

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

In the Matter of)
Enron Broadband Services, Inc.)
Application for Modification of the Cable Landing) SCL-MOD-20010305-00008
License and Section 214 Authorization for the Pan) ITC-MOD-20010305-00112
American Cable System)

MODIFICATION OF CABLE LANDING LICENSE AND SECTION 214 AUTHORIZATION

Adopted: August 22, 2001

Released: August 23, 2001

By the Associate Chief, Telecommunications Division, International Bureau:

I. Introduction

1. In this Order, we modify the cable landing license for the Pan American Cable System (Pan American) to add Enron Broadband Services, Inc. (Enron or Applicant) as an additional party to the license. The original license authorized several parties, pursuant to the Cable Landing License Act,¹ and Executive Order No. 10530,² to land and operate Pan American, a common carrier fiber optic submarine cable system extending between the U.S. Virgin Islands, Chile, Peru, Ecuador, Panama, Colombia, Venezuela, and Aruba.³ We also modify the section 214 authorization for Pan American to include Enron as an authorization holder. The original authorization authorized several parties, pursuant to section 214 of the Communications Act of 1934, as amended, to construct, acquire and operate capacity in Pan American.⁴

¹ 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).

² Exec. Ord. No. 10530 reprinted as amended in 3 U.S.C. § 301.

³ See *Americatel et al., Joint Application for a License to Land and Operate a Digital Submarine Cable System between the U.S. Virgin Islands, Chile, Peru, Ecuador, Panama, Colombia, Venezuela, and Aruba, the Pan American Cable System*, Cable Landing License, File No. SCL-LIC-19970421-00002 (formerly File No. SCL-97-001), 13 FCC Rcd 850 (TD/IB 1998).

⁴ 47 U.S.C. § 214. See *Americatel et al., Joint Application for Authorization Pursuant to Section 214 of the Communications Act of 1934, as amended, to Construct, Acquire, and Operate Capacity in a Digital Submarine Cable System, the Pan American Cable System*, Memorandum Opinion, Order and Authorization, File No. ITC-214-19970421-00220 (formerly File No. ITC-97-221), 13 FCC Rcd 857 (TD/IB 1998).

2. On March 5, 2001, Enron filed the instant Application,⁵ and on April 26, 2001 Enron supplemented its Application.⁶ In its Application, Enron states it only recently confirmed that it holds a small equity share in Pan American, and asks the Commission to grant its Application pursuant to the enforcement amnesty announced by the Commission's International and Enforcement bureaus.⁷ In its April 26 Letter, Enron provides a table from the construction, maintenance and administration (C&MA) agreement for the Pan American cable system, which lists the voting interests of the owners. The C&MA table shows that Enron holds a 0.20435 percent voting interest in the Pan American cable system, in proportion to its equity stake.⁸

3. Applicant states that it currently holds a section 214 authorization to provide global facilities-based and global resale services.⁹ Applicant also states that it is a wholly-owned subsidiary of Enron Corp., an Oregon corporation engaged in the business of providing wholesale and retail energy services, pipeline transportation services, and communications services in the United States and abroad, and that Enron Corp., which is publicly traded, has no 10-percent-or-greater shareholders.¹⁰ According to the Application, Enron has no interlocking directorates with foreign carriers and is not a foreign carrier or affiliated with a foreign carrier.¹¹ Applicant asks to be treated as a non-dominant carrier for purposes of this Application.¹² Applicant also certifies that it has not agreed, and will not agree, to accept any direct or indirect special concessions from a foreign carrier with respect to any U.S. international route where the

⁵ See Enron Broadband Services, Inc., Application for Modification of the Cable Landing License and Section 214 Authorization for the Pan American Cable System, File Nos. SCL-MOD-20010305-00008 and ITC-MOD-20010308-00112 (filed March 5, 2001) (Application).

⁶ See Letter from Kent D. Bressie, Counsel for Enron, to Magalie Roman Salas, Secretary, Federal Communications Commission (Apr. 26, 2001) (April 26 Letter).

⁷ See Application at 1-2. See also *International Bureau and Enforcement Bureau Announce Program to Increase Compliance with Licensing Requirements for Carriers that Provide International Telecommunications Services and Operators of International Telecommunications Facilities Pursuant to Section 214 of the Communications Act and Sections 34-39 of the Submarine Cable Landing License Act*, Public Notice, DA 01-188 (rel. Jan. 30, 2001).

