

provide IMTS service to Colombia and the Dominican Republic. Participation by TLD in TCS-1 will allow TLD to meet increased demand in the markets serviced by TCS-1. TLD estimates that the cost for the requested capacity will be approximately \$.94 million which represents approximately one percent of the cost of the TCS-1 cable system (\$133.5 million).

5. PRTC and TLD also seek to modify the existing cable landing licenses by adding themselves as licensees of the cable system. On October 24, 1989, the TCS-1 owners voted to amend the C&MA to add PRTC and TLD as owners, contingent upon PRTC and TLD receiving Commission authorization.⁴

6. AT&T/AT&T-PR filed comments in response to PRTC's application. They do not oppose the grant of capacity in TCS-1 to PRTC, but seek to ensure adherence to the rules the Commission has established for Puerto Rico off-island services. AT&T/AT&T-PR note that PRTC's applications do not state whether it has complied with the conditions imposed on it by CC Docket No. 86-309,⁵ the Rule Making proceeding which developed policies concerning applications for facilities to provide common carrier services between Puerto Rico and off-island points. AT&T/AT&T-PR point out that those conditions were not affected by the Commission's declaratory ruling that TLD would be non-dominant in the provision of off-island message telephone service.⁶ Thus, AT&T/AT&T-PR ask that the Commission be mindful of the representations made by PRTA and the conditions established in CC Docket No. 86-309. Further, AT&T and AT&T-PR state they are confused as to whether PRTC or its affiliate TLD is the proper applicant. AT&T/AT&T-PR note that discussions with representatives of the Puerto Rican entity indicated that the TCS-1 capacity was to be acquired by TLD for off-island message telecommunications service.

7. In its reply comments, PRTC explains that it seeks capacity in the portion of TCS-1 linking Florida to Puerto Rico and that its request pursuant to Section 214 is to provide private line services only. PRTC states there is nothing improper about its application for off-island private line authority and views the expectation by AT&T/AT&T-PR that the applicant would be TLD as both unfounded and irrelevant. PRTC states that there is no legitimate basis for PRTC to be required in this application to state whether it has complied with the conditions imposed on in CC Docket No. 86-309 because that proceeding dealt with IMTS, not private line services. PRTC states that the Commission did not propose or adopt any conditions on PRTC's provision of off-island private line services like those imposed on PRTC's provision of off-island IMTS. PRTC adds that it has been authorized to provide private line services to the United States Mainland without any special conditions since 1983. PRTC states that AT&T/AT&T-PR offer no justification for treating PRTC's application to provide private line services between Puerto Rico and Florida different from PRTC's Humacao application. PRTC states further that it is complying with the conditions imposed by CC Docket 86-309, even though it is no longer proposing to provide off-island IMTS.

8. After consideration of the requests of PRTC and TLD, we find that grant of their applications will serve the public interest. The request of PRTC is based on its desire to meet increased demand for private line service and merely supplements authority previously granted to

PRTC for private line service between the Puerto Rico and the U.S. Mainland. With respect to TLD's request, the Commission has previously found that competition in the off-island IMTS markets is reasonably feasible and TLD's provision of IMTS between Puerto Rico and various off-island locations has been found to be in the public interest.⁷ Thus, grant of the subject PRTC and TLD applications is consistent with those findings and is fully supported by the record here. In light of these considerations, we also find that the public interest will be served by amending the TCS-1 cable landing license to add PRTC and TLD as owners. In addition, grant of the instant applications will promote the vital interests of the American people in international communications and competitiveness.

9. The comments filed by AT&T and AT&T-PR do not alter our conclusion that grant of the instant applications will serve the public interest. With respect to the conditions imposed in connection with CC Docket No. 86-309, we are mindful of those conditions and are monitoring PRTC's compliance with them. PRTC has also stated in response to AT&T's comments that it is complying with those conditions. Moreover, AT&T has not pointed to any specific instance of PRTC's failure to comply with those conditions.

10. We also find that PRTC is a proper applicant to provide off-island private line service. In discussing the scope of PRTC's existing services, the *Report and Order* in CC Docket No. 86-309 notes that in addition to local and intra-island telephone service, ". . . PRTC also provides private line service between Puerto Rico and the U.S. mainland . . . in conjunction with the American Satellite Company, through a general purpose earth station and several dedicated earth stations."⁸ Thus, the Commission specifically recognized that PRTC was providing off-island private line service at the time it was setting forth conditions for PRTC's entry into the off-island message telephone market. Nothing in the *Report and Order* in any way limited PRTC's provision of off-island private line service.

11. Accordingly, IT IS ORDERED that the applications of PRTC, File Nos. I-T-C-89-085 and SCL-89-003, and TLD, File Nos. I-T-C-89-145 and SCL-89-008, ARE GRANTED and:

- a. PRTC is authorized to acquire 990 whole MAUOS in Segment F of TCS-1 for the provision of domestic private line service between the island of Puerto Rico and the U.S. Mainland;
- b. TLD is authorized to acquire and operate a 91 half MAUOs in Segment G of TCS-1: 30 half MAUOs for service between Puerto Rico and the Dominican Republic; 31 half MAUOs for service between Puerto Rico and Colombia; 18 half MAUOs for service between Puerto Rico and Jamaica; and 12 half MAUOs for service between Puerto Rico and Haiti;
- c. The cable landing license for the TCS-1 cable system (File No. S-C-L-88-001) is amended to include PRTC and TLD as owners and licensees of the TCS-1 cable system under the provisions of "An Act Relating to the Landing and Operation of Submarine Cables in the United States," 47 U.S.C. Sections

34-39 and Executive Order 10530, 3 C.F.R. 1954-1958 (Comp., p 189 (1961) *reprinted in* 3 U.S.C.A. Section 301 at 1052 (1985).

