

NORTH AMERICAN SUBMARINE CABLE ASSOCIATION

NASCA Members:

360networks inc.

Alcatel Submarine Networks

Concert Global Networks
USA LLC

FLAG Telecom Holdings
Limited

Gemini Submarine Cable
System, Inc.

Global Crossing Ltd.

Global Marine Systems

Global Photon Systems, Inc.

Level 3 Communications,
LLC

New World Network USA,
Inc.

Southern Cross Cable
Network

Sprint Communications
Corporation

Teleglobe Communications
Corporation

TyCom Networks (US) Inc.

WCI Cable, Inc.

Williams Communications,
LLC

WorldCom, Inc.

October 16, 2001

Via E-Mail and Regular Mail

Helen Golde, Chief
Conservation Policy and Planning Branch
Office of National Marine Sanctuaries
1305 East-West Highway, 11th Floor
Silver Spring, MD 20910
Attention: Fair Market Value Analysis

Re: Fair Market Value Analysis for a Submarine Cable Permit in
National Marine Sanctuaries

Dear Ms. Golde:

The enclosed comments are submitted on behalf of the North American Submarine Cable Association ("NASCA"), in response to the request for public comment published by your agency at 66 Fed. Reg. 43135 (Aug. 17, 2001) and the subsequent extension of the public comment period until October 16, 2001 (collectively, "the Notice"). As authorized by the Notice, we are submitting these comments by email to submarinecables@noaa.gov; we will also mail a hard copy.

In brief, NASCA believes that NOAA should not implement a fee-setting methodology for special use permits unless and until it determines that the issuance of such permits is appropriate. Even if special use permits were appropriate for cables crossing sanctuaries, the fee methodology proposed by the notice would violate the National Marine Sanctuary Act ("the Act"). Specifically, no fair-market value ("FMV") fee should be imposed with such permits because submarine cables do not "use...sanctuary resources" as the Act uses those terms.

Even if cables did use such resources, a FMV fee should not be based on the various improper factors considered in the Draft Report, such as monopoly power or similar market power NOAA may have. Instead, such fees should be based on NOAA's related costs, if any, not covered by other fees paid by the permittee. Alternatively, there may be examples of terrestrial easement sales that would be useful as rough comparables, but the prior transactions identified by the Draft Report are not appropriate comparables.

Ms. Helen Golde
October 16, 2001
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If you have any questions or comments on the enclosed, please feel free to contact me at 908-221-5397 or pshorb@att.com. Thank you for your consideration.

Sincerely,

Paul Shorb
Vice-President
NASCA