Limited Liability	N
Guatemala	Telefónica International Wholesale Services Guatemala, S.A.	Y
	Telefónica Móviles Guatemala, S.A.	N
Hong Kong	Telefónica International Wholesale Services , S.L.	N
Hungary	Telefónica International Wholesale Services Hungary Korlátolt Felelősségű Társaság	N

Country	Entity	Owens/Controls Cable Landing Station? Y/N
Italy	Telefónica International Wholesale Services II, S.L.U. (Italy branch)	N
Latvia	Telefónica International Wholesale Services, Latvia Sabiedriba ar ierobezotu atbildību	N
Luxembourg	Telefónica International Wholesale Services II, S.L.U. (Luxembourg branch)	N
Malta	Telefónica International Wholesale Services II, S.L.U (Malta branch)	N
Mexico	Grupo de Telecomunicaciones Mexicanas, S.A. de C.V.	N
Netherlands	Telefónica International Wholesale Services II, S.L.U. (Netherlands branch)	N
Nicaragua	Telefónica Celular de Nicaragua, S.A.	N
Norway	Telefónica International Wholesale Services II, S.L.U. (Norway branch)	N
Panama	Telefónica Global Solutions Panamá S.A.	Y
	Telefónica Móviles Panamá, S.A	N
Peru	Telefónica del Perú, S.A.C.	Y
	Telefónica International Wholesale Services Perú, S.A.C.	Y
	Servicios TIWS SAC	N
Poland	Telefónica International Wholesale Services II, S.L.U., (Poland branch)	N
Portugal	Telefónica International Wholesale Services II, S.L.U. (Portugal branch)	N
Romania	Telefónica International Wholesale Services II, S.L.U. (Romania branch)	N
Slovakia	Telefónica International Wholesale Services II, S.L.U. (Slovakia branch)	N
Slovenia	Telefónica International Wholesale Services II, S.L.U. (Slovenia branch)	N
Singapore	Telefónica Global Solutions, Singapore Pte. Ltd	N
Spain	Iberbanda, S.A.	N
	Telefónica de España S.A.U.	Y
	Telefónica International Wholesale Services, S.L.	N
	Telefónica International Wholesale Services II, S.L.U.	N
	Telefónica Móviles España S.A.U.	N
	Tuenti Technologies, S.L.	N
Sweden	Telefónica International Wholesale Services Sweden AB	N
Switzerland	Telefónica International Wholesale Services II, S.L.U., (Switzerland branch)	N

Country	Entity	Owns/Controls Cable Landing Station? Y/N
United Kingdom	Telefónica UK, Ltd.	N
Uruguay	Telefónica Móviles del Uruguay, S.A.	N
Venezuela	Telefónica Venezolana, C.A.	N

K. Certification Regarding Destination Countries²¹

By its signature below, TIWS USA certifies to the following:

- (A) it is not a foreign carrier in Brazil, the sole foreign destination market in which the BRUSA cable system will land;
- (B) it does not control a foreign carrier in Brazil;
- (C) an entity owning more than 25 percent of, or controlling, TIWS USA controls foreign carriers in Brazil; and
- (D) no grouping of two or more foreign carriers in Brazil (or parties that control foreign carriers in Brazil) own, in aggregate, more than 25 percent of it and are parties to, or beneficiaries of, a contractual relation affecting the provision or marketing of arrangements for the terms of acquisition, sale, lease, transfer, and use of capacity on the BRUSA cable system in the United States.

By its signature below, TIWS Puerto Rico certifies to the following:

- (A) it is not a foreign carrier in Brazil, the sole foreign destination market in which the BRUSA cable system will land;
- (B) it does not control a foreign carrier in Brazil;

²¹ See *id.* § 1.767(a)(8)(iii).

- (C) an entity owning more than 25 percent of, or controlling, TIWS USA controls foreign carriers in Brazil; and
- (D) no grouping of two or more foreign carriers in Brazil (or parties that control foreign carriers in Brazil) own, in aggregate, more than 25 percent of it and are parties to, or beneficiaries of, a contractual relation affecting the provision or marketing of arrangements for the terms of acquisition, sale, lease, transfer, and use of capacity on the BRUSA cable system in the United States.

