



PUBLIC NOTICE

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ACTIONS TAKEN UNDER CABLE LANDING LICENSE ACT

Section 1.767(a) Cable Landing Licenses, Modifications, and Assignments or Transfers of Control of Interests in Cable Landing Licenses (47 C.F.R. § 1.767(a))

By the Chief, Policy Division, International Bureau:

Pursuant to 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), Executive Order No. 10530, Exec. Ord. No. 10530 reprinted as amended in 3 U.S.C. § 301, and section 1.767 of the Commission's rules, 47 C.F.R. § 1.767, the following applications ARE GRANTED. These grants of authority are taken under section 0.261 of the Commission's rules, 47 C.F.R. § 0.261. 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 this public notice.

This public notice serves as each cable landing licensee's Cable Landing License, or modification thereto, pursuant to the Cable Landing License Act and sections 1.767 and 1.768 of the Commission's rules. Cable landing licensees should review carefully the terms and conditions of their licenses. Failure to comply with these terms and conditions or relevant Commission rules and policies could result in fines or forfeitures.

The Commission most recently amended its rules applicable to submarine cable landing licenses in Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, FCC 01-332, 16 FCC Rcd 22167 (2001), 67 Fed. Reg. 1615 (Jan. 14, 2002). An updated version of sections 1.767 and 1.768 of the rules is available at <http://www.fcc.gov/ib/pd/pf/telecomrules.html>. See also http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-02-598A1.pdf for a March 13, 2002 Public Notice; http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-01-332A1.pdf for the December 14, 2001 Report and Order.

Submarine Cable Landing License

Grant of Authority

Date of Action: 05/06/2008

Acceptability for Filing Public Notice: The Application was placed on Public Notice on July 25, 2007. See Telstra Incorporated. Application for a License to Land and Operate a Fiber-Optic Submarine Cable System extending between Sydney, Australia and Keawaula, Oahu, Hawaii, for the Sydney-Hawaii Cable System, File No. SCL-LIC-20070621-00009, Public Notice, Non-Streamlined Submarine Cable Landing License Applications Accepted for Filing, Report No. SCL-00036NS (Int'l Bur., July 25, 2007). No oppositions or other comments were filed in response to the Public Notice.

The Application has been coordinated with the Department of State and other relevant Executive Branch agencies pursuant to section 1.767(b) of the Commission's rules, 47 C.F.R. § 1.767(b), and consistent with procedures established with the Department of State. See Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Report and Order, 16 FCC Rcd 22167, 22192-193, paras. 51-52 (2001) (Submarine Cable Landing License Report and Order); Streamlined Procedures for Executive Branch Review of Submarine Cable Landing License Requests, State Department Media Note (Revised) (rel. Dec. 20, 2001) available at <http://www.state.gov/r/pa/prs/ps/2001/6951.html>. The Department of Homeland Security and the Department of Justice (collectively, the "Executive Branch agencies") filed a Petition to Adopt Conditions to Authorizations and Licenses on April 17, 2008.

Actions Taken: Grant of Cable Landing License to Telstra Incorporated ("Telstra USA") and AT&T Corp (ATTC, jointly as the "Applicants") for the purpose of landing and operating a non-common carrier fiber-optic submarine cable system between Sydney, Australia and Keawaula, Oahu, Hawaii ("the Sydney-Hawaii Cable System").

Licensee Information: Telstra USA is a wholly-owned subsidiary of Telstra Holdings PTY Limited, an Australian holding company. Telstra Holdings PTY Limited in turn is a wholly-owned subsidiary of Telstra Corporation, a corporation organized under the laws of Australia engaged in the business of telecommunications. Telstra Corporation is a publicly traded company. The Future Fund Board of Guardians, an Australian Commonwealth Government investment fund, holds approximately 17% of Telstra Corporation's shares. No other person or entity holds a ten percent or greater ownership interest in Telstra Corporation.