⁸ See April 26 Letter at 1 and Exhibit, "Schedule B: Voting Interests in the Pan American Fiber Optic Cable System."

⁹ See Application at 5. See also *Overseas Common Carrier Section 214 Applications Actions Taken*, Public Notice, Report No. I-8248 (Firstpoint Communications Services, Inc., File No. ITC-97-247), 12 FCC Rcd 8254 (1997); *International Authorizations Granted*, Public Notice, Report No. TEL-00133 (Enron Communications, Inc., File No. ITC-T/C-19990803-00515), 15 FCC Rcd 6810 (1999); *International Authorizations Granted*, Public Notice, Report No. TEL-00194 (Enron Broadband Services, Inc., File No. ITC-T/C-19990803-0515), 15 FCC Rcd 4659 (2000); *International Authorizations Granted*, Public Notice, Report No. TEL-00367 (Enron Broadband Services, Inc., File No. ITC-214-19970430-00242) (rel. Mar. 15, 2001).

¹⁰ *Id.* at 8.

¹¹ *Id.* at 8-9.

¹² *Id.* at 9.

foreign carrier possesses market power on the foreign end of the route.¹³

II. Comments

4. We placed the Application on public notice on March 23, 2001.¹⁴ We received no comments. Pursuant to section 1.767(b) of the Commission's rules,¹⁵ the Cable Landing License Act, and Executive Order No. 10530, we informed the Department of State of the Application.¹⁶ 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 be added to the cable landing license.¹⁷

III. Discussion

5. We grant the Applicant's requests to modify the Pan American cable system landing license to add Enron as a licensee and to modify the Pan American cable system section 214 authorization to add Enron as an authorization holder. Applicant asserts that grant of its Application is in the public interest because it would permit other carriers and business customers to have greater access to, and choice among, innovative services offered at lower prices on U.S.-Caribbean and U.S.-Latin America routes, and would provide international connectivity for Applicant's domestic terrestrial network.¹⁸ Applicant further notes that the Application raises no foreign affiliation or competitive issues warranting Commission scrutiny on public interest grounds.¹⁹ Finally, Applicant advises that although it failed to seek Commission approval prior to acquiring its small equity stake in the Pan American cable system, it has not used the capacity to date to provide services between the United States and foreign points.²⁰

6. We note that, while it is unusual for a party that is not a current licensee to seek to amend a cable landing license, in this case Enron has provided documentation regarding its current status as an equity shareholder in the Pan American cable system in support of its Application to correct its earlier failure to seek Commission approval. We conclude that adding Enron to the cable landing license for the Pan American cable system raises no competitive concerns. Specifically, we conclude that Enron's

¹³ *Id.* at 10.

¹⁴ *See Non Streamlined International Applications Accepted for Filing*, Public Notice, Report No. TEL-00370NS (rel. Mar. 23, 2001).

¹⁵ *See* 47 C.F.R. § 1.767(b).

¹⁶ *See* 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 (Mar. 23, 2001).

¹⁷ *See* Letter from Richard Beard, Acting U.S. Coordinator, International Communications and Information Policy, U.S. Department of State, to Donald Abelson, Chief, International Bureau, Federal Communications Commission (August 17, 2001).

¹⁸ *See* Application at 10-11.

¹⁹ *Id.* at 11.

²⁰ *Id.*

0.20435 percent voting and equity interest will not cause competitive harm. Accordingly, we find that grant of the Application is consistent with the Cable Landing License Act and with section 214 and the Commission's regulations governing that section, and is in the public interest.

IV. Ordering Clauses

7. Consistent with the foregoing and pursuant to the Cable Landing License Act, Executive Order No. 10530, and section 214 of the Communications Act, as amended, 47 U.S.C. §§ 34-39, 3 U.S.C. § 301, 47 U.S.C. § 214, IT IS ORDERED that the Application, File Nos. SCL-MOD-20010305-00008 and ITC-MOD-20010305-00112, IS GRANTED and the Pan American cable landing license and Pan American cable section 214 authorization ARE MODIFIED, respectively, to add Enron as a joint licensee and authorization holder.

8. This Modification of Cable Landing License and section 214 Authorization does not modify any other terms or conditions imposed in the license or authorization.

9. This Order is issued under section 0.261 of the Commission's rules, 47 C.F.R. § 0.261, and is effective upon release. 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

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