

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

In the Matter of

GST PACWEST
TELECOM HAWAII, Inc.
Application for License to Land and
Operate a High Capacity Digital
Submarine Cable System Extending
between the Hawaiian Islands of Kauai,
Oahu, Molokai, Lanai, Maui and Hawaii

File No. SCL-95-003

CABLE LANDING LICENSE

Adopted: February 9, 1996; Released: February 12, 1996

By the Chief, International Bureau

INTRODUCTION

1. GST Pacwest Telecom Hawaii, Inc. ("GST") requests a license to land and operate a high capacity digital submarine cable system ("GST Interisland Cable") wholly within the United States. GST will use the cable to provide interstate and intrastate services on a common carrier basis. The GST Interisland Cable will provide increased competitive service alternatives to subscribers and GST has provided sufficient information to comply with the Cable Landing License Act.¹ We accordingly grant the cable landing license.

APPLICATION

2. GST is a Hawaiian corporation. Its officers and directors are all United States citizens. The GST Interisland Cable will be owned, operated and maintained by GST.²

3. The GST Interisland Cable will link the islands of Kauai, Oahu, Molokai, Lanai, and Hawaii. The system will have five interisland cable segments with eight landing sites. The system will consist of a high capacity, digital fiber optic submarine cable with a backbone capacity of 2.5 Gigabits per second (12 fiber optic pairs). The system also will consist of a "festoon" system on Oahu, connecting AT&T's Makaha and Kawaulua cable landing stations. A festoon system is the portions of the system that run undersea alongside the land mass of Oahu, landing at various

points around the island. The festoon system is proposed to consist of 12 fiber pairs (2.5 Gigabits per second, which equates to an initial configuration of 48 DS-3, or 1,344 DS-1 capacity). The balance of the system, linking the other Hawaiian islands, will consist of 6 fiber pairs (622 Megabits per second or a 28 DS-1 initial capacity).³

4. GST believes that its proposal will result in significant public benefits. The GST Interisland Cable will be used to provide authorized communications services between the six islands in the State of Hawaii. GST states in its application that it carries traffic between the islands on its microwave radio systems, but that there is a shortage of radio capacity available to meet existing needs. In addition, traffic carried via radio-based systems suffers from atmospheric interference. The GST Interisland Cable will provide carriers with an alternative for providing telecommunications services between and among the Hawaiian islands.⁴

COMMENTS

5. We placed the application on public notice on June 30, 1995, and received no comments. Pursuant to Section 1.767(b) of the Commission's Rules,⁵ the Cable Landing License Act and Executive Order No. 10530, we informed the Department of State of GST's application. The Department of State, after coordinating with the National Telecommunications and Information Administration and the Department of Defense, stated it has no opposition to the grant of the cable landing license.⁶

DISCUSSION

6. GST has provided the information required by Section 1.767 of the Commission's rules.⁷ Based on the information provided by GST, we conclude that the grant of the requested authorization will not have a significant effect on the environment as defined in Section 1.1307 of the Commission's Rules and Regulations implementing the National Environmental Policy Act of 1969.⁸ Consequently, no environmental assessment is required to be submitted with this application under Section 1.1311 of the Commission's rules.⁹

7. We believe that the proposed cable will provide a competitive alternative to existing providers, and permit GST to offer high quality fiber optic service to subscribers. We note, however, that the service provided on a common carrier basis is limited to domestic service. Should GST seek to provide any type of international communications services on the GST Interisland Cable, it is required to file an application under Section 214 of the Communications Act, as amended, requesting such authority.¹⁰ Accordingly,

¹ "An Act Relating to the Landing and Operation of Submarine Cables in the United States," 47 U.S.C. §§ 34-39 (1995) ("Cable Landing License Act").

² GST Application at 2.

³ See, GST Application and Letter dated August 1, 1995, from Phyllis A. Witten, Attorney for GST Pacwest Telecom Hawaii, Inc. to Ken Schagrin, Attorney, Federal Communications Commission, International Bureau (GST Pacwest Letter). The letter explains that the application should have described the system's backbone capacity as a 24 fiber system (12 fiber optic pair).

⁴ See GST Application at 3-4.

⁵ 47 C.F.R. § 1.767(b) (1994).

