



# PUBLIC NOTICE

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**Report No. SCL-00052**

**DA No. 08-66**  
**Friday January 11, 2008**

## **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](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](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: 01/10/2008

Acceptability for Filing Public Notice: The Application was placed on Public Notice on April 2, 2007. See MCI International, Inc. Application for a License to Land and Operate a Fiber-Optic Submarine Cable System directly linking mainland China, South Korea, Taiwan and the United States, for the Trans-Pacific Express Cable Network (TPE), File No. SCL-LIC-20070222-00002, Public Notice, Non-Streamlined Submarine Cable Landing License Applications Accepted for Filing, Report No. SCL-00028NS (Int'l Bur., April 2, 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 Red 22167, 22192-93, 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.htm>. The Department of Justice, Department of Homeland Security, and the Department of Defense filed a Petition to Adopt Conditions to Authorizations and Licenses on January 9, 2008.

On September 19, 2007, the International Bureau granted Special Temporary Authority to MCI International, Inc. ("Verizon") to lay and bury the first piece of the TPE Cable Network from the beach manhole at Nedonna Beach, Oregon, to a point approximately 55 kilometers off the Oregon coast. The action was without prejudice to Commission action on the application and revocable by the Commission upon its own motion without a hearing. See SCL-STA-20070906-00016.

Actions Taken: (1) Grant of Cable Landing License to the parties of the Trans-Pacific Express Cable Network Consortium (TPE Consortium) for the purpose of landing and operating a non-common carrier fiber-optic submarine cable system, the Trans-Pacific Express Cable Network (TPE Network), directly linking mainland China, South Korea, Taiwan and the United States at a cable landing station located at Nedonna Beach, Oregon, and (2) waiver of section 1.767(h)(1) of the Commission's rules in connection with the License.

Licensee Information: The TPE Consortium is composed of six parties: (1) MCI International, Inc. (referenced in the Application as "Verizon"); (2) China Network Communications Group Corporation (China Netcom); (3) China Telecommunications Corporation (China Telecom); (4) China United Telecommunications Corporation (China Unicom); (5) Chunghwa Telecom Co. Ltd. (Chunghwa Telecom); and, (6) KT Corporation (KT). Each party will have an equal 16.66% ownership and voting interest in all international water segments of the cable network. Individual parties will own and control each landing station and the portion of the cable that connects that landing station to the portion of the cable system in international waters. Each party, except China Unicom, will also be responsible for operating the landing terminal equipment for the cable in the respective home service territories: Verizon, Nedonna Beach/Hillsboro landing station; China Netcom, Qingdao landing station; China Telecom, Chongming landing station; Chunghwa Telecom, Tanshui landing station; and, KT, Keoje landing station. The Cable Construction and Maintenance Agreement (C&MA) requires that decisions regarding the cable system be made by a two-thirds majority, with no party having veto power.

MCI International, Inc. ("Verizon"), a corporation organized under the laws of Delaware, is an indirect, wholly-owned subsidiary of Verizon Communications Inc. (Verizon Communications), a Delaware holding company that owns operating subsidiaries that provide a range of communications services. Verizon Communications is a publicly held company in which no person or entity holds a 10 percent or greater direct or indirect equity or voting interest. It has wholly-owned affiliates in two of the TPE Network destination markets -- Taiwan and Korea, both Members of the World Trade Organization (WTO) -- but neither affiliate has market power in these destination markets.

China Netcom, a corporation organized under the laws of mainland China, is a wholly-owned, state-owned enterprise subject to the supervision of the State-owned Assets Supervision and Administration Commission of the State Council (SASAC), a government entity. SASAC is the controlling shareholder. China Netcom is a foreign carrier in mainland China, which is a WTO Member, and 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).

China Telecom, a corporation organized under the laws of mainland China, is a wholly-owned, state-owned enterprise subject to the supervision of SASAC. SASAC is the controlling shareholder. China Telecom is a foreign carrier in mainland China, which is a WTO Member country, and 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).

China Unicom, a corporation organized under the laws of mainland China, is a state-run enterprise subject to the supervision of SASAC. The Chinese government has an 80 percent ownership interest in China Unicom. No other person or entity holds a ten percent or greater direct or indirect equity interest in China Unicom. China Unicom provides telecommunications services in mainland China through several subsidiaries and operating companies. China Unicom is a foreign carrier in mainland China, which is a WTO Member, and 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).

Chunghwa Telecom, a company organized under the laws of Taiwan, is 35.48 percent owned by the Ministry of Transportation and Communications (MOTC), a Taiwan government entity, and 31.8 percent owned by ADR-Chunghwa Telecom Co., LTD, a Taiwan telecommunications company. No other person or entity holds a ten percent or greater direct or indirect equity interest in Chunghwa Telecom. Chunghwa Telecom is a foreign carrier in Taiwan, which is a WTO Member, and 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).

KT is a corporation organized under the laws of the Republic of Korea. KT's shares are publicly traded on the Korea Exchange and the New York Stock Exchange. Approximately 74.4 percent of the shares are outstanding with an estimated 47.6 percent held by foreign shareholders as of December 31, 2006. The Korean Government has no equity interest in KT. There is no entity that owns more than 10 percent of KT's shares. KT is a foreign carrier in Korea, which is a WTO Member, and 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).

