

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
MFS CABLECO US, INC.	)	
	)	File No. SCL-LIC-20080603-00011
CEDAR CABLE LTD.	)	
	)	
Application for a Cable Landing License	)	
For the CB-1 Cable System	)	

**APPLICATION FOR SPECIAL TEMPORARY AUTHORITY**

MFS CableCo US, Inc. (“Verizon,” FRN 0007203250) and Cedar Cable Ltd. (“Cedar,” FRN 0017654393), collectively the “Parties,” through their undersigned counsel, hereby request Special Temporary Authority (“STA”) to begin testing and operating the CB-1 Cable System, at their own risk, prior to the Commission’s grant of the Parties’ pending application for a license to operate the CB-1 Cable System. The Parties seek an STA to begin testing and operating the cable no later than December 19, 2008, because of the unique and pressing circumstances presented by the issues described below.

**I. BACKGROUND**

On June 3, 2008, the Parties applied for authority to operate the CB-1 Cable System, a system that will link the United States and Bermuda (the “Application”). As described in the Application, the CB-1 Cable System utilizes the northern portion of the now retired Gemini System.

The Commission previously granted Verizon authority under the Cable Landing License Act to own and operate the Gemini System, a non-common carrier submarine cable between the United States and the United Kingdom. The Gemini System was retired and deactivated on

December 29, 2004. The Parties have proposed to reuse the northern segment of the Gemini System that ran between Rhode Island and the United Kingdom (“Gemini North”), and move its terminus to Bermuda instead of the United Kingdom. No construction is required in the United States or in its territorial waters. Details of the plans for the proposed CB-1 Cable System remain as described in the Application.

On July 18, 2008, the Commission placed the application on public notice.<sup>1</sup> No comments or objections regarding this application have been filed. As of the date hereof, the CB-1 Cable System is fully built and is ready to be tested and put into operation.

Since the filing of the Application, the Parties also have been in contact with the Executive Branch, in particular the Department of Homeland Security (“DHS”) regarding the proposed cable. The Parties have responded to questions from the Executive Branch and Verizon is in the final stages of entering into a network security agreement (“NSA”) with DHS. The Parties have also notified DHS about the filing of this STA request and are providing them with copies of this filing.

## **II. THE GRANT OF AN STA TO COMMENCE TESTING AND OPERATION WOULD SERVE THE PUBLIC INTEREST**

The Parties respectfully request an STA to commence testing and operating the CB-1 Cable System, at their own risk, as promptly as possible and no later than December 19, 2008. Grant of the STA is essential to enable Cedar and its affiliates to meet immediate demands for capacity on the U.S.-Bermuda route and to increase competition on this route.

As the Parties explained in their Application, the addition of the new CB-1 Cable System will help to meet the public’s immediate demands for increased capacity on the U.S.-Bermuda

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<sup>1</sup> Non-Streamlined Submarine Cable Landing License Applications Accepted for Filing, Public Notice, Report No. SCL-00070NS (Jul. 18, 2008).

route as well as increase the amount of competition on this route, resulting in more competitive pricing.<sup>2</sup> The new CB-1 cable will also improve the quality of service on the U.S.-Bermuda route by increasing resiliency and decreasing latency, and providing restoration capacity for existing cable systems. Thus, the new CB-1 Cable System will provide cost-effective, innovative technology that will benefit consumers. The grant of an STA will ensure such benefits are enjoyed by the public and are not further delayed.

The Bermudian Government earlier recognized the need for additional competition and redundancy on the U.S.-Bermuda route, and started a public bidding process to identify a company that would meet these immediate needs in the most reliable and expedient way. Cedar's parent company, KeyTech, was eventually chosen and the CB-1 Cable System approved in Bermuda as the best vehicle for meeting these public interest needs. A target date of the end of the year was established by Cedar for this new system's capacity to become active. As a result, large users of capacity on the U.S.-Bermuda route have made significant commitments and investments with the understanding that this capacity would become available at the end of 2008.

At the time the Parties filed their Application six months ago, the realistic expectation was that the system would be built, licensed and operational by the end of the year. In anticipation of this, Cedar has already negotiated significant contracts for the sale of capacity on the CB-1 Cable System to customers that need the ability to pass traffic over this system by year-end. Absent an STA, these large users would be forced to look for alternative capacity, which may or may not be available, to meet their needs for capacity on the U.S.-Bermuda route. To the

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<sup>2</sup> Cedar's pricing on the route is already extremely competitive and it is expected that prices on the route will continue to decrease as competition matures.

extent such alternative capacity is available, obtaining it at the “last minute” would likely result in higher prices for these consumers.<sup>3</sup>

Additionally, the Bermudian Government was so concerned that this system be built in the most expeditious way that, as a condition of receiving the license from the Bermuda Government to land and operate the cable, Cedar’s parent company, KeyTech, had to provide the Government of Bermuda a \$20 million letter of credit (“Letter of Credit”), which would not be released until the CB-1 Cable System is put into operation. Particularly in light of the current economic situation, it is essential that KeyTech and its subsidiaries have the ability to draw upon credit to meet their cash-flow needs, so they can meet the needs of their customers. The continued existence of this line of credit constrains Keytech's ability to expand and enhance its business. Grant of the STA would relieve this pressure and free Keytech and its affiliates to better serve their customers.

Therefore, it is critical that the CB-1 Cable System become operational as soon as possible to meet the public’s demands for new capacity on the U.S.-Bermuda route before the end of the year. In addition, grant of the STA will permit large users who have already contracted to utilize the new system to migrate their traffic as planned and avoid a last minute scramble to find alternative capacity, which likely would result in higher costs for these customers. Finally, grant of the STA will permit KeyTech to regain access to lines of credit rendered unavailable as a result of the Letter of Credit, providing it the flexibility it needs to better serve its customers.

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<sup>3</sup> In addition, Cedar’s affiliated companies have their own capacity needs that are being currently met with expensive month-to-month leases of capacity on other systems that could be transferred to the CB-1 Cable System, resulting in significant cost-savings to Cedar and its affiliates.

The Parties note that the Commission has the authority to issue an STA to begin the testing and operation of a submarine cable prior to the grant of an FCC license. Neither the Cable Landing License Act nor Executive Order 10,520 limits the FCC's ability to issue an STA to permit testing and operation prior to the grant of the formal FCC license. The Parties acknowledge that grant of this request will not prejudice action by the Commission on the underlying Application and that any authority granted pursuant to this request is subject to cancellation or modification upon notice, but without a hearing.

Finally, the Parties have received all other necessary permits and authorizations in the United States and Bermuda and the cable is ready to be tested. The Parties do not believe that any national security issues will be raised if they are allowed to begin testing and operating this cable prior to the formal grant of their application. Verizon and DHS have made substantial progress in negotiations regarding a draft NSA. However, to ensure timely testing and initial operation of the CB-1 system - given the pressing need to begin testing the system this month and then begin operations - the Parties are filing this STA now in advance of completion of the NSA negotiations, execution of an NSA and grant by the FCC of the final license.

### III. CONCLUSION

As demonstrated above, the public interest, convenience and necessity will be served by a grant of this request for Special Temporary Authority to test and operate in the United States a private (non-common carrier) fiber optic submarine telecommunications cable extending between Bermuda and the United States. The Parties respectfully request that the Commission grant this request as expeditiously as possible.

Respectfully submitted,

                  /s/                    
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Dated: December 9, 2008

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing document was served this date upon the following:

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December 9, 2008