



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

Report No. SCL-00275

DA No. 20-789
Tuesday July 28, 2020

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, Telecommunications and Analysis 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.

Submarine Cable Landing License

Grant of Authority

Date of Action: 07/14/2020

Acceptability for Filing Public Notice: Application filed by RTI Solutions, Inc. (RTI Solutions), RTI JGA Pte. Ltd. (RTI JGA), and RTI Connectivity Pte. Ltd. (RTI Connectivity) (collectively, "Applicants" or "RTI Group") for a license to land and operate within the United States a non-common carrier fiber-optic submarine cable networking connecting Guam and Japan, the Japan-Guam-Australia (JGA) North system (JGA North). The Application was placed on Public Notice on November 16, 2018. See Streamlined Submarine Cable Landing License Applications Accepted for Filing, File No. SCL-LIC-20181106-00035, Public Notice, Report No. SCL-00228S (IB, Nov. 16, 2018). No comments or oppositions were filed in response to the Public Notice. Applicants filed supplemental letters on April 24, September 12, and December 31, 2019, updating the ownership of the Guam landing station and the JGA North system. Applicants were granted Special Temporary Authority (STA) to construct, connect the U.S. endpoints of, and test at their own risk those portions of the JGA North system in U.S. territory prior to the grant of this cable landing license. See File No. SCL-STA-20190920-00033.

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, 22192-93, 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://www.state.gov/r/pa/prs/ps/2001/6951.htm>. The Department of Homeland Security (DHS) filed a letter on November 19, 2018, to defer action on the application and remove the application from streamlined processing. The National Telecommunications and Information Administration, on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee), filed a Petition to Adopt Conditions to Authorization and License on July 10, 2020. The Committee has no objection to the Commission approving authority to construct, land, and operate the JGA North cable system, provided that the Commission conditions its approval on the assurances of the RTI Group to abide by the commitments and undertakings set forth in the July 6, 2020 National Security Agreement (NSA) between RTI Solutions, RTI JGA and RTI Connectivity and DHS, the Department of Justice and Department of Defense.

Actions Taken: (1) Grant of Cable Landing License to the RTI Solutions, Inc., RTI JGA Pte. Ltd., and RTI Connectivity Pte. Ltd. for the purpose of landing, and operating a non-common carrier fiber-optic submarine cable system, the JGA North cable system, connecting Piti, Guam to Minami-Boso, Japan; (2) waiver of section 1.767(h)(1) of the Commission's rules, 47 CFR 1.767(h)(1), in connection with the license, and (3) grant of the Petition to Adopt Conditions to Authorization and License filed on July 10, 2020, by the National Telecommunications and Information Administration.

Licensee Information: The Applicants for the cable landing license for the JGA North cable system are: (1) RTI Solutions, Inc. (RTI Solutions), (2) RTI JGA Pte. Ltd. (RTI JGA), and (3) RTI Connectivity Pte. Ltd. (RTI Connectivity).

RTI Solutions, Inc., a California company, has the following 10-percent-or-greater direct or indirect voting or equity interest holders: (1) Mr. Russell Matulich, a U.S. citizen (16.4% voting and 16.4% equity); (2) Mr. Brian Mass, a U.S. citizen (14.5% voting and 14.5% equity interest); (3) Mr. Christopher Brungardt, a U.S. citizen (10% voting and 10% equity interest); (4) LSF Capital Pte. Ltd., a Singapore company (35% voting and 35% equity interest); and (5) Mr. Datuk Lim Soon Foo, a Malaysian citizen (75% voting and 75% equity interest in LSF Capital Pte. Ltd.). The remaining voting and equity interests in RTI Solutions are held by individuals, none of whom has a 10-percent-or-greater interest.

RTI JGA Pte. Ltd. (RTI JGA), a Singapore company, has the following 10-percent-or-greater direct or indirect voting and equity interest holders: (1) Fund Corporation for the Overseas Development of Japan's ICT and Postal Services, Inc. (JICT), a Japan company (37.5% equity interest through its ownership of 100% of JGA Class A Preferred Shares). JICT is 50% owned and controlled by the Japanese Ministry of Finance, with the remaining voting and equity interests of JICT held by 21 Japanese companies, none of which has a 10-percent-or-greater voting or equity interest in RTI JGA; (2) NEC Corporation (NEC), a publicly-traded Japan company with no 10 percent-or-greater shareholders (37.5% equity interest in RTI JGA through its ownership of 100% of JGA Class B Preference Shares); (3) Mr. Russell Alan Matulich (16.7% equity interest through his ownership of 51% of JGA Class C shares); (4) The RTI JGA Share Trust (RTI JGA Trust), a Singapore company that holds all the shares of RTI JGA in trust for the equity interest holders (owns one ordinary share of RTI JGA); (5) Ocorian Singapore Trust Company Pte. Ltd. (Ocorian STC), a Singapore company that serves as Trustee of the RTI JGA Trust; (6) STC Group Ltd., a British Virgin Islands company (100% voting and equity interest in Ocorian STC); (7) Ocorian Limited (Ocorian), a Bailiwick of Jersey company (100% voting and equity interest in Ocorian STC); (8) Inflexion Supplemental Fund IV (No. 1) LP (Inflexion Supplemental), a Guernsey company (16% voting and equity interest in Ocorian); and (9) Inflexion Buyout Fund IV (No. 1) LP (Inflexion No. 1), a Guernsey company (29% voting and equity interest in Ocorian). Inflexion Supplement and Inflexion Buyout have no controlling interest shareholders. No other entity or individuals hold a 10-percent-or-greater voting or equity interest in RTI JGA.

