



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
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Report No. SCL-00334NS

Friday September 24, 2021

Non-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. 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. These applications are not subject to the streamlined processing procedures set forth in Section 1.767 of the Commission's rules, 47 CFR § 1.767.

Unless otherwise specified, filings relating to these applications must be received within 14 days of this notice. 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 CFR § 1.1206.

These applications are being 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); Streamlined Procedures for Executive Branch Review of Submarine Cable Landing License Requests, State Department Media Note (Revised) (rel. Dec. 20, 2001) available at <http://2001-2009.state.gov/r/pa/prs/ps/2001/6951.htm>.

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 ninety (90) days after release of this public notice, unless it determines that additional time is needed.

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.

INFORMATIVE

SCL-AMD-20210809-00032

Edge Cable Holdings USA, LLC

On September 8, 2021, the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) filed a letter seeking to return the Application for the CAP-1 cable system that the Committee has been reviewing for national security and law enforcement concerns based on the Applicants' amendment filed on August 9, 2021 removing China Mobile International Limited (China Mobile) as an Applicant. See SCL-AMD-20210809-00032. The Committee states that the "amendment significantly alters the ownership of the proposed CAP-1 Cable System, necessitating that the Committee undertake a new initial review to satisfy its obligations under Executive Order ('E.O.') 13913." In its letter, the Committee also seeks to withdraw the April 26, 2021 certification (120-Day Certification) indicating that, with respect to the underlying cable landing license application, the Applicants had provided complete responses to the Committee and would complete its review before the end of the 120-day initial review period (by August 24, 2021), request an extension of the 120-day initial review period, or request the need to conduct a 90-day secondary assessment. The Committee adds that the amendment was filed 105 days after the Committee began its initial 120-day review of the Application. The Committee indicates that it will need to review whether the information previously provided by the Applicants regarding the application is still accurate; the Applicants will need time to update their triage responses to reflect the new ownership structure for the cable; and the Committee may be required to request a new national security threat assessment from the Director of National Intelligence.

We find merit in the Committee's argument that the amendment to remove China Mobile as an Applicant at this late date in the 120-day initial review process is a major change to the Application that significantly affects the national security and law enforcement assessment of the CAP-1 system. In the Executive Branch Review Order, the Commission stated that the filing of a major amendment during the 120-day review period would not restart the 120-day clock. Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership, IB Docket 16-155, Report and Order, 35 FCC Rcd 10927, 10959-60, para. 85, note 215 (2020). The Commission, however, recognized the Committee's need to have ample time to review major changes to an application, particularly if the amendment is filed near the end of a review period. *Id.* The Commission added it would consider Committee requests for prolonged extensions of the review period depending on the nature and timing of the amendment.

We consider the Committee's request for re-referral of the cable landing license application, as amended, as a request for extension of time contemplated by the Executive Branch Review Order. Therefore, we grant the Committee additional time to review the amended application. As such, as required by our rules, the Committee shall notify the Commission when it has determined that the Applicants have provided complete responses to the Committee's questions. 47 CFR § 1.40004(a)(2). The Committee will have an additional 120 days to complete its initial review from the date it notifies the Commission that the application is complete. 47 CFR § 1.40004(b).

SCL-LIC-20200910-00044

Edge Cable Holdings USA, LLC

On September 8, 2021, the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) filed a letter seeking to return the Application for the CAP-1 cable system that the Committee has been reviewing for national security and law enforcement concerns based on the Applicants' amendment filed on August 9, 2021 removing China Mobile International Limited (China Mobile) as an Applicant to the cable system. See SCL-AMD-20210809-00032. The Committee states that the "amendment significantly alters the ownership of the proposed CAP-1 Cable System, necessitating that the Committee undertake a new initial review to satisfy its obligations under Executive Order ('E.O.') 13913." In its letter, the Committee also seeks to withdraw the April 26, 2021 certification (120-Day Certification) indicating that the Applicants had provided complete responses to the Committee and the Committee would complete its review before the end of the 120-day initial review period (by August 24, 2021), would request an extension of the 120-day initial review period, or request the need to conduct a 90-day secondary assessment. The Committee adds that the amendment was filed 105 days after the Committee began its initial 120-day review of the Application. The Committee indicates that it will need to review whether the information previously provided by the Applicants regarding the application is still accurate; the Applicants will need time to update their triage responses to reflect the new ownership structure for the cable; and the Committee may be required to request a new national security threat assessment from the Director of National Intelligence.

