

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of

TELXIUS CABLE USA, INC.,
TELXIUS CABLE 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 SYSTEM

File Nos. SCL-LIC-20160330-00011
SCL-STA-2017-_____

REQUEST FOR SPECIAL TEMPORARY AUTHORITY

Pursuant to 47 U.S.C. § 34, Executive Order No. 10,530, and 47 C.F.R. § 1.767, Telxius Cable USA, Inc. (FRN 0006650618), Telxius Cable Puerto Rico, Inc. (FRN 0022340921) and Telefónica International Wholesale Services América S.A. (FRN 0022340871) (collectively, the “Applicants”), hereby request special temporary authority (“STA”) to construct, connect the U.S. end points of, and test at their own risk those portions of the BRUSA system in U.S. territory prior to the Commission’s grant of the Applicants’ pending cable landing license application.¹ Without such authority, construction of the BRUSA system would likely be delayed at significant cost to the Applicants and would thereby delay the benefits of new U.S.-Brazil

¹ See Telxius Cable USA, Inc., Telxius Cable 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 System, FCC File No. SCL-LIC-20160330-00012 (filed March 30, 2016) (“BRUSA Application”).

capacity. The Applicants therefore seek STA beginning no later than July 19, 2017, and ending 180 days from grant. The Applicants have notified the Team Telecom agencies of this request.

The Applicants acknowledge that grant of such STA will not prejudice action by the Commission on the underlying application and that such STA is subject to cancellation or modification upon notice. Further, the Applicants acknowledge that such STA can be revoked by the Commission on its own motion without a hearing.

I. THE GRANT OF AN STA WILL SERVE THE PUBLIC INTEREST

The Applicants respectfully submit that grant of this STA request will serve the public interest, convenience, and necessity and otherwise comply with U.S. law and Commission regulations. On March 30, 2016, the Applicants jointly applied for authority to land and operate the new BRUSA system connecting Virginia Beach, Virginia; San Juan, Puerto Rico; and Fortaleza and Rio de Janeiro, Brazil. The Commission placed the application on streamlined public notice on May 31, 2016.² The Team Telecom agencies later requested that the application be processed on a non-streamlined basis pending completion of a national security review. On September 21, 2016, the Applicants filed a landing point notification with the Commission with respect to the exact geographic locations of the Virginia Beach landing facilities, having previously apprised Team Telecom of those details.

The BRUSA system will offer capacity in large increments until the year 2042, far beyond the useful life of many existing systems serving the U.S.-Brazil routes—routes where

² *Streamlined Submarine Cable Landing License Applications Accepted for Filing*, Public Notice, Report No. SCL-00182S (rel. May 31, 2016).

capacity demand continues to grow significantly.³ It will also provide critical low-latency, U.S.-South America connectivity for data centers in Virginia.⁴

The Applicants believe that they are nearing completion of the national security review conducted by the Team Telecom agencies. Nevertheless, the Applicants cannot be certain that the Team Telecom review will be completed and the cable landing license granted by July 19, 2017, the date on which the pre-laid shore end portion of the system will arrive in Virginia Beach for installation. Delays in construction would impose significant storage and contracting costs on the Applicants. Consequently, the Applicants seek STA now in order to ensure that construction and testing in U.S. territory may proceed on schedule.

Grant of the Applicants' STA request will serve the public interest in two particular ways. *First*, it will ensure the timely construction and commencement of operations of the BRUSA system, with long-term, large-increment, low-latency capacity for the U.S.-Brazil routes. *Second*, it would avoid imposing needless and avoidable costs on the Applicants.

II. THE FCC HAS AUTHORITY TO GRANT THE STA REQUEST

The Commission has ample authority to issue an STA for construction and testing prior to the grant of a cable landing license. Neither the Cable Landing License Act nor Executive Order 10,520 (delegating submarine cable licensing authority from the President to the Commission, subject to Executive Branch review) limits the Commission's ability to issue an STA for construction, testing, and/or operational authority prior to grant of a cable landing license.⁵

³ See BRUSA Application at 2-3.

⁴ See *id* at 2.

⁵ See 47 U.S.C. §§ 34-39; Executive Order 10,530.