By its signature below, TIWS América certifies to the following:

- (A) it is not a foreign carrier in Brazil, the sole foreign destination market in which the BRUSA cable system will land;
- (B) it controls a foreign carrier in Brazil;
- (C) an entity owning more than 25 percent of, or controlling, TIWS América controls foreign carriers in Brazil; and
- (D) no grouping of two or more foreign carriers in Brazil (or parties that control foreign carriers in Brazil) own, in aggregate, more than 25 percent of it and are parties to, or beneficiaries of, a contractual relation affecting the provision or marketing of arrangements for the terms of acquisition, sale, lease, transfer, and use of capacity on the BRUSA cable system in the United States.

L. Certifications Regarding WTO Status and Affiliations with Foreign Carriers Having Market Power in Foreign Destination Markets²²

No response is required, as the Applicants did not identify any non-WTO markets in response to 47 C.F.R. § 1.767(a)(8)(iii).

²² See *id.* § 1.767(a)(8)(iv).

M. Certifications Regarding Routine Conditions²³

By their respective signatures below, each Applicant certifies that it accepts and will abide by the routine conditions specified in 47 C.F.R. § 1.767(g).

N. Streamlining—Market Power²⁴

The Applicants request streamlined processing pursuant to 47 C.F.R. § 1.767(k)(23). TIWS USA, TIWS Puerto Rico, and TIWS América have certified in parts J and K above that they are affiliated with a foreign carrier in Brazil (TIWS Brazil) owning or controlling a cable landing station. Telefónica Brasil S.A. has greater-than-50-percent market share in certain local-access markets in Brazil. By their respective signatures below, each Applicant certifies that Brazil is a member of the World Trade Organization²⁵ and that it agrees to accept and abide by the reporting requirements set out in 47 C.F.R. § 1.767(l).

O. Streamlining—CZMA²⁶

By their respective signatures below, each Applicant certifies that it is not required to submit a consistency certification to any state or territory pursuant to Section 1456(c)(3)(A) of the Coastal Zone Management Act, codified at 16 U.S.C. § 1456(c)(3)(A). Neither Virginia nor Puerto Rico, the respective U.S. state and territory in which BRUSA will land, lists, and neither has ever proposed to list, a cable landing license as a federal activity requiring a consistency certification.²⁷

²³ See *id.* § 1.767(a)(9).

²⁴ See *id.* § 1.767(j), (k).

²⁵ See World Trade Organization, *Members and Observers* (as of Nov. 30, 2015), https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm.

²⁶ See *id.*

²⁷ See National Oceanic and Atmospheric Administration, Coastal Zone Management Program, *Virginia's Listed Federal Actions*, <https://coast.noaa.gov/czm/consistency/media/va.pdf>; Federal Consistency Information Package for Virginia Coastal Zone Management Program

P. Certification Regarding Service to Executive Branch Agencies²⁸

The Applicants have sent a complete copy of this application to the U.S. Departments of State, Commerce, and Defense. The Applicants' counsel has certified such service in the certificate of service attached to this application.

Prepared by Department of Environmental Quality, Tables 1 and 2, <http://www.deq.virginia.gov/Portals/0/DEQ/EnvironmentalImpactReview/FederalConsistencyManual.7.27.11.pdf>; National Oceanic and Atmospheric Administration, Coastal Zone Management Program, *Puerto Rico's Listed Federal Actions*, <https://coast.noaa.gov/czm/consistency/media/pr.pdf>.

²⁸ See 47 C.F.R. § 1.767(j).


CONCLUSION

For the foregoing reasons, the Commission should expeditiously grant this cable landing license application for BRUSA pursuant to streamlined processing.

Respectfully submitted,

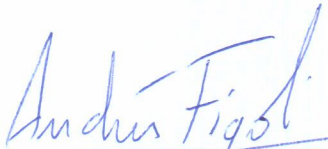
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andres.figoli@telefonica.com

30 March 2016

Attachments

CERTIFICATE OF SERVICE

I, Kent Bressie, hereby certify that consistent with 47 C.F.R. § 1.767(j), I have served copies of the foregoing application for a cable landing license for the BRUSA submarine cable system, by hand delivery or electronic mail this 30th day of March, 2016, to the following:

Ambassador Daniel Sepulveda
U.S. Coordinator and Deputy Assistant Secretary of State
Int'l Communications & Information Policy
Bureau of Economic and Business Affairs
U.S. DEPARTMENT OF STATE
EB/CIP : Room 4634
2201 C Street, N.W.
Washington, D.C. 20520-4634

