



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
445 12th STREET S.W.
WASHINGTON D.C. 20554

News media information 202-418-0500
Internet: <http://www.fcc.gov> (or <ftp.fcc.gov>)
TTY (202) 418-2555

DA No. 10-2310

Report No. SCL-00112

Tuesday December 7, 2010

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.

These applications have been coordinated with the Department of State and other 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, 22192-93, 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://2001-2009.state.gov/r/pa/prs/ps/2001/6951.htm>.

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: 12/06/2010

Acceptability for Filing Public Notice: The Application was placed on Public Notice on July 2, 2009. See Office des Postes et Telecommunications de Polynesie francaise ("OPT") Application for Authority to Land and Operate a Common Carrier Submarine Cable System directly linking the United States and French Polynesia, Honotua Cable System, File No. SCL-LIC-20081008-00017, Non-Streamlined Submarine Cable Landing License Applications Accepted for Filing, Report No. SCL-00089NS (Int'l Bur., July 2, 2009). See also Application for authority to construct, acquire, and operate capacity in a common carrier fiber-optic submarine cable system directly linking the United States and French Polynesia, File No. ITC-214-20081008-00453, Non Streamlined International Applications/Petitions Accepted for Filing, Report No. TEL-01371NS (Int'l Bur., July 2, 2009) (associated international section 214 application). No comments or oppositions were filed in response to the Public Notices.

The Application has been coordinated with the Department of State and other 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://2001-2009.state.gov/r/pa/prs/ps/2001/6951.htm> The Department of Justice and the Department of Homeland Security filed a Petition to Adopt Conditions to Authorizations and Licenses on December 3, 2010.

On December 14, 2009, the International Bureau granted Special Temporary Authority ("STA") to OPT to begin construction and testing on the segment of the Honotua Cable System between French Polynesia and Hawaii. SCL-STA-20091201-00035. On June 9, 2010, the International Bureau granted an STA to OPT to continue testing the Honotua Cable System, and to commence commercial operations at its own risk, prior to the Commission's grant of the underlying pending application. SCL-STA-20100607-00013. Those actions were without prejudice to Commission action on the underlying application and were revocable by the Commission upon its own motion without a hearing.

On April 12, 2010, the Commission granted OPT a waiver of section 1.767(h)(1) of the Commission's rules, 47 C.F.R. § 1.767(h)(1), so that Wavecom Solutions, the owner of the cable landing station in the United States, would not be required to be a licensee for the cable landing license. Office des Postes et Télécommunications de Polynésie française: Application for a Section 214 Authorization for Overseas Cable Construction for a Submarine Cable Linking the United States and French Polynesia; Application for a Cable Landing License to Land and Operate a Common Carrier Submarine Cable Linking the United States and French Polynesia, ITC-214-20081008-00453, SCL-LIC-20081008-00017, Waiver Order, DA 10-625, 25 FCC Rcd 3651, 3657 (Int'l Bur. 2010) (OPT Waiver Order). The OPT Waiver Order also granted OPT a waiver of the separate subsidiary requirement of section 63.10(c)(1), 47 C.F.R. § 63.10(c)(1), and placed other conditions on the operation of the Honotua Cable System by OPT. OPT Waiver Order, 25 FCC Rcd at 3654-57.

Action Taken: Grant of Cable Landing License to Office des Postes et Telecommunications de Polynesie francaise for the purpose of landing and operating a common carrier fiber-optic submarine cable system, the Honotua Cable System, directly linking French Polynesia and the United States at a cable landing station located at Kawaihae, Hawaii.

Licensee Information: OPT is the incumbent telecommunications carrier in French Polynesia, an overseas territory of France. OPT is wholly owned by the Government of French Polynesia, but financially autonomous from the national government. As such, OPT is subject to regulation and oversight by the Chambre territoriale des comptes de la Polynésie française and ultimate government control. OPT is administered by a Board of Directors.

Cable Design and Capacity: The Honotua Cable System will be a common carrier fiber-optic submarine cable system directly linking the United States and French Polynesia. The system will have cable landing stations in Papeete, French Polynesia and Kawaihae, Hawaii. The Honotua Cable System will span 4,650 kilometers (2,890 miles) and will provide transmission capacity of up to 1.28 terabits per second, with a maximum design capacity of 32 x 10 Gbps, between French Polynesia and Hawaii. From Hawaii, the cable system will interconnect with other cable systems for onward connectivity from French Polynesia to the U.S. mainland and other nations. The domestic French Polynesian segment will link islands in the French Polynesian archipelago to the Papeete cable station.

Ownership of the Cable System and Landing Points: OPT will own the wet link for both the international and domestic French Polynesia segments, and the cable landing station in Papeete, French Polynesia. Wavecom Solutions, a U.S. company, owns the cable landing station in Kawaihae, Hawaii. OPT and Wavecom Solutions have entered into a landing party agreement pursuant to which OPT will have exclusive control over and access to Honotua Cable terminal equipment, which OPT will collocate at the Kawaihae cable station building. OPT will retain operational authority over Honotua Cable facilities and provide direction to Wavecom Solutions in all matters relating to the Honotua Cable, including certain limited remote monitoring, testing, and maintenance services performed by Wavecom Solutions on OPT's equipment.

Section 1.767(h)(1) requires that "any entity that owns or controls a cable landing station in the United States" shall be "applicant for, and licensee 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. In the OPT Waiver Order, the Commission granted OPT a waiver of section 1.767(h)(1) and thus Wavecom Solutions does not need to be a licensee on the cable landing license. OPT Waiver Order, 25 FCC Rcd at 3657.

Regulatory Status of Cable: OPT will operate the Honotua Cable System on a common carrier basis. See ITC-214-20081008-00453.

Conditions and Requirements: OPT 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).

OPT shall comply with the conditions set forth in the OPT Waiver Order, 25 FCC Rcd 3651. Those conditions include: (1) establishment of a separate operating division within OPT with respect to the ownership and operation of the Honotua Cable within the United States; (2)

separate operating division within OPT with respect to the ownership and operation of the Honotua Cable within the United States; (2) maintenance of separate books of account for this separate division and for the portion of the Honotua Cable within the United States, which shall be made available to the Commission upon request; (3) filing quarterly reports summarizing the provision and maintenance of all basic network facilities procured from OPT's local exchange and other French Polynesian domestic operations and operating divisions and affiliates; and (4) providing the Commission with all new and revised cahiers des charges (conditions for operations that include tariffs) filed publicly with the French Polynesian Ministry of Economy and Finance for telecommunications service between French Polynesia and the United States. OPT is also subject to the other dominant carrier safeguards, including the filing of quarterly traffic and revenue reports and quarterly circuit status reports, and other applicable requirements set forth in the Commission's rules, including the "no special concessions" requirements. 47C.F.R. § 63.14 See OPT Waiver Order, 25 FCC Rcd at 3655-57.

We grant the Petition to Adopt Conditions to Authorizations and Licenses (Petition) filed in this proceeding on December 3, 2010 by the Department of Justice and the Department of Homeland Security. Accordingly, we condition grant of this application on Office des Postes et Telecommunications de Polynesie francaise abiding by the commitments and undertakings contained in its December 3, 2010 National Security Agreement with the Department of Homeland Security and the Department of Justice. A copy of the Petition and the December 3, 2010 Agreement are publicly available and may be viewed on the FCC website through the International Bureau Filing System (IBFS) by searching for SCL-LIC-20081008-00017 and accessing "Other filings related to this application" from the Document Viewing area.