To the contrary, the Commission has exercised such authority on numerous occasions and should also do so in this case. Most recently, the Commission has granted upon a showing of good cause STA for purposes of construction in U.S. territory, connection of a system's end points, and testing in U.S. territory prior to the issuance of a cable landing license for the MAREA, Atisa, SEA-US, Quintillion, Monet, and FASTER systems.⁶ The Applicants seek the same authority here to construct, connect the U.S. end points of, and test the BRUSA system in U.S. territory.

⁶ See, e.g., Edge Cable Holdings USA, LLC, *et al.*, SCL-STA-20170318-00007 (granted Mar. 24, 2017) (granting STA to construct and test U.S.-territory facilities for the MAREA submarine cable system prior to the grant of a cable landing license); DOCOMO Pacific, Inc., Request for Special Temporary Authority, FCC File No. SCL-STA-20170209-00002 (granted Feb. 15, 2017) (granting STA to construct and test U.S.-territory facilities for the Atisa submarine cable system prior to the grant of a cable landing license); GTI Corporation *et al.*, Request for Special Temporary Authority, FCC File No. SCL-STA-20160914-00018 (granted Sept. 26, 2016) (granting STA to construct and test U.S.-territory facilities for the SEA-US submarine cable system prior to the grant of a cable landing license); Quintillion Subsea Operations, LLC, Request for Extension of Special Temporary Authority, FCC File No. SCL-STA-20160907-00017 (granted Sept. 20, 2016) (granting request to extend STA to construct, land, and test the Quintillion submarine cable system prior to the grant of a cable landing license); Quintillion Subsea Operations, LLC, Revised Application for Special Temporary Authority, FCC File No. SCL-STA-20160330-00010 (granted Apr. 11, 2016) (granting STA to construct, land, and test the Quintillion submarine cable system prior to the grant of a cable landing license); GU Holdings, Inc., Application for Special Temporary Authority, FCC File No. SCL-STA-20160630-00014 (granted July 11, 2016) (granting STA to construct and test U.S.-territory facilities for the Monet submarine cable system prior to the grant of a cable landing license); GU Holdings, Inc., Application to Extend Special Temporary Authority, FCC File No. SCL-STA-20160204-00006 (granted Feb. 17, 2016) (granting request to extend STA to construct and test U.S.-territory facilities for the FASTER submarine cable system prior to the grant of a cable landing license); GU Holdings, Inc., Application for Special Temporary Authority, FCC File No. SCL-STA-20150804-00025 (granted Aug. 12, 2015) (granting STA to construct and test U.S.-territory facilities for the FASTER submarine cable system prior to the grant of a cable landing license).

CONCLUSION

For the foregoing reasons, the Commission should expeditiously grant this STA request.

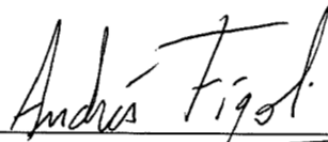
Respectfully submitted,



Guillermo Cañete
President, Telxius Cable USA, Inc.
President, Telxius Cable Puerto Rico, Inc.
1111 Brickell Avenue, Suite 1800
Miami, Florida 33131-3122
+1 305 925 5256 tel
guillermo.canete@telxius.com

Kent Bressie
HARRIS, WILTSHIRE & GRANNIS LLP
1919 M Street, N.W., Suite 800
Washington, D.C. 20036-3537
+1 202 730 1337 tel
kbressie@hwglaw.com

Counsel for the Applicants



Andres J. Figoli Pacheco
Secretaría General
Telefónica International Wholesale Services
América S.A.
Avenida Luis Alberto de Herrera 1248, piso 4
11300 Montevideo
Uruguay
+598 2 628 00 20 ext. 1156 tel
andres.figoli@telxius.com

July 12, 2017

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 request for special temporary authority for the BRUSA submarine cable system, by hand delivery or electronic mail this 12th day of July, 2017, to the following:

Julie Zoller
U.S. Coordinator and Deputy Assistant Secretary of State (Acting)
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

William E. Brazis, Jr.
General Counsel
DEFENSE INFORMATION SYSTEMS AGENCY
6910 Cooper Avenue
Fort Meade, Maryland 20755

A handwritten signature in black ink, appearing to read "Kent Bressie", is written over a horizontal line. The signature is cursive and somewhat stylized.

Kent Bressie