

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of )
Level 3 Landing Station, Inc. and )
GT Landing II Corp. )
Application for Modification of License to )
Land and Operate in the United States a Private )
Fiber Optic Submarine Cable System Extending )
Between the United States and the United Kingdom )
SCL-MOD-20000511-00018

MODIFICATION OF CABLE LANDING LICENSE

Adopted: November 8, 2000

Released: November 9, 2000

By the Chief, Telecommunications Division, International Bureau:

I. Introduction

1. In this Order, we modify the cable landing license held by Level 3 Landing Station, Inc. (Level 3 Landing) to add GT Landing II Corp. (GT Landing II) (collectively the Joint Applicants) as an additional party to the cable landing license. The original license authorized Level 3 International, Inc. (Level 3), pursuant to the Cable Landing License Act, and Executive Order No. 10530, to land and operate a fiber optic submarine cable system, called the U.S.-U.K. Cable, extending between the United States and the United Kingdom. The Commission subsequently granted the application of Level 3 for a pro forma assignment of the license to Level 3's wholly-owned subsidiary, Level 3 Landing.

2. The Application requests authority to add GT Landing II as an additional party to the license. GT Landing II, together with its Global Crossing affiliates, Atlantic Crossing II Ltd. and GT

1 See Level 3 International, Inc. (File No. SCL-LIC-19990913-00019), DA 00-108 (IB/TD rel. Jan. 21, 2000).

2 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).

3 Exec. Ord. No. 10530 reprinted as amended in 3 U.S.C. § 301.

4 On March 22, 2000, the Commission granted Level 3 and Level 3 Landing's request for pro forma assignment of the cable landing license. See Level 3 International, Inc., File No. SCL-ASG-20000310-00008.

5 See Level 3 Landing Station, Inc. and GT Landing II Corp., Application for Modification of License to Land and Operate in the United States a Private Fiber Optic Submarine Cable System Extending Between the United States and the United Kingdom, filed May 11, 2000 (Application).

U.K. Ltd. (a subsidiary of Atlantic Crossing Ltd., the owner of AC-1), will separately own and operate two of the four fiber pairs on the U.S.-U.K. cable. GT Landing II's two fiber pairs will be called Atlantic Crossing 2 or AC-2, and will be fully integrated into the Global Crossing Network. Level 3 Landing's two fiber pairs will be called Project Yellow, Yellow Cable System, or Yellow System.<sup>6</sup>

3. Level 3 Landing and GT Landing II will each separately own and operate two of the four fibers pairs on the U.S.-U.K. cable extending from the U.S. landing site up to and including the territorial limits of the United States, and will separately own the U.S. cable station terminal equipment associated with each party's respective fiber pair.<sup>7</sup> According to the Application, Level 3 Landing will own the U.S. cable station and cable station ancillary equipment, such as cable station electrical equipment, HVAC, fire protection, and security. Level 3 Landing will maintain space in the cable station and GT Landing II will lease space in the cable station for the installation and operation of their respective terminal equipment.<sup>8</sup> The Joint Applicants will each own an undivided one-half interest in the remaining portions of the system (*i.e.*, the cable, repeaters, and other system fixtures and equipment other than the fibers, terminal equipment and cable station), extending from the U.S. cable station to the territorial limits of the United States.<sup>9</sup> A U.K. affiliate of Level 3 Landing and a U.K. affiliate of GT Landing II will hold corresponding interests on the U.K. segment of the cable. Level 3 (Bermuda) Ltd. and Atlantic Crossing II Ltd. will each separately own two of the four fiber pairs in international waters, and an undivided one-half interest in the remaining portions of the cable in international waters.<sup>10</sup>

4. The system, including the two fiber pairs operated by GT Landing II, will continue to be operated on a non-common carrier basis. The system description, as well as the operational characteristics of the cable and the landing points, will remain unchanged.<sup>11</sup>

5. GT Landing II is a Delaware corporation and a wholly-owned subsidiary of Global Crossing North America, Inc. (formerly Frontier Corporation), a New York corporation, which, in turn, is a wholly-owned subsidiary of Global Crossing, Ltd., a Bermuda company.<sup>12</sup> The only shareholder holding 10 percent or more in Global Crossing Ltd. is Pacific Capital Group, Inc., which is 100 percent owned by Gary Winnick, a U.S. citizen, as owner and trustee.<sup>13</sup>

6. In the U.K., GT Landing II is affiliated with the landing party for the Atlantic Crossing cable system, which is an indirect wholly-owned subsidiary of Global Crossing, as well as the former Rocal

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<sup>6</sup> See Application at 2.

