



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
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**Report No. SCL-00188S**

**Thursday October 6, 2016**

## **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 licensee; (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](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 1-888-835-5322 (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 Hawaiki Submarine Cable USA LLC (HSC USA), Tillamook Lightwave IGA (Tillamook Lightwave), ACS Cable Systems, LLC (ACS) DRFortress, LLC (DRFortress) and American Samoa Telecommunications Authority (ASTCA) (collectively, the Applicants) for a license to land and operate a non-common carrier fiber-optic submarine cable between the United States, Australia, and New Zealand, to be called the Hawaiki Cable System (Hawaiki).

The Hawaiki cable system will have five segments and land in five locations. Segment 1 will connect Sydney, Australia, and Mangawhai Heads, New Zealand, and will have one fiber pair with a total capacity of 12 terabits per second (Tbps). Segment 2 will connect Mangawhai Heads with Kapolei, Oahu, Hawaii, and will have one fiber pair with a total total capacity of 10 Tbps. Segment 3 will connect Sydney and Kapolei, and will have two fiber pairs with a capacity of 20 Tbps. Segment 4 will connect Kapolei with Pacific City, Oregon, and have 3 fiber pairs with a total capacity of 30 Tbps. Segment 5 will connect a branching unit on the New Zealand to Hawaii fiber pair to Tafuna, Samoa, and will have 2 fiber pairs with a total capacity of 100-200 gigabits per second (Gbps). Hawaiki's design provides the ability to install branching units and spurs to connect a number of Pacific Islands to the main trunk. The Pacific Islands will be connected via Optical Add Drop Multiplexer ("OADM") branching units located on the New Zealand to Hawaii fiber pair. With the OADM technology, express wavelengths on all fiber pairs (Australia and New Zealand to the United States) will have no dependence on the Pacific Islands. Given the requirements of the islands, the applicant intends to divert one or two wavelengths for an island (100Gbps or 200 Gbps) with full upgrade capacity.

Applicants state that Hawaiki will increase competition on U.S.-Australia-New Zealand routes and enhance the service quality, redundancy, and resilience of communications systems in the region. Upon deployment, the applicants state that Hawaiki will immediately and significantly increase regional and transpacific capacity, providing an alternative and diverse transmission route from the mainland U.S. to Australia, New Zealand, Hawaii, and American Samoa.

The main trunk of Hawaiki, between Australia and Oregon, will be 100% owned and constructed by Hawaiki Submarine Cable Limited Partnership (HSC LP), the direct parent of HSC USA. HSC LP and its affiliates will also own and/or control the cable landing stations in Australia, New Zealand, Hawaii and Oregon. The landing station in Sydney will be leased from Equinix. HSC LP will build and own a new landing station in Mangawhai Heads. HSC USA will build and own a new landing station in Kapolei. DRFortress will manage the landing station in Hawaii under contract with HSC USA and act as the landing party. HSC LP has entered into a contractual agreement with Tillamook Lightwave to lease space in its existing landing station in Pacific City. ACS is under contract with HSC USA provide operation and maintenance services for the Pacific City landing station. All of the capacity on the main trunk will be owned by HSC LP and its affiliates. DRFortress, Tillamook Lightwave and ACS will not own any capacity on Hawaiki.

ASTCA, the government-owned incumbent local exchange carrier in the U.S. Territory of American Samoa, will own, construct and operate the spur connecting American Samoa to a branching unit on the Hawaiki submarine cable system. ASCTA will also will own, construct and operate the cable landing station in Tafuna.

The primary Network Operations Center (NOC) for Hawaiki will be located in New Zealand. The backup NOC will be subcontracted in the United States to a U.S. operator. HSC LP will have control of the NOCs.

The Applicants propose to operate Hawaiki on a non-common carrier basis. Applicants state there are a variety of competitive alternatives including the PIPE Pacific Cable 1, Southern Cross and Telstra Endeavour cable systems, as well as the South-East Asia-United States system currently under construction. Applicants also state that capacity on Hawaiki will either be used by the Applicants to meet their own internal needs for bandwidth or made available to third parties on individually tailored agreements.

HSC USA is a Delaware limited liability company, which is a direct wholly-owned subsidiary of HSC LP, a limited partnership organized under the laws of New Zealand. HSC LP is managed by Hawaiki Submarine Cable LP General Partner, a New Zealand company. HSC LP is a direct wholly-owned subsidiary of HCL LP, a limited partnership organized under the laws of New Zealand. HCL LP is managed by HCL LP General Partner, a New Zealand company. MD Fibre Trust holds a 44.58% interest in HCL LP. HCL Founders LP owns 39.82% of HCL LP. The Galasso Family Trust has a 39.82% indirect ownership through its 100 percent ownership in HCL Founders Trust. Sinclair Hawaiki LP holds a 15.6% interest in HCL LP. The Edgar Family Trusts, Sinclair Investments LP and SIL Hawaiki Ltd hold an indirect 15.6% interest in HSC USA through Sinclair Hawaiki LP. No other person or entity has a 10 percent or greater direct or indirect interest in HSC USA or HSC LP.

ASTA is wholly-owned by the American Samoa Government.

DRFortress, a Delaware corporation, has the following 10 percent or greater direct or indirect interest holders: (1) Rosa White, a U.S. citizen, directly owns 12.19%; (2) Alfred Rodi, a U.S. citizen, directly owns 12.10%; (3) Nathan Osada, a U.S. citizen, directly owns 10.60%; (4) Jefferson Brown, a U.S. citizen, directly owns 12.10%; (5) Vinh Do, a U.S. citizen, directly owns 12.10%; (6) and Brent Oxley, a U.S. citizen, directly owns 15% of DRFortress. No other person or entity has a 10 percent or greater direct or indirect interest in DRFortress.

Tillamook Lightwave, an Oregon Revised Statutes Chapter 190 Intergovernmental Agency, is owned by: (1) Tillamook County, 33.33%; (2) Port of Tillamook Bay, an Oregon special district formed under ORS Chapter 777, 33.33%; and, (3) Tillamook People's Utility District, an Oregon public utility district formed under ORS Chapter 261, owns 33.33% of Tillamook Lightwave. No other person or entity has a 10 percent or greater direct or indirect interest in Tillamook Lightwave.

ACS, a Delaware limited liability company, is wholly-owned by Alaska Communications Systems Holdings, Inc., which in turn is wholly-owned by Alaska Communications Systems Group, Inc., a Delaware corporation. Alaska Communications Systems Group, Inc. is a publicly traded, widely held corporation in which no individual or entity holds a ten percent or greater interest.

Applicants agree to abide by the routine conditions specified in section 1.767(g) of the Commission's rule, 47 CFR § 1.767(g).

#### 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.

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.