Kathy Smith
Chief Counsel
U.S. DEPARTMENT OF COMMERCE/NTIA
14th Street and Constitution Avenue, N.W.
Room 4713
Washington, D.C. 20230

Robert Gorman
General Counsel
DEFENSE INFORMATION SYSTEMS AGENCY
6910 Cooper Avenue
Fort Meade, Maryland 20755



Kent Bressie

LIST OF APPENDICES

Appendix 1: BRUSA Route Map

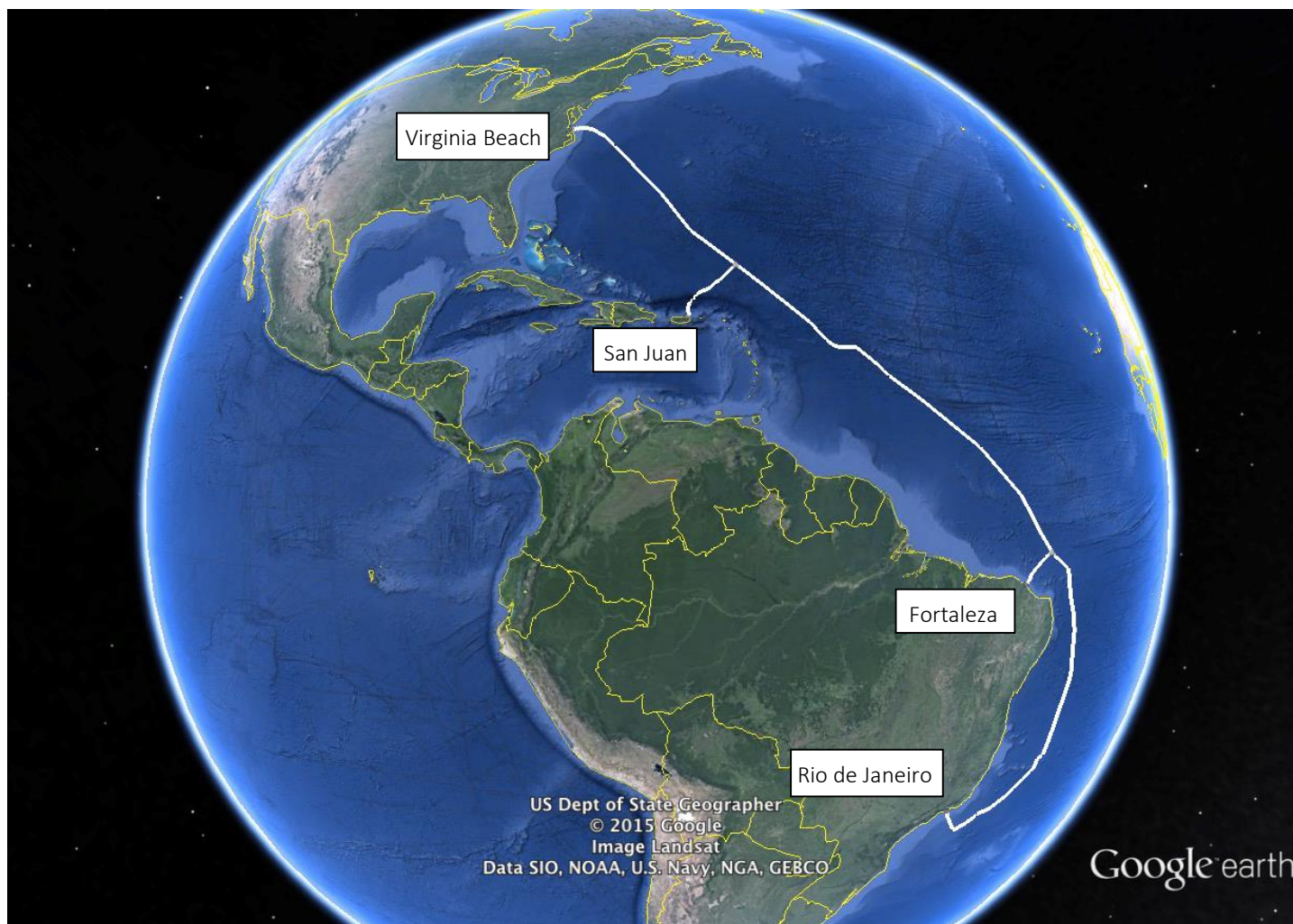
Appendix 2: San Juan Landing Point Information