12. IT IS FURTHER ORDERED that TLD is authorized to acquire by lease such connecting facilities as may be required to extend its capacity in TCS-1 to Haiti.

13. IT IS FURTHER ORDERED that PRTC's service over Segment F of TCS-1 is limited to domestic private line facilities between Puerto Rico and the United States Mainland and PRTC's facilities shall not be connected to Segment G of TCS-1 for the provision of international capacity.

14. IT IS FURTHER ORDERED that AT&T shall file with the Commission all necessary amendments and adjustments to the C&MA as required by the authorization herein to PRTC and TLD.

15. IT IS FURTHER ORDERED that AT&T is authorized to conform the assignment of capacity in the TCS-1 cable system as summarized herein.

16. This order is issued under Section 0.291 of the Commission's Rules 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 may be filed within 30 days of the date of public notice of this order (*See* Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

George S. Li
Chief, International Facilities Division
Common Carrier Bureau

FOOTNOTES

¹ In a decision adopted on September 14, 1988 the Commission found that the construction and operation of the digital optical fiber TCS-1 cable system would serve the public interest. The cable system will land in the United States in the vicinities of West Palm Beach, Florida and in San Juan, Puerto Rico. The cable will then continue and land in the vicinities of Santo Domingo, the Dominican Republic, Kingston, Jamaica and Barranquilla, Colombia. The U.S. owners of TCS-1 are AT&T, AT&T-PR, MCI International, Inc., RCA Global Communications, Inc., U.S. Sprint Communications Company and WU World Communications, Inc. (now World Communications, Inc.). The TCS-1 Construction and Maintenance Agreement (C&MA) provides for additional acquisition of capacity on an indefeasible right of user (IRU), lease or other mutually agreed upon basis subject to Commission authorization. The C&MA also permits new carriers to obtain TCS-1 capacity on an ownership basis through March 31, 1990, the date of the provisional acceptance of TCS-1. The international portion of TCS-1 may be used by U.S. carriers for the provision of domestic service between the United States Mainland and Puerto Rico once capacity has been ceded from the Florico-2 cable by AT&T. *See* American Telephone and Telegraph Company, *et al.*, 3 FCC Rcd 6073 (1988).

² *See* Puerto Rico Telephone Authority, 3 FCC Rcd 5675 (1988).

³ Initially there was some question as to how PRTC's request for TCS-1 capacity would be satisfied. As noted in footnote 1, *supra*, under the terms of the TCS-1 C&MA, the international portion of TCS-1 may be used by the USISCs for the provision of domestic service between the United States Mainland and Puerto Rico once capacity has been ceded from Florico-2 by AT&T. On October 12, 1989, AT&T filed a letter describing the changes in the capacity of Segment F of TCS-1 and the resultant impact on the capacity of the Florico-2 Cable System. Segment F's capacity is that portion of the 7560 MAUO design capacity of Florico-2 which has been ceded to TCS-1. Because of a reduction in the ownership interest of ITT World Communications, Inc. (ITT), the capacity in Segment F of TCS-1 was contractually lowered in the signed C&MA. ITT's ownership interest in TCS-1 capacity was subsequently transferred to WU Worldcom and is now held by World Communications, Inc. (WorldCom). The decrease in the TCS-1 capacity (to 2790 MAUOs) necessarily increased Florico-2's capacity by a like amount (to 4770 MAUOs). According to AT&T, once PRTC receives the requisite Commission authorization, the TCS-1 capacity will again be contractually adjusted by means of a further amendment to the C&MA. In light of WorldCom's November 2, 1989 letter indicating its concurrence with AT&T's representation in this regard and the express language contained in the C&MA, there is no issue as to the availability of capacity to meet PRTC's needs. By the grant of PRTC's request, the capacity in Segment F of TCS-1 will be increased by 990 whole MAUOs to 3780 whole MAUOs, and the capacity of Florico-2 will consist of the remaining 3780 whole MAUOs.

⁴ On November 3, 1989, counsel for PRTC and TLD notified the International Facilities Division by letter that on October 24, 1989, the TCS-1 owners voted to amend the C&MA to add PRTC and TLD as owners, contingent to PRTC and TLD receiving Commission authorizations.

⁵ *See* Inquiry into Policies to be Followed in the Authorization of Common Carrier Facilities to Provide Telecommunications Service off the island of Puerto Rico, 2 FCC Rcd 6600 (1987).

⁶ *See* Puerto Rico Telephone Authority, 3 FCC Rcd 5675 (1988).

⁷ *See* Inquiry into Policies to be Followed in the Authorization of Common Carrier Facilities to Provide Telecommunications Service off the Island of Puerto Rico, 2 FCC Rcd at 6605; and La Telefonica Larga Distancia de Puerto Rico, 3 FCC Rcd 5937 (1988).

⁸ *See* 2 FCC Rcd at 6601, n. 5.