



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
45 L STREET NE
WASHINGTON D.C. 20554

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

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Report No. SCL-00376

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 CFR § 1.767, the following applications ARE GRANTED. These grants of authority are taken under section 0.261 of the Commission's rules, 47 CFR § 0.261. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 CFR §§ 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 CFR § 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); Commission Announces Department of State's Revised Procedures for its Consideration of Submarine Cable Landing License Applications, IB Docket No. 16-155, Public Notice, DA 22-435 (rel. Apr. 19, 2022).

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 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: 06/16/2022

An application has been filed by Neutral Networks USA LLC (Neutral Networks or Applicant) for a license to construct, land, and operate within the United States a non-common carrier fiber-optic submarine cable network connecting Laredo, Texas and Nuevo Laredo, Tamaulipas, Mexico. The system will be known as the Neutral Networks Laredo Cable (NNLC). Applicant submitted a restated application on October 22, 2021. The Application was placed on Public Notice on October 28, 2021. See Non-Streamlined Submarine Cable Landing License Applications, Accepted For Filing, Report No. SCL-00339NS, Public Notice, Thursday October 28, 2021. No comments or oppositions were filed in response to the Public Notice. On April 7, 2022, the Applicant filed a supplemental letter providing updated information on the conduit structure for the cable.

On November 19, 2021, the International Bureau (Bureau) granted Neutral Networks special temporary authority (STA) to allow the construction, connection, and testing of the portion of the NNLC in U.S. territory, at Neutral Networks' own risk, while the Commission considered the application for a cable landing license for the cable. See SCL-STA-20210930-00040. On February 2, 2022, the Bureau granted Neutral Networks an STA to begin commercial operation of the portion of the NNLC in U.S. territory while the Commission considered the application for a cable landing license. See SCL-STA-20220105-00001. Applicant acknowledged that grant of the commercial operation STA was non-prejudicial to action by the Commission on the underlying application, and that the STA is subject to cancellation or modification upon notice without a hearing.

The Application has been coordinated with the Department of State as required by Executive Order 10530, pursuant to section 1.767(b) of the Commission's rules, and consistent with the established Department of State procedures. Executive Order 10530, Section 5(a) reprinted as amended in 3 U.S.C. § 301; 47 CFR §1.767(b); 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); Commission Announces Department of State's Revised Procedures for its Consideration of Submarine Cable Landing License Applications, IB Docket No. 16-155, Public Notice, DA 22-435 (rel. Apr. 19, 2022). The Department of Justice (DOJ), on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee), filed a letter to defer action on October 29, 2021. The National Telecommunications and Information Administration (NTIA), on behalf of the Committee, filed a Petition to Adopt Conditions to Authorization and License on May 31, 2022 (Petition). The Committee has no objection to the Commission granting the Application, provided that the Commission conditions its approval on the assurances of Neutral Networks to abide by the commitments and undertakings set forth in the May 12, 2022 Letter of Assurances from Neutral Networks to the Department of Homeland Security and DOJ.

Actions Taken: (1) Grant of Cable Landing License to Neutral Networks USA LLC for the purpose of landing and operating a non-common carrier fiber optic submarine cable, the Neutral Networks Laredo Cable, that connects Laredo, Texas and Nuevo Laredo, Tamaulipas, Mexico; (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 May 31, 2021.

Licensee Information: Neutral Networks, a Delaware limited liability company, is a direct wholly owned subsidiary of Neutral Networks, S. de R.L. de C.V., a telecommunications infrastructure company organized in Mexico. In turn, Grupo Even Telecom S.A. de C.V., a Mexican telecommunications infrastructure holding company, holds 99.9% voting and equity interests in Neutral Networks, S. de R.L. de C.V. Grupo Even Telecom S.A. de C.V. is, in turn, directly owned by two entities with 10% or greater interests: LatAm Investments FV B.V. and CIBANCO SA IBM FIDEICOMISO. LatAm Investments FV B.V., a Netherlands investment company, holds 64.94% voting and equity interests in Grupo Even Telecom S.A. de C.V. LatAm Investments S.a.r.l., a Luxembourg investment company which holds 100% voting and equity interests in LatAm Investments FV B.V. Southern Cross Latin America Private Equity Fund V, L.P., a Canadian investment company. LatAm Investments FV B.V. Southern Cross Latin America Private Equity Fund V, L.P. holds 100% voting and equity interests in LatAm Investments S.a.r.l. Ruhr Valley Investment Pte. Ltd, a Singapore investment company which holds a 12.71% equity interest in Southern Cross Latin America Private Equity Fund V, L.P. Employee Retirement System of Texas, a U.S. investment company, holds an 11.1% equity interest in Southern Cross Latin America Private Equity Fund V, L.P. CIBANCO SA IBM FIDEICOMISO, a Mexican trust which holds 29.64% voting and equity interests in Grupo Even Telecom S.A. de C.V. CIBANCO SA IBM FIDEICOMISO. Grupo Even Telecom S.A. de C.V. CIBANCO SA IBM FIDEICOMISO is, in turn, directly owned by three entities with a 10% or greater interest: Afore Banamex, S.A. de C.V., a Mexican pension fund holding 64.82% voting and equity interests; Profuturo GNP, S.A. de C.V., a Mexican pension fund holding 25% voting and equity interests; and Metlife Afore, S.A. de C.V., a Mexican pension fund holding 10.18% voting and equity interests. Applicant states that no other entity or individual holds a 10% or greater direct or indirect voting or equity interest in Neutral Networks.