Appendix 3: Fortaleza Landing Point Information

Appendix 4: Rio de Janeiro Landing Point Information

Appendix 5: Ownership and Control of BRUSA

**APPENDIX 1:
BRUSA ROUTE MAP**



APPENDIX 2:

SAN JUAN LANDING POINT INFORMATION

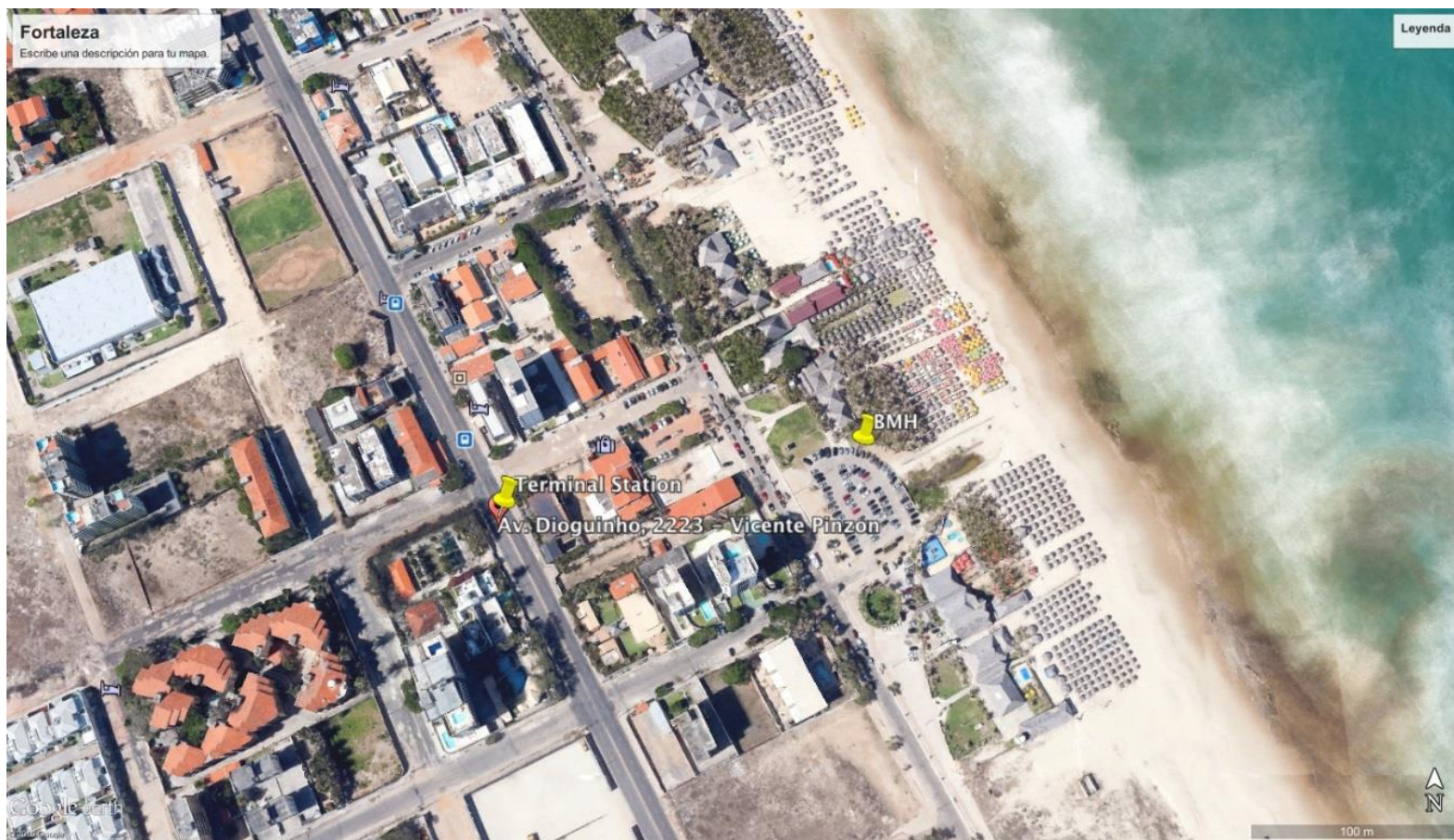


Beach manhole geographic coordinates: 18°26.608' N; 66°01.277' W

Cable station geographic coordinates: 18°27.018' N; 66°02.318' W

