



PUBLIC NOTICE

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Report No. SCL-00030S

Monday June 4, 2007

STREAMLINED SUBMARINE CABLE LANDING LICENSE APPLICATIONS ACCEPTED FOR FILING

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 and subject to the streamlined processing procedures set forth in section 1.767 of the Commission's rules, 47 C.F.R. § 1.767. Pursuant to the Submarine Cable Landing License Act, 47 U.S.C. §§ 34-39, and Executive Order No. 10530, reprinted as amended in 3 U.S.C. § 301, each applicant seeks: (a) the grant of a cable landing license; (b) the modification of a cable landing license; and/or (c) the assignment or transfer of control of an interest in a submarine cable landing license.

Pursuant to its decision 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) and section 1.767 of the rules, the Commission will take action upon these applications within forty-five (45) days after release of this public notice, unless the Commission has informed the applicant in writing that the application, upon further examination, has been deemed ineligible for streamlined processing.

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. Filings relating to this application must be received within 14 days of this notice. Such filings will not necessarily result in an application being deemed ineligible for streamlined processing.

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. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty). 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.

Submarine Cable Landing License

Application filed by Paniolo Cable Company, LLC (Paniolo) for authority to land and operate a high capacity fiber-optic non-common carrier submarine cable system, the Paniolo Fiber-Optic Cable (PFOC), linking the five major Hawaiian islands. The cable will consist of 300 miles of submarine fiber-optic cables divided into four segments: (1) Kekaha, Kauai to Makaha, Oahu; (2) Hawaii Kai, Oahu to Kaunakakai, Molokai; (3) Kaunakakai, Molokai to Lahaina, Maui; and (4) Makena, Maui to Kawaihae, Hawaii.

The application states that the system as proposed will consist of high capacity, digital fiber-optic submarine cable operating at an OC-48 line rate and higher. This system will provide a capacity of 2.5 gigabits, which equates to an initial configuration of approximately 48 DS-3 or 1344 DS-1 channels. Initial engineering will provide OC-3, OC-12 and Gigabit Ethernet drop capacity on all of the routes.

The application specifies seven landing stations for the PFOC: (1) Kekaha, Kauai, (2) Makaha, Oahu, (3) Hawaiian Kai, Oahu, (4) Kaunakakai, Molokai, (5) Lahina, Maui, (6) Makena, Maui, and (7) Kawaihae, Hawaii. As the sole landing party for the PFOC, Paniolo will own and have control of the cable and all landing station equipment and functions relating to the PFOC cable. The Application states that Paniolo will have full ownership and control of the conduits and fiber optic cable passing through these conduits across the inter-island route of the PFOC through the beach manholes to the Demarcation buildings. Specifically, Paniolo will control three of the four principal telecommunications network layers (i.e., fiber path, optical path and physical path).

Paniolo will lease the PFOC solely to Sandwich Isles Communications, Inc. (SIC). SIC had previously received a cable landing license for this cable system, see SCL-LIC-20040310-00007, DA 04-1602 (rel. June 2, 2004), but according to the Application, SIC now finds it advantageous for Paniolo to construct the cable system and lease the facilities to SIC. Although SIC will own and control the fourth layer (i.e., service layer), the Application contends that there is no compelling regulatory rationale for requiring that SIC be named as a submarine cable licensee because SIC is not a party to the PFOC Supply Agreement for the construction of the network system and SIC does not and will not, own any physical component of the PFOC. In addition Paniolo states that while SIC will be responsible for all maintenance services they will be done at the direction and approval of Paniolo.

Paniolo is a Delaware limited liability company headquartered in Denver, Colorado. Waybill Management Group, LLC (Waybill) is the manager and sole owner of Paniolo. The equity owners of Waybill are Mustang Investment Holdings, LLC (Mustang Holdings) (10%), Mustang Capital Partners, LLC (45%), and BJK LLC (45%). Waybill is managed by Mustang Holdings, which is 88% owned and managed by Mr. Parker Brophy and 10% owned by Mrs. Susan Brophy. The equity interests in Mustang Capital Partners are held by Mr. Brophy (90%) and Mustang Holdings (10%), which is also controlled by Mr. Brophy. Through his ownership interests, Mr. Brophy effectively controls Paniolo.

REMINDERS:

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 C.F.R. §§ 1.2001-1.2003.

The Commission's rules applicable to submarine cable landing licenses (47 C.F.R. §§ 1.767, 1.768) are available at <http://www.fcc.gov/ib/td/pf/telecomrules.html>. See also http://hraunfoss.fcc.gov/edoc_public/attachmatch/DA-02-5981A1.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.

By this notice, we inform the public that submarine cable landing license applications and international section 214 applications that are part of larger transactions involving multiple Commission licenses or authorizations may involve "extraordinary circumstances" as referenced in Review of Commission Consideration of Applications under the Cable Landing License Act, Report and Order, 16 FCC Rcd 22167 (2001) and Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891 (1997), paras. 327-28, Order on Reconsideration, 15 FCC Rcd 18158 (2000). Additionally, these extraordinary circumstances may result where Executive Branch agencies petition the Commission to defer decision on certain transactions pending the resolution of potential national security, law enforcement, foreign policy and trade policy issues. Accordingly, these applications may not be acted on within the 90-day review period that the Commission has established as the period of time normally required to reach a decision on non-streamlined cable landing licenses and international section 214 applications. This notice shall serve as public notice to applicants that, in these circumstances, additional time may be required for Commission review and final action. No additional formal public notice will be provided routinely with respect to specific applications in the event that the applicable review period extends beyond 90 days.