



PUBLIC NOTICE

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Report No. SCL-00058

DA No. 08-532
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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: 03/05/2008

Acceptability for Filing Public Notice: The Application was placed on Public Notice on October 12, 2007. See MFS CableCo U.S., Inc. and Cable & Wireless Network Services Limited Application for Authority to Operate a Non-Common Carrier Fiber-Optic Submarine Cable System extending between Bermuda and the United States, for the Gemini Bermuda System, File No. SCL-LIC-20070925-00017, Public Notice, Streamlined Submarine Cable Landing License Applications Accepted for Filing, Report No. SCL-00042S (Int'l Bur., October 12, 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, 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>. In addition, the Executive Branch agencies filed a Petition to Adopt Conditions to Authorizations and Licenses on March 4, 2008.

Actions Taken: Grant of Cable Landing License to MFS CableCo U.S., Inc. ("Verizon") and Cable & Wireless Network Services Limited ("Cable & Wireless", collectively with Verizon, the "Applicants") for the purpose of operating a non-common carrier fiber-optic submarine cable system extending between Bermuda and the United States (the "Gemini Bermuda System").

Licensee Information: MFS CableCo U.S., Inc. is an indirect, wholly-owned subsidiary of Verizon Communications. Verizon Communications is a publicly traded company in which no person or entity holds a 10 percent or greater direct or indirect equity or voting interest.

Cable & Wireless, a company organized under the laws of Bermuda, is an indirect, wholly-owned subsidiary of Cable & Wireless, plc, a company organized and existing under the laws of England and Wales. Cable & Wireless, plc is a publicly traded company in which no person or entity holds a 10 percent or greater direct or indirect equity or voting interest.

Cable System Description: The Gemini Bermuda system will be established by redeploying submarine cable from the southern portion of the Gemini System to connect existing landing stations in New Jersey and Bermuda. The original Gemini system was comprised of two segments - a southern route from New Jersey to the United Kingdom ("Gemini South") and a northern route from Rhode Island to the United Kingdom (SCL-LIC-19960606-00229 (old file number SCL-96-4)). That system was retired and deactivated in 2004.

Applicants intend to use the existing plant of Gemini South, particularly the Manasquan cable landing station located in Sea Girt, New Jersey, a portion of the existing terminal equipment located in the cable station, the terrestrial cable between the cable station and the cable landing point, and the submarine cable and associated repeaters. Applicants will recover submarine cable from the Gemini South system located in international waters and redeploy the cable to a landing station in Bermuda. This redeployment will not disturb the existing buried submarine cable from the Manasquan cable landing station to a point beyond 200 nautical miles.

Verizon will continue to own and control (1) the Manasquan cable landing station in Sea Girt, New Jersey; (2) the terminal equipment located at the Manasquan cable station; (3) the submerged portion of the Gemini Bermuda System located in the U.S. territorial waters, and (4) the terrestrial cable located in the U.S. between the beach manhole and the Manasquan cable station. Cable & Wireless will own, operate and maintain the portion of the Gemini Bermuda System from the U.S. territorial waters to Bermuda, including the submarine cable along with associated repeaters and the landing station at the Bermuda end. Cable & Wireless will also own all capacity of the Gemini Bermuda system.

Cable & Wireless may enter into IRU agreements or otherwise lease capacity to U.S. and international carriers. Cable & Wireless will be responsible for maintenance of the wet plant of the Gemini Bermuda System while jointly cooperating with Verizon for the maintenance of the Gemini Bermuda System cable and repeaters located within U.S. territorial waters. Verizon will grant Cable & Wireless an IRU for (i) use of the submarine cable and repeaters from the beach manhole located at Sea Girt, New Jersey (adjacent to the Manasquan cable station) to the limit of the U.S. territorial waters; (ii) use of the terrestrial cable from the beach manhole to the Manasquan cable station; and (iii) use of the terminal equipment in the Manasquan cable station.

Cable Design and Capacity: The Gemini Bermuda System will have two fiber pairs and will have the capacity of 10 Gbps per pair, for a total of 20 Gbps. The use of new technology over existing submarine cable could increase the system's capacity to 160 Gbps per fiber pair.

Regulatory Status of Cable: The Applicants will operate the Gemini Bermuda System on a non-common carrier basis. They state that there are sufficient existing or planned facilities on the route or on alternative routes to prevent them from exercising market power in offering services. They also state 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 7-8.

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, 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, 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).

Cable & Wireless shall abide by the reporting requirements in section 1.767(l) of the Commission's rules, 47 C.F.R. § 1.767(l) for the U.S.-Bermuda route.

We grant the Petition to Adopt Conditions to Authorizations and Licenses (Petition) filed in this proceeding on March 4, 2008 by the Department

_____ We grant the Petition to Adopt Conditions to Authorizations and Licenses (Petition) filed in this proceeding on March 7, 2008 by the Department of Homeland Security and the Department of Justice. Accordingly, we condition grant of this application on Verizon Business Global, LLC abiding by the commitments and undertakings contained in the March 3 2008 Agreement between Verizon Business Global, LLC, for itself, its Affiliates and subsidiaries, and the Department of Homeland Security (March 3 2008 Agreement). A copy of the Petition and the March 3 2008 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-20070925-00017 and accessing "Other filings related to this application" from the Document Viewing area.
