

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

In the Matter of)
)
TRANSGULF COMMUNICATIONS, LTD.,)
INC.)
)
) SCL-MOD-20000201-00006
)
Application for Authority for Amendment of a)
Cable Landing License and nunc pro tunc pro)
forma Transfer of Control of a Cable Landing)
License)

MODIFICATION OF CABLE LANDING LICENSE AND TRANSFER OF CONTROL

Adopted: September 5, 2000

Released: September 6, 2000

By the Chief, Telecommunications Division, International Bureau:

I. Introduction

1. In this Order, we modify the cable landing license held by Transgulf Communications Ltd., Inc. (TGCL) (the Applicant) to change the landing point in the United States from Freeport, Texas to a new location in Corpus Christi, Texas, and to amend the specifications of the system described in the license to reflect a repeaterless system in the Gulf of Mexico. The Application also requests authority to complete a nunc pro tunc pro forma transfer of control of TGCL. The original license authorized TGCL, pursuant to the Cable Landing License Act, and Executive Order No. 10530, to land and operate a fiber optic submarine cable system, called the TGCL system, extending between the United States, Mexico, and other international locations. The license subsequently was modified to reflect the transfer of control of TGCL to

1 See Transgulf Communications Ltd., Inc., File No. SCL-90-006, 6 FCC Rcd 2335 (CCB 1991).

2 See Transgulf Communications Ltd., Inc., Application for Authority for Amendment of a Cable Landing License and Nunc Pro Tunc Pro Forma Transfer of Control of a Cable Landing License, filed Feb. 1, 2000, (Application). See also Supplement to Application from Troy F. Tanner and Ulises R. Pin, Attorneys for Applicant, to Magalie Roman Salas, Secretary, Federal Communications Commission dated April 4, 2000 (Supplementary Letter) requesting authority to amend the specifications of the system to reflect a repeaterless system in the Gulf of Mexico. At the request of TGCL, we refrained from placing the Application on public notice to allow TGCL to file the Supplementary Letter modifying the Application.

3 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).

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

Margus Telecom International Ltd. (MTI).⁵

2. The Application, as amended, requests authority to change the United States cable landing point from Freeport, Texas, to Corpus Christi, Texas. According to the Application, the precise location of the landing station in Corpus Christi is Latitude 27° 35.763" N, Longitude 97° 12.858" W. TGCL will maintain ownership and control over the License, and will own and control the U.S. landing stations, the U.S. land portion of the TGCL cable from the landing stations to the U.S. beach joints of the submerged portion of cable, and the TGCL U.S. cable landing stations' assets. The TGCL system will continue to be operated on a non-common carrier basis.

3. As shown in Exhibit A, the new proposed TGCL system will festoon along the coast of the Gulf of Mexico from Corpus Christi to Cancun, the Mexican international gateway. The TGCL system will be a repeaterless submarine cable design housing a total of 48 fibers. Each fiber pair will be equipped with 2.5 Gbps transmission equipment capable of carrying 30,720 circuits operating at 64 Kbps each. The total initial baseband capacity will amount to 737,280 circuits. All transmission equipment will be Wavelength Division Multiplexing (WDM) ready, initially capable of transmitting 4 wavelengths or 10 Bps per fiber pair. The overall system capacity will be 240 Gbps or 2,949,120 circuits. The TGCL system will generally be a self-healing ring configuration, by complementing existing carrier's networks. However, in certain areas of Mexico where the system segments do not complement existing structures, the system will operate on a point-to-point basis.⁶

4. TGCL is an Oklahoma corporation and a wholly-owned subsidiary of MTI, a New Jersey corporation, which together with its Mexican subsidiary MEXIGULF TELECOMUNICACIONES, S.A. DE C.V. (MEXIGULF) will own and operate the TGCL system.⁷

II. Comments

5. We placed the Application on public notice on April 19, 2000.⁸ We received no comments. Pursuant to Section 1.767(b) of the Commission's rules,⁹ the Cable Landing License Act, and

⁵ On December 11, 1998, the Commission granted TGCL and MTI's request for transfer of control of TGCL to MTI. *See Transgulf Communications Ltd., Inc.*, File No. SCL-T/C-19980904-00016, 13 FCC Rcd 23623 (TD/IB 1998).

⁶ *See* Supplementary Letter at 1-2.

