



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, 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.

Acceptability for Filing Public Notice: On August 27, 2020, GU Holdings Inc. (GU Holdings) and Edge Cable Holdings USA, LLC (Edge USA) (together, Applicants) filed an application (Application) for a license to construct, land, and operate a non-common carrier fiber-optic submarine cable system connecting the United States to Taiwan and the Philippines, the Pacific Light Cable Network (PLCN). The Commission placed the Application on Public Notice on September 11, 2020. See Non-Streamlined Submarine Cable Landing License Applications Accepted for Filing, File No. SCL-LIC-20200827-00038, Public Notice, Report No. SCL-00283NS (IB, rel. Sept. 11, 2020). No comments or oppositions were filed in response to the Public Notice. On October 29, 2021, Applicants informed the Commission that Facebook, Inc., Edge USA's direct parent company, had changed its name to Meta Platforms, Inc. (Meta), effective October 28, 2021. On January 20, 2022 and January 23, 2022, GU Holdings and Edge USA, respectively, updated their ownership information.

In 2017, the two Applicants, along with Pacific Light Data Communication Co. Ltd. (PLDC), a Hong Kong entity, filed an application for a cable landing license for an earlier version of PLCN, a cable that they proposed would connect the continental United States, Hong Kong, Taiwan, and the Philippines. See Streamlined Submarine Cable Landing License Applications Accepted for Filing, File No. SCL-LIC-20170421-00012, Public Notice, Report No. SCL-00204S (IB, rel. Nov. 1, 2017); Streamlined Submarine Cable Landing License Applications Accepted for Filing, File No. SCL-AMD-20171227-00025, Public Notice, Report No. SCL-00208S (IB, rel. Jan. 22, 2018) (2017 Application). The Commission granted the three applicants in that proceeding special temporary authority (STA) to construct, connect, and test the portion of PLCN in U.S. territory. See SCL-STA-20180907-00033, SCL-STA-20190327-00011, SCL-STA-20190906-00032, and SCL-STA-20200313-00014. The Commission also granted GU Holdings STA to allow the commercial operation of the portion of PLCN connecting the United States and Taiwan conditioned on GU Holdings abiding by the commitments and undertakings contained in the Provisional National Security Agreement for Special Temporary Authority between GU Holdings, on the one hand, and the Department of Justice (DOJ), the Department of Homeland Security (DHS) and the Department of Defense (DOD), on the other hand (Provisional NSA). See SCL-STA-20200827-00037, SCL-STA-20200402-00015.

On June 17, 2020, the National Telecommunications and Information Administration (NTIA), on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee), filed a recommendation to deny the 2017 Application in so far as it applied to PLDC and the landing in Hong Kong, and to grant the application for GU Holdings and Edge USA for the landings in Taiwan and the Philippines if GU Holdings and Edge USA reached final agreements with DOJ, DHS and DOD on specific mitigation measures to address the Executive Branch's national security concerns relevant to the U.S.-Taiwan and U.S.-Philippines portions of the cable system. Executive Branch Recommendation for a Partial Denial and Partial Grant of the Application for a Submarine Cable Landing License for the Pacific Light Cable Network, File Nos. SCL-LIC-20170421-00012, SCL-AMD-20171227-00025. On August 27, 2020, GU Holdings, Edge USA and PLDC withdrew the 2017 Application. At the same time, Applicants GU Holdings and Edge USA filed the instant application for PLCN to connect the United States to Taiwan and the Philippines.

In 2020 and 2021, the Commission granted Applicants STAs to construct, connect, and test the portion of the reconfigured cable within U.S. territory while the Commission considered the instant Application for a cable landing license for the cable system. See SCL-STA-20200828-00039, SCL-STA-20210308-00015, SCL-STA-20210817-00034. The Commission also granted GU Holdings STAs to allow the continued commercial operation of the portion of the reconfigured PLCN connecting the United States and Taiwan conditioned on GU Holdings abiding by the commitments and undertakings contained in the Provisional NSA, pending Commission review of the underlying Application. See SCL-STA-20200827-00037, SCL-STA-20210817-00033.