⁶ Letter from Michael T. N. Fitch, Deputy U.S. Coordinator, Office of International Communications and Information Policy, U.S. Department of State, to Scott Blake Harris, Chief, International Bureau, FCC, dated January 23, 1996.

⁷ 47 C.F.R. § 1.767 (1994).

⁸ 42 U.S.C. §§ 4321-4335 (1976).

⁹ 47 C.F.R. § 1.1311 (1994).

¹⁰ 47 C.F.R. § 63.01 (1994).

in view of the above, we conclude that U.S. interests under the Cable Landing License Act will be served by grant of a license to GST as conditioned below.

ORDERING CLAUSES

8. Consistent with the foregoing, the Commission HEREBY GRANTS AND ISSUES, under the provisions of the Cable Landing License Act, 47 U.S.C. §§ 34-39, and Executive Order 10530, 3 C.F.R. 1954-1958, GST Pacwest Telecom Hawaii, Inc. a license to land and operate a high-capacity fiber optic digital submarine cable (2.5 Gbps) between the islands of the State of Hawaii in order to provide interstate and intrastate communications on a common carrier basis. This license is subject to all rules and regulations of the Federal Communications Commission; any treaties or conventions relating to communications to which the United States is or may hereafter become a party; any action by the Commission or the Congress of the United States of America rescinding, changing, modifying or amending any rights accruing to any person hereunder; and the following conditions:

(1) The location of the cable within the territorial waters of the United States of America, its territories and possessions, and upon its shore, shall be in conformity with plans approved by the Secretary of the Army, and the cable shall be moved or shifted by the Licensee at its expense upon the request of the Secretary of the Army whenever he or she considers such course necessary in the public interest, for reasons of national defense, or for the maintenance or improvement of harbors for navigational purposes;

(2) The Licensee shall at all times comply with any requirements of United States Government authorities regarding the location and concealment of the cable facilities, buildings, and apparatus with a view of protecting and safeguarding the cable from injury or destruction by enemies of the United States of America;

(3) The Licensee or any persons or companies directly or indirectly controlling it or controlled by it, or under direct or indirect common control with it, shall not acquire or enjoy any right, for the purpose of handling or interchanging traffic to or from the United States, its territories or possessions, to land, connect or operate cables or landlines, to construct or operate radio stations, or to interchange traffic, which is denied to any other United States carrier by reason of any concession, contract, understanding, or working arrangement to which the Licensee or any persons controlling it or controlled by it are parties;

(4) Neither this license nor the rights granted herein, shall be transferred, assigned, or in any manner either voluntarily or involuntarily disposed of or disposed of indirectly by transfer of control of the Licensee to any persons, unless the Federal Communications Commission shall give prior consent in writing;

(5) The Commission reserves the right to require the Licensee to file an environmental impact statement should it determine that the landing of the cable at those locations and construction of necessary cable landing stations would have a significant impact upon the environment within the meaning of Sec-

tions 1.1305-1.1307 of the Commission's Rules and Regulations implementing the National Environmental Policy Act of 1969, 42 U.S.C. Sections 4321-4335; this license is subject to modification by the Commission upon its review of any environmental impact statement that it may require pursuant to its Rules;

(6) The Licensee shall, by application, obtain Commission approval prior to the sale or transfer to a foreign entity of five percent or more in the aggregate of U.S.-owned and controlled GST Pacwest stock;

(7) This license is revocable after due notice and opportunity for hearing by the Federal Communications Commission in the event of breach or nonfulfillment of any requirements specified in Section 2 of "An Act Relating to the Landing and Operation of Submarine Cables in the United States," 47 U.S.C. Sections 34-39, or for failure to comply with the terms of the authorization;

(8) The Licensee shall notify the Commission in writing of the date on which the cable is placed in service; and this license shall expire 25 years from that date, unless renewed or extended upon proper application; and, upon expiration of the license, all rights granted under it shall be terminated; and

(9) The terms and conditions upon which this license is given shall be accepted by the Licensee by filing a letter with the Secretary, Federal Communications Commission, Washington, D.C. 20554, within 30 days of the release of this cable landing license.

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

Scott Blake Harris,
Chief, International Bureau