



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
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Report No. TEL-00872NS

Wednesday January 19, 2005

NON STREAMLINED INTERNATIONAL APPLICATIONS ACCEPTED FOR FILING

Section 214 Applications (47 C.F.R. § 63.18); Cable Landing License Applications (47 C.F.R. § 1.767); Authorize Switched Services over Private Lines (47 C.F.R. § 63.16) and Section 310(b)(4)

Unless otherwise specified, the following procedures apply to the applications listed below:

The applications listed below have been found, upon initial review, to be acceptable for filing. These applications are not subject to the streamlined processing procedures set forth in Section 63.12 of the Commission's rules, 47 C.F.R. § 63.12. These applications shall not be deemed granted until the Commission affirmatively acts upon the application, either by public notice or by written order. Operation for which authorization is sought may not commence except in accordance with any terms or conditions imposed by the Commission.

Unless otherwise specified, interested parties may file comments with respect to these applications within 28 days of the date of this public notice. We request that such comments refer to the application file number shown below. No application listed below shall be granted by the Commission earlier than the day after the date specified in this public notice for the filing of comments.

Unless otherwise specified, ex parte communications between outside parties and Commission staff concerning these applications are permitted subject to the Commission's rules for "permit-but-disclose proceedings." See 47 C.F.R. § 1.1206.

Copies of all applications listed here are available for public inspection in the FCC Reference and Information Center, located in room CY-A257 at the Portals 2 building, 445 12th Street SW, Washington DC 20554. The center can be contacted at (202) 418-0270. All applications listed are subject to further consideration and review, and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

Petition for Declaratory Ruling

TelCove, Inc. ("TelCove") requests a declaratory ruling that the Commission find permissible the indirect foreign ownership of TelCove Long Haul, L.P. in excess of the 25 percent benchmark set forth in Section 310(b)(4) of the Communications Act, as amended. Specifically, TelCove requests a declaratory ruling, nunc pro tunc, that it is in the public interest to permit up to 51.5 percent indirect foreign investment in TelCove Long Haul, L.P., a wholly-owned subsidiary of TelCove and a holder of FCC licenses for facilities that are authorized, but not yet operating, in the Local Multipoint Distribution Service and the 39 GHz bands. TelCove also requests advance authorization for an additional 25 percent foreign ownership provided that any additional foreign ownership above 51.5 percent does not cause the amount attributable to a single entity from a World Trade Organization ("WTO") Member country, or cumulatively to entities from non-WTO Member countries, to exceed 25 percent of TelCove's total ownership.

According to the petition, TelCove Long Haul, L.P. is a limited partnership formed under the laws of Delaware. A one percent general partnership in TelCove Long Haul, L.P. is held by TelCove Operations, Inc., a Delaware corporation directly and wholly-owned by TelCove. The remaining ninety-nine percent limited partnership interest in TelCove Long Haul, L.P. is held by TelCove, LLC, a Delaware limited liability company that is a direct, wholly-owned subsidiary of TelCove Operations, Inc. In March and June of 2002, TelCove and certain of its subsidiaries filed separate petitions for protection under Chapter 11 of the United States Bankruptcy Code in the U.S. Bankruptcy Court for the Southern District of New York. Upon its emergence from bankruptcy in 2004, TelCove became a privately held company whose shareholders included former bondholders and creditors, as well as their successors-in-interest.

Post-bankruptcy, four entities controlled by Bay Harbour Management, L.C., a U.S. based investment advisory firm, hold a collective, controlling 47.67 percent equity and voting interest in TelCove. One of these entities, Bay Harbour Partners, Ltd., is an investment vehicle organized in the Cayman Islands (20.37% equity and voting interest). The Petition further states that other foreign shareholders (including shareholders of unknown nationality) hold an additional 31.12 percent of the equity and voting interests in TelCove. Thus, according to the petition, the total foreign investment in TelCove is 51.5 percent (20.37% + 31.12% = 51.5%).

The Petitioner asserts that, of the 51.5 percent equity and voting interests in TelCove that are considered foreign, 43.89 percent are held by entities from WTO Member countries. The remaining 7.60 percent equity and voting interests in TelCove are held by shareholders of unknown nationality and therefore are assumed to be non-WTO interests for purposes of the petition.

REMINDER:

Applicants must certify that neither the applicant nor any party to the application is subject to a denial of federal benefits by federal and/or state courts under authority granted in 21 U.S.C. § 862. See 47 C.F.R. §§ 1.2001–2003.

An updated version of Section 63.09-.25 of the rules, and other related sections, is available at <http://www.fcc.gov/ib/pd/pf/telecomrules.html>