



PUBLIC NOTICE

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Report No. SCL-00217S

Friday July 13, 2018

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 upon further examination an application is 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.

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), 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 ATN Undersea Cable Corporation (ATN Cable or Applicant) for a license to operate a non-common carrier fiber-optic submarine telecommunications cable extending between the islands of St. Thomas and St. Croix in the United States Virgin Islands (USVI) - the VILink System. Applicant filed a supplement to the application on July 9, 2018.

The VILink System will be a high-capacity digital fiber-optic system landing in Nazareth, St. Thomas and Christiansted, St. Croix. It will have one non-repeated, linear segment composed of 24 fiber strands. The cable's initial deployment will use 10 gigabit/second wavelengths on a single fiber pair, and may be upgraded to use 40 and/or 100 gigabit/second technology in the future. Applicant states that the engineered life expectancy of the cable is 25 years.

The Applicant states that the VILink System will provide increased capacity, redundancy, resiliency, and reliability for communications between St. Thomas and St. Croix, the two most populous islands in the USVI. Applicant believes that USVI bandwidth needs will "exponentially increase" as residents use more Internet-based data technologies, and that the VILink System will provide the capacity to support them. Applicant notes that connectivity between St. Thomas and St. Croix is currently largely accomplished via microwave facilities, which the Applicant notes can be unreliable due to dish misalignment in high winds. Applicant also states that the VILink System will increase reliability and redundancy for communication between USVI and the U.S. mainland in the event that connectivity between either island and the mainland is severed, by rerouting traffic through the U.S. mainland connection of the other island.

ATN Cable is the only proposed owner of the VILink System and will be the landing party in both St. Thomas and St. Croix. ATN will exclusively control and operate the all aspects of the VILink System. The Virgin Islands Telephone Corporation d/b/a Viya (Viya), an affiliate of ATN Cable (both ATN Cable and Viya are wholly-owned subsidiaries of ATN International, Inc.), will lease the land under the beach manholes in both Nazareth and Christiansted for 25-year terms and Viya will sublet access to ATN Cable for the same term. Applicant further states that Viya or one of its commonly controlled USVI affiliates will own both beach manhole vaults and the backhaul facilities to the Nazareth and Christiansted landing stations, which are expected to be located in the Viya central office locations in Nazareth and Christiansted. Viya (or its affiliate) will lease or provide an indefeasible right of use (IRU) over these facilities (i.e., the vaults, backhaul facilities, and landing stations) to ATN Cable for a 25 year term. Applicant says that in the event that its construction plans change, it will provide notice of the change to the Commission no later than 90 days prior to commencement of construction.

ATN Cable argues that it "will exclusively operate and control the VILink System, and will have unfettered access to those component facilities that it leases or IRUs from other commonly controlled ATN subsidiaries" and therefore Viya and its affiliates do not need to be applicants/licensees. ATN Cable seeks a waiver of Section 1.767(h)(1) of the Commission's rules, 47 CFR § 1.767(h)(1), to the extent that the Commission believes that any other parties (such as Viya or a Viya affiliate) should be an applicant/licensee, so that ATN Cable remains the sole licensee.

Applicant proposes to operate the VILink System on a non-common carrier basis. ATN Cable intends to use the VILink System's capacity to provide communications services to customers of Viya, its affiliate. ATN Cable may also sell excess capacity on a wholesale basis to other carriers pursuant to individually tailored and negotiated terms and conditions. It also states that since other submarine cable systems serve the St. Thomas-St. Croix route (such as viNGN and AT&T C-1) and that competitive alternatives (e.g., satellite and microwave links) are also available, it will not enable it exercise market power on the interisland route but that VILink will instead increase competition and service on the route. Consequently, ATN Cable argues that the Commission should not require it to operate the VILink system on a common carrier basis.

ATN Cable is a wholly-owned subsidiary of ATN International, Inc., a publicly traded corporation organized in Delaware. According to the Applicant, as of February 12, 2018, only one individual or entity has a ten percent or greater direct or indirect equity or voting ownership interest in ATN International, Inc.: Cornelius B. Prior, Jr., a U.S. citizen, owns 27.3% of ATN International, Inc.

Applicant agrees to abide by the routine conditions specified in section 1.767(g) of the Commission's rules, 47 C.F.R. § 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 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, extraordinary circumstances result where Executive Branch agencies petition the Commission to defer action on an application 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. 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.