ATTC is a direct, wholly-owned subsidiary of AT&T Inc. AT&T Inc. is a publicly traded corporation whose stock is widely held with no person or entity holding a ten percent or greater ownership interest.

Cable System Description: The Sydney-Hawaii Cable System will be a fiber-optic submarine cable system between Sydney, Australia and Keawaula, Oahu, Hawaii. Telstra USA will own and control the portion of the cable system located in territory subject to the jurisdiction of the United States, including U.S. territorial waters. Telstra Corporation Limited (Telstra Corporation), the indirect parent of Telstra USA, will own and control the cable from the landing point in Sydney to the point where Telstra USA's ownership begins in U.S. territorial waters, and owns the cable landing station in Sydney. ATTC owns and operates the cable landing station in Keawaula, Hawaii, but does not have any voting or ownership interest in any other part of the cable system. The Applicants state that Telstra USA and ATTC will maintain de jure and de facto control over the entire U.S. portion of the Sydney-Hawaii Cable System, and will maintain such control over matters that will affect the U.S. portion of the system, including over matters such as operations, maintenance, upgrades and decommissioning of the cable system.

Cable Design and Capacity: The Sydney-Hawaii Cable System will span 5,600 miles (9,000 kilometers), linking an existing cable station in Sydney to an existing cable station in Keawaula. The system will be a high capacity digital fiber optic system with a design capacity of 640 Gigabits/sec per fiber pair on two fiber pairs (a total of 1280 Gbps). The system will provide an initial capacity of 80 Gigabits/sec.

Regulatory Status of Cable: The Applicants will operate the Sydney-Hawaii Cable System on a non-common carrier basis. Telstra USA states that there is sufficient existing or planned facilities on the route or on alternative routes to prevent it from exercising market power in offering services. It also states that capacity will not be sold indifferently to the user public, but will be assigned pursuant to individualized decisions and tailored arrangements based on the needs of the individual capacity purchaser. Application at 5-8.

Applicants have provided information and demonstrated that the proposed operation of the cable on a non-common carrier basis satisfies the requirements set forth in National Association of Regulatory Utility Commissioners v. FCC, 525 F.2d 630, 642 (D.C. Cir 1976) (NARUC I), cert. denied, 425 U.S. 992 (1976). See also, Submarine Cable Landing License Report and Order, 16 FCC Rcd at 22202-22203, paras. 69-70; Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Notice of Proposed Rulemaking 15 FCC Rcd 20789, at 20815-20818, paras. 62-67.

Conditions and Requirements: Applicants shall comply with the routine conditions set out in section 1.767(g)(1)-(14) of the Commission's rules. See 47 C.F.R. § 1.767(g)(1)-(14), and with the requirements of section 1.768 of the Commission's rules, 47 C.F.R. § 1.768 (notifications and prior approval for submarine cable landing licensees that are or propose to become affiliated with a foreign carrier).

Telstra Incorporated and AT&T Corp. "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 for the purpose of protecting and safeguarding the cables from injury or destruction by enemies of the United States of America." 47 C.F.R. § 1.767(g)(3). The International Bureau will inform the licensees of specific requirements in connection with this condition.

Telstra Corporation is classified as a dominant carrier on the U.S.-Australia route pursuant to section 63.10 of the Commission's rules, 47 C.F.R. § 63.10. Accordingly, Telstra USA agrees to accept and abide by the reporting requirements in section 1.767(l) of the Commission's rules, 47 C.F.R. § 1.767(l).

We grant the Petition to Adopt Conditions to Authorizations and Licenses (Petition) filed in this proceeding on April 17, 2008 by the Department of Homeland Security and Department of Justice. Accordingly, we condition grant of this application on Telstra Incorporated abiding by the commitments and undertakings contained in the Agreement between Telstra Incorporated and the Department of Homeland Security dated April 16, 2008. A copy of the Petition and the Agreement are publicly available and may be viewed on the FCC web-site through the International Bureau Filing System (IBFS) by searching for SCL-LIC-20070621-00009 and accessing "Other filings related to this application" from the Document Viewing area