Cable landing station street address: 2423 Calle Loaiza, Santurce, P.R. 00913

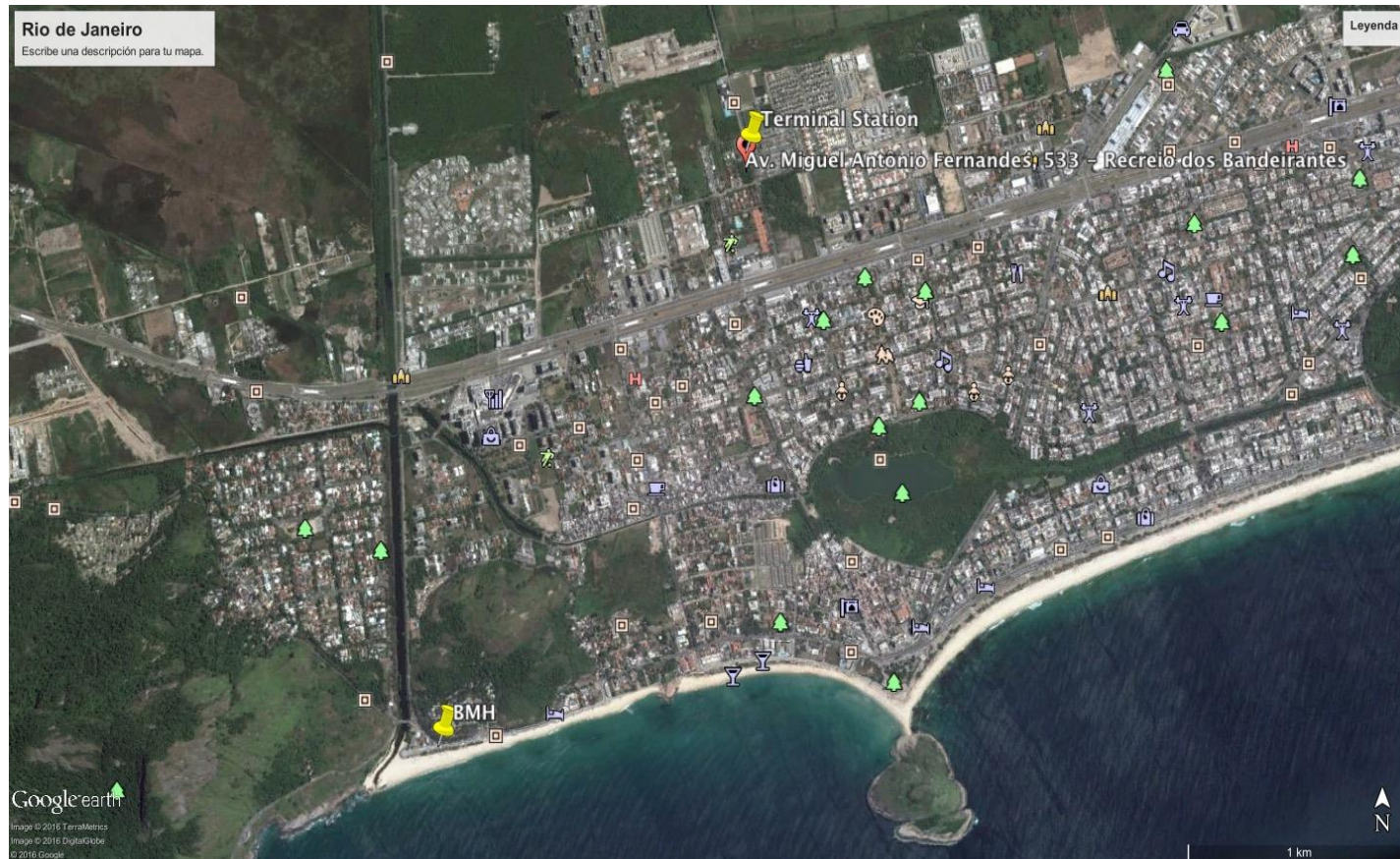
APPENDIX 3:
FORTALEZA LANDING POINT INFORMATION



Beach manhole geographic coordinates: 03°44.169'S; 38°27.276'W
Cable station geographic coordinates: 3°44'25.42"S; 38°27'13.33"O
Cable landing station street address: Avenida Dioguinho, 2223 – Praia do Futuro 60182-407; Fortaleza/CE – Brasil.