Landing Points and Ownership: Neutral Networks states that it will own and control 100% of the NNLC system in the United States. Neutral Networks, S. de R.L. de C.V. will own and control 100% of the NNLC system in Mexico. Applicant states that the NNLC will be deployed through pull boxes, or manholes, located on both sides of the Rio Grande, that will then connect with cable facilities (i.e., the cable landing stations) to points of presence where interconnection will occur. The manhole on the U.S. side will be located in Laredo, Texas, and the manhole on the Mexico side will be located in Nuevo Laredo, state of Tamaulipas. The cable landing station in Laredo, Texas will be an existing data center owned by VTX Communications, LLC (VTXC). In Mexico, the system will utilize an existing data center owned by Inmobiliaria Torre M.S.A. de C.V. in Monterrey, state of Nuevo León.

Neutral Networks requests a waiver of section 1.767(h)(1) so that VTXC -- the owner of the Laredo cable landing station -- need not be a joint applicant for the NNLC cable landing license. Section 1.767(h)(1) requires that "applicants for, and licensees on, a cable landing license" must include "[a]ny entity that owns or controls a cable landing station in the United States." 47 C.F.R. § 1.767(h)(1). According to Neutral Networks, although VTXC is the owner of the Laredo, Texas cable landing station, VTXC does not need to be a joint applicant for the NNLC system as Neutral Networks will retain operational authority over the NNLC system and provide direction to VTXC in all matters relating to the system. Neutral Networks states that it has a 25-year term collocation agreement with VTXC that will not provide VTXC any ability to affect significantly the NNLC system.

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 VTXC is the owner of the Laredo, TX cable landing station, we find that, based on the agreements between the Applicant/Licensee and the cable station owner described above, VTXC will not have the ability to affect significantly the operation of the cable system. Accordingly, we grant Applicant a waiver of 1.767(h)(1) and do not require VTXC to be an applicant/licensee for the NNLC cable.

Cable Design and Capacity: NNLC will consist of three fiber optic cables in a seven duct conduit extending 251 feet under the Rio Grande River. Each cable will consist of 48 fiber pairs (system total of 144 fiber pairs) and a system design capacity of 28.8 Tbps. Applicant states that the initial design will be one fiber pair activated to support two circuits of 100 Gbps each. Applicant states that the conduit will be encased in a pipe buried 15 feet below the Rio Grande riverbed.

Regulatory Status of the Cable: Neutral Networks proposes to operate NNLC on a non-common carrier basis. Applicant states that it will make fiber-optic capacity available to carriers on terms and conditions tailored to their particular needs, pursuant to individually negotiated infeasible right of use (IRU) agreements and capacity leases. Applicant states that as a result, carriers will not have any expectation that the NNLC system is a common carrier cable system. Applicant also argues that it will not be able to assert market power due to the presence of numerous alternative terrestrial fiber-optic facilities between the United States and Mexico. Applicant states that the variety of choices for routing telecommunications traffic between the two countries will continue to be available after the NNLC system goes into operation. Applicant contends that the availability of multiple competitive alternatives to the proposed NNLC system means that the Applicant would be unable to restrict output or raise prices without losing customers.

Applicant has 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: Neutral Networks 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 Administration, on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, on May 31, 2022. Accordingly, we condition grant of this Application on Neutral Networks USA LLC abiding by the commitments and undertakings contained in its Letter of Agreement (LOA) with the Department of Homeland Security and the Department of Justice, dated May 12, 2022. 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 LOA are publicly available and may be viewed on the FCC website through the International Bureau Filing System (IBFS) by searching SCL-LIC-20210930-00042 and accessing "Other filings related to this application" from the Document Viewing area.

License Term: Under the Commission's rules, a cable landing license shall expire 25 years after the in-service date for the cable. 47 CFR § 1.767(g)(15). As NNLC is already in-service, see SCL-STA-20220105-00001, this license shall expire 25 years from grant, June 17, 2047.