RTI Connectivity, a Singapore company, has the following 10-percent-or-greater direct or indirect voting or equity interest holders: Mr. Russell Matulich holds a 99% voting and equity interest in RTI Connectivity.

Cable Design and Capacity: JGA North will consist of a single Guam to Japan segment with a total length of approximately 2,600 kilometers. The system will have two fiber pairs, with a design capacity of a minimum of 12 terabits per second (Tbps) per fiber pair and an initial lit capacity of 24 Tbps.

JGA North will be separately owned and operated from the planned JGA South system, a consortium system between Guam and Australia.

Ownership of the Cable System and Landing Points: RTI JGA will own the entire wet segment of the JGA North cable, including those portions of JGA North's wet segment in the U.S. territorial sea extending from Piti, Guam, as well as those portions in the Japan territorial sea extending from Minami-Boso, Japan. RTI Connectivity will control the wet segment of JGA North in its role as Asset Manager of RTI JGA. RTI Connectivity was appointed RTI JGA's Asset Manager through an Asset Management Agreement between the two companies, and under the agreement RTI Connectivity may not be removed except for cause or in the event RTI Connectivity's majority shareholder, Mr. Russ Matulich, holds less than a 50-percent interest in RTI Connectivity.

RTI Solutions will be the U.S. landing party and control the Piti, Guam, cable landing station arrangements under a contract with the cable station landing owner, Gateway Network Connections, LLC (GNC), a Guam company. GNC will be 49% owned and controlled by TeleGuam Holdings, LLC (GTA), a Guam company, and 51% owned by Asia Connectivity Elements, Inc. (ACE), a newly-formed Guam corporation. Based on distributions of shares made by ACE to RTI Group Executives and other investors, RTI Group Executives collectively hold a 51% interest in ACE. Specifically, (1) Mr. Russell Matulich, RTI Group CEO, now holds a 23.68% interest directly and through his wholly-owned corporation, Making Chaos Global, LLC, (2) Mr. Brett Lay, RTI Group's President, holds a 17% interest in ACE, (3) Mr. Brian Mass, RTI Group's Chief Financial Officer, holds a 10.32%, and (4) 360 CDIP Guam Pty. Ltd., an Australian company, holds a 36.335 interest in ACE. Applicants state that these changes in ownership of the Guam landing station does not affect the ownership structure of the Applicants, nor RTI Solutions' ability to control the Guam cable landing station.

NTT Communications, a publicly listed Japan company, will own and control the cable landing station at Minami-Boso, Japan.

The Applicants request a waiver of section 1.767(h)(1) of the Commission's rules which 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." 47 CFR § 1.767(h)(1). According to the Applicants, GNC, the owner of the Piti, Guam, cable landing station, will not be able to affect significantly the operation of JGA North, and it is not necessary for GNC to be a joint applicant to ensure compliance with the Cable Landing License Act, the Commission's cable landing rules, or the terms of the cable landing license. Applicants state that RTI Solutions will contract with GNC for the provision of certain limited services and will enter into long-term leases for collocation space for power feed equipment for the Guam cable landing station. RTI Solutions will retain operational authority over the JGA North landing facilities and provide direction to GNC in all matters relating to JGA North. Further, RTI Solutions will seek to ensure that all IRU and lease agreements will have initial terms, with extension options at RTI Solutions' sole discretion, for a total of 25 years each, coextensive with the term of the cable landing license.

The purpose of the 1.767(h)(1) 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, paras. 53-54. While GNC is the owner of the Piti, Guam cable landing station, we find that, based on the record in this proceeding, GNC will not have the ability to affect significantly the operation of the cable system. Accordingly, we grant the Applicants a waiver of 1.767(h)(1) and do not require GNC to be on the cable landing license for the JGA North cable system.

Regulatory Status of the Cable: The Applicants propose to operate the JGA North system on a non-common carrier basis. They state that they will not sell capacity indifferently to the user public, but instead will sell bulk capacity to particular carrier and enterprise customers pursuant to individually-negotiated indefeasible rights of use (IRUs) and capacity leases, the terms of which will vary depending on the characteristics and needs of the particular capacity purchaser. Applicants also state that the cable system will provide additional geographic diversity for the U.S.-Japan traffic with a new cable station at Minami-Boso, Japan, and compete vigorously with operators of submarine cable systems currently landing at KDDI's Chikura cable landing station (Unity, Faster) and Softbank's Maruyama cable landing station (Japan-US, Australia-Japan, Jupiter).

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, 20815-20818, paras. 62-67.

Conditions and Requirements: Applicants shall comply with the routine conditions specified in section 1.767(g) of the Commission's rules, 47 C.F.R. § 1.767(g), 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 licenses that are or propose to become affiliated with a foreign carrier).

We grant the Petition to Adopt Conditions to Authorization and License (Petition) filed in this proceeding on July 10, 2020, by the National Telecommunications and Information Agency on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector. Accordingly, we condition grant of this application on the RTI Group abiding by the commitments and undertakings contained in the July 6, 2020 National Security Agreement (NSA) between RTI Solutions, Inc., RTI JGA Pte. Ltd., and RTI Connectivity Pte. Ltd. and the Department of Homeland Security, the Department of Justice, and Department of Defense (2020 NSA)). A failure to comply and/or remain in compliance with any of these commitments and undertakings shall constitute a failure to meet a condition of the cable landing license and thus grounds for declaring the license terminated without further action on the part of the Commission. Failure to meet a condition of the license may also result in monetary sanctions or other enforcement action by the Commission. A copy of the Petition and the 2020 NSA are publicly available and may be viewed on the FCC website through the International Bureau Filing System (IBFS) by searching for SCL-LIC-20181106-00035 and accessing "Other filings related to this application" from the Document Viewing area.