The Commission has coordinated the Application with the Department of State and other Executive Branch agencies pursuant to section 1.767(b) of the Commission's rules, 47 CFR § 1.767(b), and consistent with the procedures established by 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, paras. 51-52 (2001) (Submarine Cable Landing License Report and Order); Submarine Cable Landing License Requests, State Department Media Note (Revised) (rel. December 20, 2001) available at <https://2001-2009.state.gov/r/pa/prs/ps/2001/6951.htm>. On September 16, 2020, the Chair of the Committee filed a request that the Commission defer action on the Application pending the Committee's review. On October 28, 2021, NTIA, on behalf of the Committee, filed a Petition to Adopt Conditions to Authorization and License. On December 16, 2021, NTIA filed two separate National Security Agreements (NSAs), one between DOJ, DHS and DOD, and Edge Cable Holdings USA, LLC and Meta Platforms, Inc., and the other NSA between GU Holdings Inc. and Google LLC, and DOJ, DHS and DOD. The Committee has no objection to the Commission approving authority to construct, land, and operate PLCN, provided that the Commission conditions its approval on the assurances of: (1) Edge Cable Holdings USA, LLC and Meta Platforms, Inc. and (2) GU Holdings Inc. and Google abiding by the commitments and undertakings set forth in their respective NSAs.

Actions Taken: (1) Grant of Cable Landing License to Edge Cable Holdings USA, LLC (Edge USA) and GU Holdings Inc. (GU Holdings) for the purpose of landing and operating a non-common carrier fiber optic submarine cable connecting the United States to Taiwan and the Philippines, the Pacific Light Cable Network, authorizing GU Holdings to operate a fiber pair on the cable between the United States and Taiwan and Edge USA to operate a fiber pair on the cable between the United States and the Philippines; (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 by the National Telecommunications and Information Administration on October 28, 2021 and the supplement filed by NTIA on December 16, 2021.

Licensee Information: Edge USA, a Delaware corporation, is a wholly owned direct subsidiary of Meta, a Delaware corporation that is publicly traded on the Nasdaq Stock Market. As of March 31, 2021, CZI Holdings, LLC (CZI), a Delaware limited liability company, held a 12.41% equity interest and a 51.8% voting interest in Meta. Mark Zuckerberg, a U.S. citizen and Chairman and CEO of Meta, held a 57.7% voting interest in Meta through ownership, on an as converted basis, of 12.8% of Meta's Class A common stock, as of March 21, 2021. Of the 57.7% voting interest, Mr. Zuckerberg exercises 52.9% through securities over which he holds voting and investment power through (a) the shares held of record by Mr. Zuckerberg, Trustee of the Mark Zuckerberg Trust, dated July 7, 2006 (2006 Trust); (b) CZI, whose sole member is the 2006 Trust, and (c) the Chan Zuckerberg Initiative Foundation, over which Mr. Zuckerberg has sole voting and investment power. Mr. Zuckerberg also exercises a 4.8% voting interest through an irrevocable proxy, except under limited circumstances, pursuant to a voting agreement between Mr. Zuckerberg, Meta, Dustin Moskovitz, and the other stockholders subject to the proxy agreement. As of March 31, 2021, no other entity or individuals hold a 10% or greater equity or voting interest in Meta or Edge USA.

GU Holdings is a Delaware company. The 10% or greater direct or indirect interest holders of GU Holdings are: (1) Google International LLC, a Delaware limited liability company (100% voting and equity interest in GU Holdings); (2) Google LLC, a Delaware limited liability company (97% voting and equity interest in Google International LLC); (3) XXVI Holdings Inc., a Delaware company (100% voting and equity interest in Google LLC); (4) Alphabet Inc. (Alphabet), a Delaware company (greater than 99% voting and equity interest in XXVI Holdings Inc.); (5) Mr. Larry Page, a U.S. citizen and Co-Founder and Director of Alphabet (26.25% voting interest in Alphabet through ownership of 43.9% of Alphabet's Class B common stock); and (6) Mr. Sergey Brin, a U.S. citizen and Co-Founder and Director of Alphabet (25.1% voting interest in Alphabet through ownership of 42.0% of Alphabet's Class B common stock). Alphabet's shares are publicly traded on the Nasdaq Stock Market. As of December 31, 2021, no other entity or individuals hold a 10% or greater equity or voting interest in Alphabet or GU Holdings.

Cable Design and Capacity: PLCN will consist of a Main Trunk that will directly connect Los Angeles, California to Branching Unit 2, the operational endpoint of PLCN on the Main Trunk. Two branching units off the Main Trunk, Branching Unit 1 and Branching Unit 2, connect PLCN's Main Trunk to Taiwan and the Philippines, respectively.

