

November 16, 2018

**BY ELECTRONIC FILING**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

*Re: File No. SCL-MOD-20180905-00032*

Dear Ms. Dortch:

Through their counsel, Telxius Cable USA, Inc. (“Telxius USA”), Telxius Cable Puerto Rico, Inc. (“Telxius Puerto Rico”), and Telxius Cable América S.A. (“Telxius América,” together with Telxius USA and Telxius Puerto Rico, “Applicants”), hereby respond to supplementary information requests from Commission staff with respect to the above-referenced application to modify the cable landing license for the South America-1 (“SAM-1”) submarine cable system to add a new segment and landing in the Dominican Republic (the “Modification Application”). As the SAM-1 system has been in commercial service for many years and was licensed prior to the Commission’s reform of its cable landing license rules in 2000, Commission staff have requested that the Applicants confirm and/or update certain system information and provide additional data beyond those required by 47 C.F.R. § 1.767. The Commission did not previously require Telxius América to provide such information and certifications as it did not require Telxius América to be a cable landing licensee when it licensed the SAM-1 system on August 10, 2000.

**I. System Design**

Commission staff have requested that the Applicants confirm the number of fiber pairs and design capacity of the SAM-1 system’s segments. In Table 1, the Applicants summarize the fiber pairs and design capacity, by segment.

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**TABLE 1: SAM-1 Fiber Pairs and Design Capacity**

Segment	# of Fiber Pairs	Design Capacity
Las Toninas, Argentina to Santos, Brazil	4	19.2 Tbps
Santos, Brazil to Rio de Janeiro, Brazil	2	19.2 Tbps
Santos, Brazil to Fortaleza, Brazil	2	19.2 Tbps
Rio de Janeiro, Brazil to Salvador, Brazil	2	19.2 Tbps
Salvador, Brazil to Fortaleza, Brazil	2	19.2 Tbps
Fortaleza, Brazil to San Juan, Puerto Rico	4	19.2 Tbps
San Juan, Puerto Rico to Barranquilla, Colombia	2	19.2 Tbps
San Juan, Puerto Rico to Boca Raton, Florida	4	19.2 Tbps
Boca Raton, Florida to Puerto Barrios, Guatemala	4	19.2 Tbps
Puerto San Jose, Guatemala to Lurin, Peru	3	19.2 Tbps
Puerto San Jose, Guatemala to Salinas (Punta Carnero), Ecuador	1	19.2 Tbps
Salinas (Punta Carnero), Ecuador to Mancora, Peru	1	19.2 Tbps
Mancora, Peru to Lurin, Peru	1	19.2 Tbps
Lurin, Peru to Arica, Chile	4	19.2 Tbps
Arica, Chile to Valparaiso, Chile	4	19.2 Tbps

**II. System Ownership**

The U.S.-territory portions of the SAM-1 system’s wet segment are owned as follows:

- Telxius USA owns and controls the cable landing station in Boca Raton, Florida and that portion of the SAM-1 system’s wet segment in the U.S. territorial sea extending from Boca Raton.
- Telxius Puerto Rico owns and controls the cable landing station in San Juan, Puerto Rico and that portion of the SAM-1 system’s wet segment in the U.S. territorial sea extending from San Juan.

Telxius América owns and controls that portion of the SAM-1’s wet segment in international waters.

Commission staff inquired about voting interests for these assets. With asset ownership, however, the respective owners do not hold voting interests in any of the assets.

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**II. Disclosures and Certifications Pertaining to the Addition of Telxius América as a Joint Licensee<sup>1</sup>**

**A. Certification Regarding Destination Markets<sup>2</sup>**

By the attached certification, Telxius América certifies that (1) it is not a foreign carrier in any of the countries where the SAM-1 system lands; (2) it exercises *de jure* control over foreign carriers in Colombia, Argentina, Brazil, Chile, Dominican Republic, Ecuador, Guatemala, and Peru, where the SAM-1 system lands (all of which are identified in the Modification Application); (3) an entity owning more than 25 percent of, or controlling, Telxius América, controls foreign carriers in Colombia, Argentina, Brazil, Chile, Dominican Republic, Ecuador, Guatemala, and Peru, where the SAM-1 system lands; and (4) no grouping of two or more foreign carriers (or parties that control foreign carriers) in any of the countries where the SAM-1 system lands, owns, 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 SAM-1 system in the United States.

**B. Certifications Regarding WTO Status, Market Power, and the Effective Competitive Opportunities Test<sup>3</sup>**

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

**C. Certification Regarding Routine Conditions<sup>4</sup>**

By the attached certification, Telxius América certifies that it accepts and will abide by the routine conditions specified in 47 C.F.R. § 1.767(g).

