



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
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Report No. SCL-00336NS

Friday October 8, 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.

Transfer of Control

Current Licensee: Hawaiki Submarine Cable USA LLC

FROM: HCL Limited Partnership

TO: BW Digital Pte. Ltd

Application filed for consent to the transfer of control of Hawaiki Submarine Cable USA LLC (HSC USA), a licensee on the Hawaiki Submarine Cable System (Hawaiki System), SCL-LIC-20160906-00019, from HCL Limited Partnership (HCL LP) to BW Digital Pte. Ltd. (BW Digital). Applicants filed supplemental information on September 29, 2021, regarding interests held in the Hawaiki System.

HSC USA is one of five licensees on the Hawaiki System's submarine cable landing license. The Hawaiki System has five segments and currently lands in Sydney, Australia; Mangawhai Heads, New Zealand; Tafuna, American Samoa; Kapolei, Oahu, Hawaii; and Pacific City, Oregon. According to the Applicants, HSC USA's immediate parent, Hawaiki Submarine Cable Limited Partnership (HSC LP) owns 100% of the Hawaiki System's main trunk, and together with its affiliates owns 100% of the capacity on the main trunk, excluding the spur to American Samoa. Applicants also indicate that HSC USA owns and operates the cable landing station in Oahu. Applicants state that this transaction will not have any impact on the other four Hawaiki System licensees (Tillamook Lightwave IGA, ACS Cable Systems, LLC, DRFortress, LLC, and American Samoa Telecommunications Authority).

Pursuant to a July 22, 2021, Sale and Purchase Agreement, BW Digital will acquire all of the outstanding equity interests in HSC USA from HCL LP, HSC USA's immediate parent. Specifically, BW Digital will acquire all of the limited partnership equity interests in HSC LP, and its sole general partner, Hawaiki Submarine Cable General Partner Limited (HSC GP). Upon closing, HSC USA will remain a direct wholly owned subsidiary of HSC LP, and HSC LP and HSC GP will be direct wholly owned subsidiaries of BW Digital, and HSC GP will remain the general partner of HSC LP. Applicants state that the operation and management of HSC USA and the Hawaiki System will remain intact as they expect the existing management team to remain after closing of the proposed transaction.

Upon consummation, the 10% or greater direct and/or indirect voting and/or equity interest holders in HSC USA will be: (1) HSC LP, a New Zealand limited partnership and submarine cable bandwidth supplier (100% direct voting and equity interest in HSC USA); (2) HSC GP Ltd., a New Zealand general partnership (sole general partner of HSC LP and indirectly controls HSC USA); (3) BW Digital, a Singapore investment holding company (100% direct voting and equity interest in HSC LP and HSC GP); (4) BW Renewables Limited, a Bermuda investment holding company (100% direct voting and equity interest in BW Digital); (5) BW Group Limited (BW Group), a Bermuda investment holding company (100% direct voting and equity interest in BW Renewables Limited); (6) Altair Limited, a Bermuda investment holding company (100% direct voting and equity interest in BW Group); (7) Sparta Company Limited, a Bermuda company and trustee of The Core Trust, an irrevocable trust settled in Bermuda (100% direct voting and equity interest in Altair Limited); (8) Conyers Trust Company, a Bermuda trust company (100% direct voting and equity interest in Sparta Company Limited); (9) Andreas Sohmen-Pao, an Austrian citizen, Chairman of the BW Group and its listed subsidiaries, and sole beneficiary of The Core Trust. Applicants state that no other person or entity has or will have 10% or greater direct or indirect equity or voting interest in HSC USA.

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

Pursuant to Commission practice, the application is being referred to the relevant Executive Branch agencies for their views on any national security, law enforcement, foreign policy or trade policy concerns related to the proposed foreign ownership of HSC USA.

INFORMATIVE

SCL-T/C-20210423-00023

Aqua Comms (Americas) Inc

On October 6, 2021, the Chair of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) notified the Commission that the Committee is conducting an initial review on the application to transfer control of Aqua Comms (Americas) Inc. from Aqua Ventures Limited to Digital 9 Infrastructure plc to assess whether granting the application will pose a risk to the national security or law enforcement interests of the United States, pursuant to Executive Order 13913 (85 Fed Reg 19643 (April 8, 2020)). The Committee shall complete its review of the application before the end of the 120-day initial review period, unless the Committee notifies the Commission of an extension of the 120-day initial review period or the need arises to conduct a 90-day secondary assessment.

SCL-T/C-20210423-00024

America Europe Connect 2 USA Inc.

On October 6, 2021, the Chair of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) notified the Commission that the Committee is conducting an initial review on the application to transfer control of America Europe Connect 2 USA, Inc. from Aqua Ventures Limited to Digital 9 Infrastructure plc to assess whether granting the application will pose a risk to the national security or law enforcement interests of the United States, pursuant to Executive Order 13913 (85 Fed Reg 19643 (April 8, 2020)). The Committee shall complete its review of the application before the end of the 120-day initial review period, unless the Committee notifies the Commission of an extension of the 120-day initial review period or the need arises to conduct a 90-day secondary assessment.

SCL-T/C-20210821-00035

Global Crossing Americas Solutions, LLC

On October 1, 2021, the Committee for the Assessment of Foreign Participation in the United States Telecommunications Service Sector (Committee), notified the Commission that it is reviewing the transfer of control applications for the proposed transfer of control of the Lumen LatAm Entities from Lumen Technologies, Inc. to Patagonia Holdco LLC (see Applications Filed For The Transfer Of Control Of Lumen Latin America Entities to Patagonia Holdco LLC And For Grant Of International 214 Authority To CenturyLink Latin American Solutions, LLC, WC Docket No. 21-340, Public Notice, DA 21-1204 (WCB/IB rel. Sep. 24, 2021)) for national security issues and requests that the Commission defer action on the application until it completes its review.

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.