We find merit in the Committee's argument that removal of China Mobile as an Applicant at this late date in the 120-day initial review process, is a major change to the application that significantly affects the national security and law enforcement assessments of the CAP-1 system. In the Executive Branch Review Order, the Commission stated that the filing of a major amendment during the 120-day review period would not restart the 120-day clock. Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership, IB Docket 16-155, Report and Order, 35 FCC Rcd 10927, 10959-60, para. 85, note 215 (2020). The Commission, however, recognized the Committee's need to have ample time to review major changes to an application, particularly if the amendment is filed near the end of a review period. *Id.* The Commission added it would consider Committee requests for prolonged extensions of the review period depending on the nature and timing of the amendment. *Id.*

We consider the Committee's request for re-referral of the cable landing license application, as amended, as a request for extension of time as contemplated by the Executive Branch Review Order. Therefore, we grant the Committee additional time to review the amended application. As such, as required by our rules, the Committee shall notify the Commission when it has determined that the Applicants have provided complete responses to the Committee's questions. 47 CFR § 1.40004(a)(2). The Committee will have an additional 120 days to complete its initial review from the date it notifies the Commission that the application, as amended, is complete. 47 CFR § 1.40004(b).

INFORMATIVE

SCL-STA-20210310-00017

Edge Cable Holdings USA, LLC

On September 8, 2021, the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) filed a letter seeking to return the request for Special Temporary Authority (STA) for construction of the CAP-1 cable system that the Committee has been reviewing for national security and law enforcement concerns based on the Applicants' amendment filed on August 9, 2021 removing China Mobile International Limited (China Mobile) as an Applicant to the cable system. In the amendment, the Applicants also notified the Commission that China Mobile no longer seeks an STA for construction of the cable. See SCL-AMD-20210809-00032. The Committee states that the "amendment significantly alters the ownership of the proposed CAP-1 Cable System, necessitating that the Committee undertake a new initial review to satisfy its obligations under Executive Order ('E.O.') 13913." In its letter, the Committee also seeks to withdraw the April 26, 2021 certification (120-Day Certification) indicating that, with respect to the underlying cable landing license application, the Applicants had provided complete responses to the Committee and would complete its review before the end of the 120-day initial review period (by August 24, 2021), would request an extension of the 120-day initial review period, or request the need to conduct a 90-day secondary assessment. The Committee adds that the amendment was filed 105 days after the Committee began its initial 120-day review of the Application. The Committee states that it seeks to return the STA for the same reasons it seeks to return the underlying application. The Committee indicates that it will need to review whether the information previously provided by the Applicants regarding the application is still accurate; the Applicants will need time to update their triage responses to reflect the new ownership structure for the cable; and the Committee may be required to request a new national security threat assessment from the Director of National Intelligence.

We find that the removal of China Mobile as an Applicant is a major change to the application and , significantly affects the national security and law enforcement assessment of the CAP-1 system. In the Executive Branch Review Order, the Commission stated that the filing of a major amendment during the 120-day review period would not restart the 120-day clock. Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership, IB Docket 16-155, Report and Order, 35 FCC Rcd 10927, 10959-60, para. 85, note 215 (2020). The Commission, however, recognized the Committee's need to have ample time to review major changes to an application, particularly if the amendment is filed near the end of a review period. *Id.* The Commission added it would consider Committee requests for prolonged extensions of the review period depending on the nature and timing of the amendment. *Id.*

We consider the Committee's request as a request for extension of time. We agree with the Committee that the amendment was filed late in the Committee's 120-day initial review of the application and given the changed ownership, the Committee will need additional time to review the STA request. We grant the Committee an extension of the review period for the STA to allow it to obtain additional information from the Applicants as necessary. The Committee shall notify the Commission when it has assessed the STA for any national security or law enforcement concerns.

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 CFR §§ 1.2001–.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.