<sup>7</sup> *Id.* at 4-5.

<sup>8</sup> *Id.* at 5.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 3.

<sup>12</sup> See Application at 2.

<sup>13</sup> The holdings of Pacific Capital Group, Inc., (PCG) includes the holdings of GKW Unified Holdings, LLC, a company formed for the benefit of Gary Winnick and members of his family. PCG's percentage held also includes its interest in common stock issuable upon the exercise of certain warrants. See Application at Exhibit A.

Telecom, which has been acquired by Global Crossing.<sup>14</sup> The Commission has previously found that the AC-1 U.K. landing party is a start-up entity without market power.<sup>15</sup> According to the Application, the former Racal Telecom, now known as Global Crossing (U.K.) Telecommunications Networks, operates a high-speed intercity fiber optic backbone in the U.K., has less than 50 percent market share in international transport, intercity facilities and services, and local access.<sup>16</sup> According to the Applicants, under Section 63.10 of the Commission's rules,<sup>17</sup> Global Crossing U.K. is therefore considered non-dominant under the Commission's rules.

## II. Comments

7. We placed the Application on public notice on May 19, 2000.<sup>18</sup> No comments were received. Pursuant to Section 1.767(b) of the Commission's rules,<sup>19</sup> the Cable Landing License Act, and Executive Order No. 10530, we informed the Department of State of the Modification request.<sup>20</sup> The Department of State, after coordinating with the National Telecommunications and Information Administration and the Department of Defense, stated that it has no objection to approving the Joint Applicants' request to add GT Landing II as an additional licensee to the cable landing license.<sup>21</sup>

## III. Discussion

8. We grant the Joint Applicants' request to modify the cable landing license to add GT Landing II as a licensee. We conclude that adding GT Landing II to the U.S.-U.K. cable raises no competitive concerns, and does not provide a basis for altering the non-common carrier status of the cable. Specifically, we conclude that Global Crossing's ownership of two additional fiber pairs on the U.S.-U.K. route will not cause competitive concerns. A large number of cables have served the U.S.-U.K. route for some time, and more are coming on line.<sup>22</sup> In addition, GT Landing II's affiliates in the United Kingdom lack market power. According to the Application, the Joint Applicants and their affiliates will separately own and operate their own fibers, will not jointly market capacity on the cable, and will not have any

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<sup>14</sup> *Id.* at 5.

<sup>15</sup> *See Matter of SSI Atlantic Crossing LLC and GT Landing Corp.*, 14 FCC Rcd 10492, para. 3 (IB/TD 1999).

<sup>16</sup> *See* Application at 6.

<sup>17</sup> 47 C.F.R. § 63.10.

<sup>18</sup> *See Non Streamlined International Applications Accepted for Filing*, Public Notice, Report No. TEL-00234NS (rel. May 19, 2000).

<sup>19</sup> 47 C.F.R. § 1.767(b).

<sup>20</sup> Letter from George Li, Deputy Chief, Telecommunications Division, International Bureau, Federal Communications Commission, to Steven Lett, Deputy U.S. Coordinator, Office of International Communications and Information Policy, U.S. Department of State (May 19, 2000).

<sup>21</sup> Letter from Geoffrey W. Chapman, Acting United States Coordinator, International Communications and Information Policy, U.S. Department of State, to Donald Abelson, Chief, International Bureau, Federal Communications Commission (Sept. 22, 2000).

<sup>22</sup> The following cables currently serve the route: TAT-8, PTAT, TAT-9, TAT-11, TAT-12/13, Atlantic Crossing (AC-1), and Gemini. The following cables plan to serve the route: TAT-14, FLAG Atlantic-1, 360atlantic, and Tycom Atlantic.

restrictions on how capacity will be offered.<sup>23</sup> Joint Applicants assert that the cable's proposed structure will provide an efficient way for two non-dominant companies to share risk and deploy new and competitive facilities. Accordingly, we find that grant of the Application is in the public interest.

#### IV. Ordering Clauses

9. Consistent with the foregoing and pursuant to the Cable Landing License Act and Executive Order 10530, IT IS ORDERED that the Application, File No. SCL-MOD-20000511-00018, IS GRANTED and the U.S.-U.K. cable landing license is MODIFIED to add GT Landing II Corp. as an additional licensee on the cable landing license.

10. This Modification of Cable Landing License does not modify any other terms or conditions imposed in the license.

11. This Order is issued under Section 0.261 of the Commission's rules, 47 C.F.R. § 0.261, and is effective upon adoption. 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

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*See* Application at 7.