⁷ According to the Application, MEXIGULF, which is 49% owned by MTI, will own and operate the portion of the TGCL system located in Mexican territory. On January 28, 1999, MEXIGULF received a concession from the Mexican Government to "install, operate and exploit a public telecommunications network." Mexican Foreign Investment Law requires entities holding telecommunications concessions in Mexico to be owned 51% by Mexican individuals or entities. According to the Application, MEXIGULF is not a foreign carrier under the Commission's rules because it is only authorized to lease capacity to other authorized Mexican concessionaires, value-added service providers or owners of private networks and does not have the ability to provide international telecommunications services directly to the public. *See* Application at n.3.

⁸ *See Non Streamlined International Applications Accepted for Filing*, Public Notice, Report No. TEL-00217NS (rel. April 19, 2000).

⁹ 47 C.F.R. § 1.767(b).

Executive Order No. 10530, we informed the Department of State of the modification request.¹⁰ 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 Applicant's request to change the landing point in the United States from Freeport, Texas to a new location in Corpus Christi, Texas, and to amend the specifications of the system described in the license to reflect a repeaterless system in the Gulf of Mexico.¹¹

III. Discussion

6. We grant the Applicant's request to change the landing point in the United States from Freeport, Texas to a new location in Corpus Christi, Texas. Given the close commercial and communications relationship between the State of Texas and Mexico, TGCL believes that the TGCL system should have a landing site in a more developed location of Texas.¹² The modification would not affect the ownership of the cable system, its status as a non-common carrier system, or control of the landing point. The public interest will be served by providing cost-efficient routing for carriers to meet increasing demands for services on the U.S.-Mexico route and by reducing risks to the cable due to offshore oil activities off the coast of Texas. Based on these unopposed assertions, we find that grant of the modification would serve the public interest.

7. We grant the Applicant's request to amend the specifications of the TGCL system described in the license to reflect a repeaterless system in the Gulf of Mexico. The Applicant asserts that several key factors have changed since granting the license for the TGCL system,¹³ and that the public interest will be served by maintaining repeaterless spans below 400 km, keeping a near 6dB transmission margin at the beginning of the life of the system, using the maximum cable fiber count currently available, making use of WDM, and providing access to major population centers along the Mexican west coast, including land segments to Mexico City, Villahermosa and Merida.¹⁴ Based on these unopposed assertions, we see no reason to deny the Applicant's request to amend the specifications of the TGCL system.

8. We also grant the Applicant's request for *nunc pro tunc* approval of a transfer of indirect control of TGCL that Applicant asserts should be deemed *pro forma*. For exigent business reasons, MTI and the Margus group of companies consolidated the Margus group of operating subsidiaries into a newly formed holding company, Margus Holdings Company (Holdings), a Delaware corporation and the sole

¹⁰ Letters from Rebecca Arbogast, 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 (Feb. 25, 2000 and April 19, 2000).

¹¹ Letter from Richard C. Beard, Deputy United States Coordinator, International Communications and Information Policy, U.S. Department of State, to Donald Abelson, Chief, International Bureau, Federal Communications Commission (August 31, 2000).

¹² See Application at 4.

¹³ The most notable changes since granting the cable landing license for the TGCL system include: (a) 560 Mb/s transmission rate equipment is no longer available; (b) regenerator type undersea systems are seldom manufactured; (c) repeaterless technology currently allows cables to extend in excess of 400 km, without intermediate electronics; (d) other systems, including COLUMBUS-2 and MAYA, have extensions to Jamaica and the Cayman Islands; and (e) since January 1997, there has been significant deregulation of the Mexican telecommunications sector. See Supplementary Letter at 1.

¹⁴ See Supplementary Letter at 2-3.

shareholder of MTI.¹⁵ Through MTI, Holdings has 100% ownership of TGCL. Holdings is controlled by Mr. Auguste Dodeman, a U.S. citizen who holds a 60% interest. In addition, William Wall, a U.S. citizen, also holds a 10% or greater ownership interest in Holdings. There will be no change in the ultimate management of TGCL or MTI. The proposed transaction has only added an additional parent company to TGCL. Accordingly, this transaction is similar to categories of transactions we have deemed to be *pro forma* and find it is reasonable in this instance to grant the Applicant's request to complete a *nunc pro tunc* transfer of indirect control of TGCL to Holdings. However, we caution the Applicant that our rules require prior approval of such transfers of control and urge the Applicant to plan accordingly in the future.

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-20000201-00006, IS GRANTED and the TGCL cable system cable landing license is MODIFIED to (1) change the landing point in the United States from Freeport, Texas to a new location in Corpus Christi, Texas; (2) amend the specifications of the system described in the license to reflect a repeaterless system in the Gulf of Mexico; and (3) approve the *nunc pro tunc pro forma* transfer of indirect control of Transgulf Communications Ltd., Inc. to Margus Holdings Company.

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

¹⁵ See Application at 5.