Main Trunk: The Main Trunk is approximately 11,806 kilometers in length and will consist of two operating fiber pairs between the United States and Branching Unit 2, Fiber Pair 1 and Fiber Pair 2, with a design capacity of a minimum of 24 Terra bits per second (Tbps) per fiber pair. Four other fiber pairs in the Main Trunk will not be operational.

Philippines Branch: The Philippine Branch connects a landing station in Baler, Philippines to Fiber Pair 1 at Branching Unit 2. The branch is approximately 678 kilometers in length and will consist of two fiber pairs with a design capacity of approximately 24 Tbps per fiber pair.

Taiwan Branch: The Taiwan Branch connects a landing station in Toucheng, Taiwan to Fiber Pair 2 at Branching Unit 1. The branch is approximately 693 kilometers in length and will consist of two fiber pairs with a design capacity of approximately 24 Tbps per fiber pair.

Although the cable system was built to include additional fiber pairs and landings, the Applicants are not seeking authority to operate Fiber Pairs 3 through 6, which are currently owned by PLDC, or to operate Fiber Pair 1 and Fiber Pair 2 beyond Branching Unit 2. Applicants state that the constructed segment between Branching Unit 2 and Hong Kong, has been disconnected from the PLCN cable system. Applicants aver that the PLCN cable system will be operated independently of and without the intervention of PLDC. GU Holdings controls access to Fiber Pairs 3 through 6 in the United States and will ensure that those fiber pairs are not usable to serve Hong Kong. GU Holdings has configured Branching Unit 1 to route all traffic on Fiber Pair 2 to Taiwan, and Edge USA will configure Branching Unit 2 to route all traffic on Fiber Pair 1 to the Philippines. As a result, the Applicants assert that PLCN is not connected to Hong Kong within the meaning of the Cable Landing License Act. The two NSAs prohibit the Applicants from (1) allowing PLDC access to the cable and (2) using the disconnected Hong Kong segment.

Ownership and Control of the PLCN Cable Network: The Main Trunk (Fiber Pair 1 and Fiber Pair 2), the Taiwan Branch, and the Philippines Branch will be owned and controlled as follows:

Fiber Pair 1: Edge USA will wholly own Fiber Pair 1 in the portion of PLCN within the United States and U.S. territorial waters, and its affiliated company, Edge Network Services (Edge Network), will wholly own Fiber Pair 1 in the portion of PLCN in international waters.

Fiber Pair 2: GU Holdings will wholly own Fiber Pair 2 within the United States and U.S. territorial waters, and its affiliated company, Google Cable Bermuda Ltd. (Google Bermuda), will wholly own Fiber Pair 2 in the portion of PLCN in international waters.

Taiwan Branch: The branch to Toucheng, Taiwan is wholly owned and controlled by affiliates of GU Holdings. Google Bermuda will wholly own the two fiber pairs on the portion of the Taiwan Branch in international waters and Google Taiwan Limited (GTL) will wholly own two fiber pairs in that portion of PLCN in Taiwan and Taiwan territorial waters. GU Holdings' affiliates hold 100% of the voting interest with respect to decisions related to the Taiwan Branch

Philippine Branch: The branch to Baler, Philippines is wholly owned and controlled by Edge Network, which will wholly own the two fiber pairs on the Philippines Branch. Edge Network will hold 100% of the voting interest with respect to decisions related to the Philippine Branch.

Applicants state that Edge Network, Google Bermuda, and GTL are not required to be applicants for the cable landing license under section 1.767(h)(2) of the Commission's rules, 47 CFR § 1.767(h)(2), because none of them will use the U.S. end points of the PLCN cable system.

Main Trunk: Each Applicant's voting interests over decisions with respect to common equipment necessary to operate the Main Trunk (e.g., power feeding equipment, repeaters, and branching units) corresponds to their fiber pair ownership. GU Holdings and Edge USA and their respective affiliates each own one of the six total fiber pairs, so each holds a 16.67% voting interest in the Main Trunk. PLDC holds four fiber pairs in the Main Trunk and the remainder of the voting interest. However, Applicants state that those fiber pairs will not be used to connect the United States to any foreign points, and that PLDC may not use its investment to interfere with the ownership or rights of use of GU Holdings and Edge USA with respect to the Main Trunk and the common equipment.