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<sup>1</sup> In the underlying application, Telxius América provided the ownership, principal business, and interlocking directorate information required by 47 C.F.R. § 1.767(a)(8)(i), and the foreign affiliate information required by 47 C.F.R. § 1.767(a)(8)(ii). Telxius Cable USA, Inc., Telxius Cable Puerto Rico, Inc., and Telxius Cable América, S.A., Licensees, Application for Authority to Add a New Dominican Republic Landing and Modify the Cable Landing license for the South America-1 (“SAM-1”) System, File No. SCL-MOD- MOD-20180905-00032, at 6-14 (filed Sept. 5, 2018) (“Modification Application”).

<sup>2</sup> See 47 C.F.R. § 1.767(a)(8)(iii).

<sup>3</sup> See *id.* § 1.767(a)(8)(iv).

<sup>4</sup> See *id.* § 1.767(a)(9).

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**D. Certification Regarding Dominant Carrier Conditions<sup>5</sup>**

By the attached certification, Telxius América agrees to abide by the Commission's dominant carrier reporting requirements on the U.S.-Argentina, U.S.-Brazil, U.S.-Chile, U.S.-Colombia, and U.S.-Peru routes. Telxius América, like Telxius USA and Telxius Puerto Rico, qualifies for non-dominant treatment on the U.S.-Ecuador, U.S.-Guatemala, and U.S.-Dominican Republic routes, as its affiliated carriers in those countries have far less than a fifty-percent market share in either the international transport or local access markets of those countries.<sup>6</sup> Moreover, these affiliated carriers do not appear on the Commission's list of foreign carriers presumed to have market power in foreign destination markets.<sup>7</sup> Accordingly, Telxius América's affiliations with Otecel, Telxius Ecuador, TIWS Ecuador, Telxius Guatemala, Telefónica Guatemala, and Telxius Dominicana pose no risk to competition on the U.S.-Guatemala, U.S.-Ecuador, and U.S.-Dominican Republic routes, and it therefore qualifies for presumptive non-dominant treatment pursuant to 47 C.F.R. §§ 63.10(a)(3) and 63.12(c)(1)(ii).

By the attached certification, Telxius USA and Telxius Puerto Rico confirm that they will continue to abide by the Commission's dominant carrier reporting requirements on the U.S.-Argentina, U.S.-Brazil, U.S.-Chile, U.S.-Colombia, and U.S.-Peru routes. For the reasons stated above with respect to Telxius América, Telxius USA and Telxius Puerto Rico should be (as they currently are) treated as non-dominant on the U.S.-Ecuador and U.S.-Guatemala routes, and should also be treated as non-dominant on the U.S.-Dominican Republic route.

Telxius USA also advises the Commission that it has separately notified the Departments of Homeland Security and Defense ("Team Telecom") of the pending Modification Application and supplied Team Telecom with the related information required pursuant to the terms and conditions of the Letter of Assurances from Telxius USA to Team Telecom dated October 2, 2017, including, but not limited to, equipment updates.

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<sup>5</sup> See *id.* § 1.767(l).

<sup>6</sup> As stated in the Modification Application, Telxius América is affiliated with Otecel, S.A., Telxius Cable Ecuador ("Telxius Ecuador"), TIWS Ecuador II, S.A. ("TIWS Ecuador"), Telxius Cable Guatemala, S.A. ("Telxius Guatemala"), Telefónica Móviles Guatemala, S.A. ("Telefónica Guatemala"), and Telxius Cable República Dominicana, S.A.S. ("Telxius Dominicana"). See Modification Application at 12.

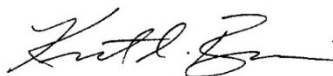
<sup>7</sup> See *International Bureau Revises and Reissues the Commission's List of Foreign Telecommunications Carriers that Are Presumed to Possess Market Power in Foreign Telecommunications Markets*, Public Notice, 22 FCC Rcd. 945 (Int'l Bur. 2007).

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Should the Commission have any questions concerning this supplement, please contact Kent Bressie by telephone at +1 202 730 1337 or by e-mail at [kbressie@hwglaw.com](mailto:kbressie@hwglaw.com).

Yours sincerely,



Kent Bressie  
Colleen Sechrest

*Counsel for Telxius Cable USA, Inc., Telxius Cable  
Puerto Rico, Inc., and Telxius Cable América, S.A.*

Attachments

## CERTIFICATION

I, Rafael Arranz Ruiz, Authorized Representative of Telxius Cable América, S.A., hereby certify that all of the information contained in the attached supplement that relates to the SAM-1 system generally and to information and certifications supplied by Telxius Cable América, S.A., specifically are true and correct to the best of my knowledge.

  
**Telefónica Cable América S.A.**

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## CERTIFICATION

I, Guillermo Cañete, President of Telxius Cable USA, Inc., and Telxius Cable Puerto Rico, Inc., hereby certify that all of the information contained in the attached supplement that relates to the SAM-1 system generally and to information and certifications supplied by Telxius Cable USA, Inc., and Telxius Cable Puerto Rico, Inc., specifically are true and correct to the best of my knowledge.

**Telxius Cable USA, Inc.**  
**Telxius Cable Puerto Rico, Inc.**



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