Cable Design and Capacity: The proposed TPE Network will be a non-common carrier fiber-optic submarine cable system, directly linking mainland China, South Korea, Taiwan and the United States. The TPE Network will be a 4-pair fiber optic cable system with initial equipped capacity of up to 1.28 terabits per second (Tbps), and a design capacity of up to 5.12 Tbps. The system will extend more than 18,000 kilometers and have a life expectancy of 25 years. TPE Network will provide direct access from the United States to mainland China at speeds of up to 10

and have a life expectancy of 25 years. The network will provide direct access from the United States to mainland China at speeds of up to 10 gigabits per second (Gbps).

The TPE Network's configuration will combine a linear trans-Pacific route with an intra-Asian ring. In Asia, the cable will land at currently operational cable landing stations in Qingdao, China; Chongming, China; Tanshui, Taiwan; and Keoje, South Korea. Cables from these four terminal points will be brought together via branching units (BU) forming the intra-Asian ring. A single, 4-fiber pair cable will terminate in these BUs and cross the Pacific Ocean to the U.S. landing station in Nedonna Beach, Oregon.

Cable Landing Point Arrangements: Verizon will own and control the TPE Network from the U.S. territorial limits through the Nedonna Beach facility to Verizon's Hillsboro operations center (where the TPE Network terminal equipment will be located and where all capacity interconnection and backhaul will be done). Verizon will also own and control all equipment associated with the landing functions of the cable - the power feed equipment, the submarine line terminal equipment, the system interface equipment, and the optical distribution frame. See Application at 2; Letter from Nancy J. Victory, counsel for Verizon, to Marlene H. Dortch, Secretary, FCC, dated March 26, 2007.

WCI Cable Inc. (WCIC) owns and operates the cable landing station at Nedonna Beach and will provide certain services to Verizon in support of the TPE Network operations. These services include housing of the TPE Network power feed equipment at WCIC's Nedonna Beach cable landing station and use of existing conduit to facilitate placement of the TPE Network's terrestrial cables to Verizon's operations center in Hillsboro, Oregon, where the actual submarine landing terminal equipment will be housed. WCIC will lease floor space to Verizon for the TPE Network's power feed equipment. WCIC also owns the existing beach manhole and the conduits from the beach through the Nedonna Beach facility. WCIC will sell to Verizon an IRU (indefeasible right of use) in the manhole and conduits up to the Hillsboro operations center. By separate agreement, WCIC will maintain the cable in and around the Nedonna Beach landing station. Verizon will retain operational authority and provide direction to WCIC in all matters relating to the TPE Network.

Section 1.767(h) requires that "any entity that owns or controls a cable landing station in the United States" shall be "applicants for, and licensees on, a cable landing license." The purpose of this requirement is to ensure that entities having a significant ability to affect the operation of the cable system become licensees so that they are subject to the conditions and responsibilities associated with the license. See Submarine Cable Landing License Report and Order, 16 FCC Rcd at 22194-95, 53-54. While WCIC is the owner of the cable landing station where the TPE Network will land in the United States, we find that, based upon the agreements between Verizon and WCIC described above, WCIC will not have the ability to affect the operation of the TPE Network. Verizon will retain effective operational authority and provide direction to WCIC in all matters relating to the TPE Network. See 47 C.F.R. § 1.767(h)(1). Accordingly, we grant Verizon a waiver of section 1.767(h)(1) and do not require WCIC to be on this Cable Landing License.

Regulatory Status of Cable: The TPE Consortium will operate the TPE Network system on a non-common carrier basis. Applicants state that there are sufficient existing or planned facilities on the route or on alternative routes to prevent it 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. See Application at 10-11.

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, 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, 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).

We grant the Petition to Adopt Conditions to Authorizations and Licenses (Petition) filed in this proceeding on January 9, 2008 by the Department of Justice, Department of Homeland Security, and the Department of Defense (collectively, the "Executive Branch Agencies"). Accordingly, we condition grant of this application on Verizon Business Global LLC and its affiliates and subsidiaries, including MCI International, Inc., abiding by the commitments and undertakings contained in their December 20, 2007 Agreement with the Executive Branch Agencies. A copy of the Petition and the December 20, 2007 Agreement are publicly available and may be viewed on the FCC website through the International Bureau Filing System (IBFS) by searching for SCL-LIC-20070222-00002 and accessing "Other filings related to this application" from the Document Viewing area.

China Network Communications Group Corporation shall abide by the reporting requirements set out in section 1.767(l) of the Commission's rules, 47 C.F.R. § 1.767(l), for the U.S.-China route.

China Telecommunications Corporation shall abide by the reporting requirements set out in section 1.767(l) of the Commission's rules, 47 C.F.R. § 1.767(l), for the U.S.-China route.

China United Telecommunications Corporation shall abide by the reporting requirements set out in section 1.767(l) of the Commission's rules, 47 C.F.R. § 1.767(l), for the U.S.-China route.

Chunghwa Telecom Co. Ltd. shall abide by the reporting requirements set out in section 1.767(l) of the Commission's rules, 47 C.F.R. § 1.767(l), for the U.S.-Taiwan route.

KT Corporation shall abide by the reporting requirements set out in section 1.767(l) of the Commission's rules, 47 C.F.R. § 1.767(l), for the U.S.-Korea route.