APPENDIX 4:

RIO DE JANEIRO LANDING POINT INFORMATION

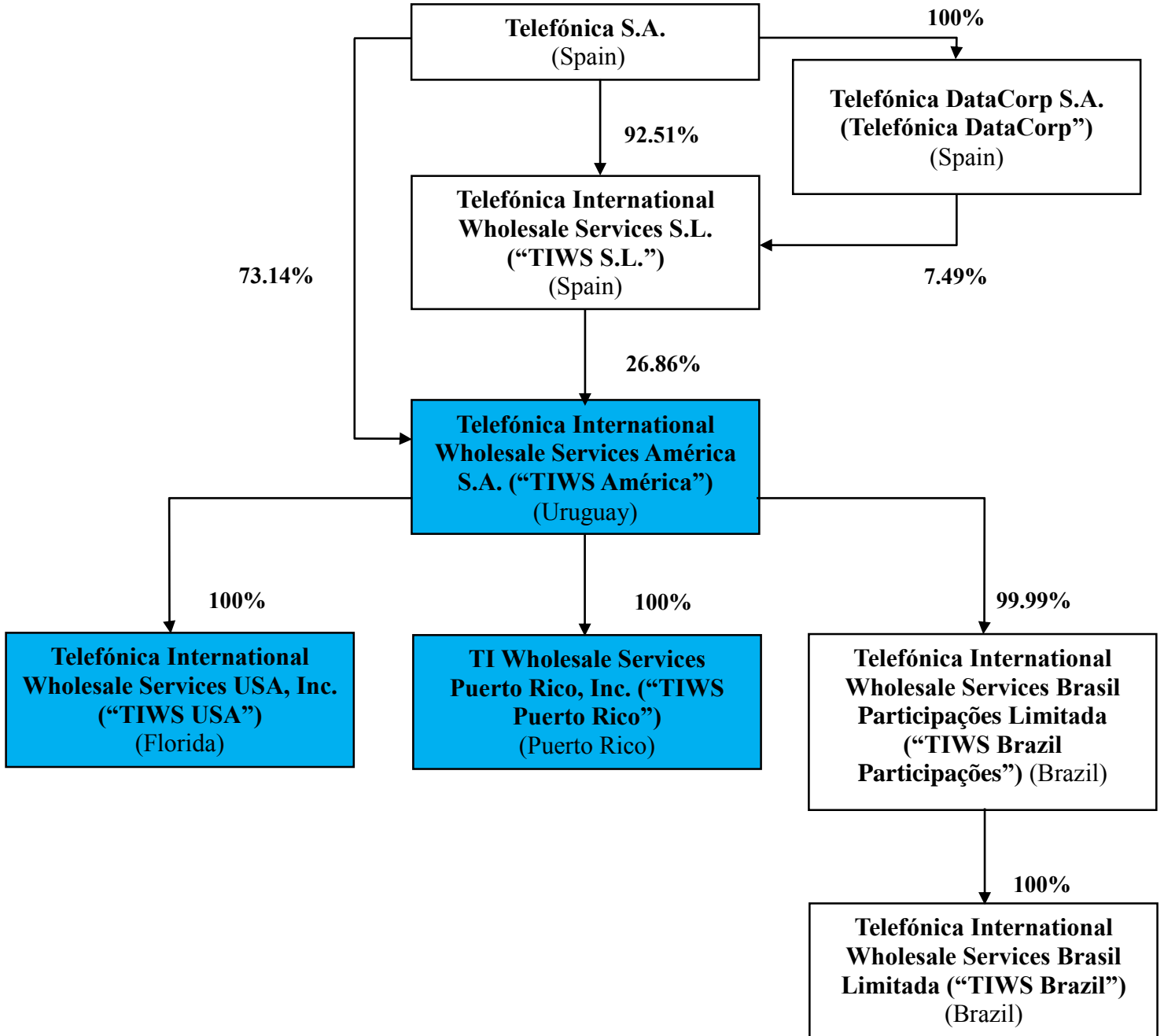


Beach manhole geographic coordinates: $23^{\circ}02.068'S$; $43^{\circ}29.460'W$
Cable station geographic coordinates: $23^{\circ}0'43.61''S$; $43^{\circ}28'39.76''O$

Cable landing station street address: Avenida Miguel Antônio Fernandes, 533 – Recreio dos Bandeirantes, 22790-682 - Rio de Janeiro/RJ – Brasil

APPENDIX 5:

OWNERSHIP AND CONTROL OF BRUSA



Denotes Applicant entity