Ownership and Control of Cable System Landing Stations: The cable landing stations are owned and controlled as follows:

Los Angeles, California: Equinix LLC (Equinix) is the sole owner of the U.S. cable landing station for PLCN. GU Holdings will be the U.S. landing party for PLCN and control the use of the cable landing station at Los Angeles (El Segundo), California.

—Toucheng, Taiwan: GTL has contracted with Chunghwa Telecom Co., Ltd. (CHT), a telecommunications operator in Taiwan, to be the landing party in Taiwan. GTL has acquired from CHT space located at the existing cable landing station in Toucheng, Taiwan. —

Baler, Philippines: Edge Network has contracted with the Bases Development Conversion Authority (BCDA), a Philippines government instrumentality, and the Department of Information and Communications Technology (DICT), the administrative entity of the Executive Branch of the Philippine Government, which together will act as the landing parties in the Philippines. Edge Network has acquired from BCDA space in a newly built cable landing station in Baler, Philippines.

Applicants request a waiver of section 1.767(h)(1) so that Equinix is not required to be a joint applicant for cable landing license. Section 1.767(h)(1) requires that "any entity that owns or controls a cable landing station in the United States" is among the category of entities that shall be "applicants for, and licensees on, a cable landing license." 47 CFR § 1.767(h)(1). Applicants assert that Equinix will have no independent ability to affect the operation of PLCN. According to the Applicants, within the U.S. cable landing station, each PLCN owner is assigned a separate cage for housing equipment supporting their individual fiber pairs (e.g., submarine line terminating equipment), and a fourth cagehouses equipment supporting operation of all fiber pairs (e.g., power feeding equipment). GU Holdings, as U.S. landing party for PLCN, holds exclusive approval authority for all persons accessing any of these cages. Applicants contend that Equinix will not have access to the cages, except: (i) to perform certain smart hands maintenance services as per GU Holdings' direction and instructions; (ii) to conduct work at the cages unrelated to the system, after providing GU Holdings advance notice and opportunity to supervise any such work; or (iii) in cases of emergency. The agreement with Equinix has a term of 20 years and, at the sole discretion of GU Holdings, may be extended for the life of the system. GU Holdings will thus retain operational authority over the U.S. landing of PLCN.

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. Although Equinix is the owner of the Los Angeles, CA cable landing station, we find that, based on the agreements between the applicants/licensees and the cable station owner described above, Equinix will not have the ability to affect significantly the operation of the cable system. Accordingly, we grant Applicants a waiver of 1.767(h)(1) and do not require Equinix to be an applicant/licensee for the PLCN cable.

Regulatory Status of the Cable: The Applicants propose to operate PLCN on a non-common carrier basis either by using the capacity on PLCN to meet their own internal business connectivity needs or by providing bulk capacity to wholesale and enterprise customers on particularized terms and conditions pursuant to individualized negotiations. For both Edge USA and GU Holdings, the PLCN cable will provide capacity to support both Meta's global platform and Google's network in connecting both entities to their users, points of presence, and data centers. Applicants state the U.S.-Philippines and U.S.-Taiwan routes are served by a variety of systems that land in Japan and Korea that provide onward connectivity to Taiwan and the Philippines. Specifically, Applicants cite the Trans-Pacific Express (TPE), FASTER and New Cross Pacific (NCP) cables that serve the U.S.-Taiwan route and the Asia-America Gateway (AAG) and SEA-US cables that serve the U.S.-Philippines route. Applicants assert that due to these alternate facilities PLCN will not be a bottleneck facility on either of these routes.

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 CFR § 1.767(g), and with the requirements of Section 1.768 of the Commission's rules, 47 CFR § 1.768 (Notification by 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 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, on October 28, 2021. Accordingly, we condition grant of this Application on (1) Edge Cable Holdings USA, LLC and Meta Platforms, Inc. abiding by the commitments and undertakings contained in their National Security Agreement with the Department of Justice, the Department of Homeland Security and the Department of Defense, dated December 14, 2021, and (2) GU Holdings Inc. and Google LLC abiding by the commitments and undertakings contained in their National Security Agreement with the Department of Justice, the Department of Homeland Security and the Department of Defense, dated December 14, 2021. 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. The Petition and the NSAs are publicly available and may be viewed on the FCC website through the International Bureau Filing System (IBFS) by searching SCL-LIC-20200827-00038 and accessing "Other filings related to this application" from the Document Viewing area.
