



PUBLIC NOTICE

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Report No. SCL-00248S

Friday August 30, 2019

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 Pacific Carriage Limited Inc. (PCLI) and Southern Cross Cables Limited (SCCL, together with PCLI, the Applicants) for a license to land and operate a non-common carrier fiber optic submarine cable extending from Australia to the United States, with branching units to New Zealand, Fiji, Samoa, Tokelau, and Kiribati. The system will be known as Southern Cross NEXT. Applicants filed a supplement to the application on August 27, 2019.

Southern Cross NEXT will consist of a 13,483 kilometer U.S.-Australia trunk with four fiber pairs and six branches and land in eight locations. Each fiber pair of the system will have a design capacity of 18 Tbps (and a total design capacity of 72 Tbps) using current technology. The Applicants state that the system's initial lit capacity has not yet been determined, though they will offer capacity in large increments until the year 2047. Two of the four fiber pairs on the U.S.-Australia Trunk will be express fiber pairs connecting Sydney, Australia, directly to Hermosa Beach, California. The Takapuna Branch will connect a branching unit on the U.S.-Australia trunk and Takapuna, New Zealand, with two fiber pairs, one of which will be an express pair connecting Takapuna, New Zealand, directly to Hermosa Beach, California, and to Sydney, Australia. The Suva Branch will connect a branching unit on the U.S.-Australia trunk and Suva, Fiji, with one fiber pair. The Savu Savu Branch will connect a branching unit on the U.S.-Australia Trunk and Savu Savu, Fiji, also with one fiber pair. The Apia Branch will connect a branching unit on the U.S.-Australia trunk and Apia, Samoa, with one fiber pair. The Nukunonu Branch will connect a branching unit on the U.S.-Australia trunk and Nukunonu, Tokelau, with one fiber pair. The Kiritimati Branch will connect a branching unit on the U.S.-Australia trunk and Tabwakea, Kiritimati, Kiribati, with one fiber pair. The Applicants expect Southern Cross NEXT to enter into commercial service in the fourth calendar quarter of 2021.

The Applicants state that Southern Cross NEXT will serve the public interest in several ways. The Applicants say that Southern Cross NEXT will provide the industry's lowest-latency connectivity on U.S.-South Pacific routes by utilizing recent advances in long-haul transmission technology and system design. The Applicants note that Southern Cross NEXT will provide new and diverse capacity on routes where capacity demand continues to increase substantially each year, while also complementing the existing Southern Cross Cable Network and allowing the Applicants and their affiliates to provide more resilient services to their own customers. The Applicants also state that Southern Cross NEXT will contribute to the competition that already exists for cable systems serving the U.S.-South Pacific routes.

PCLI will own the wet segment of Southern Cross NEXT in U.S. territorial waters. SCCL will own the wet link segment of the U.S.-Australia trunk beyond the territorial sea of any landing country. According to the Applicants, the other segments of Southern Cross NEXT will be owned as follows: SCCL Australia Limited will own the portion of the U.S.-Australia Trunk in the territorial sea of Australia. SCCL New Zealand Limited will own the portion of the Takapuna Branch in the territorial sea of New Zealand. SCCL Fiji Limited will own the portions of the Suva and Savu Savu Branches in the territorial sea of Fiji. SCCL Pacific Limited will own the portions of the Apia Branch, the Nukunonu Branch, and the Kiritimati Branch in the respective territorial seas of Samoa, Tokelau, and Kiribati. The Applicants say that among these entities, only SCCL will own a five-percent-or-greater interest in the system and use the U.S. endpoints of Southern Cross NEXT.

PCLI will control Southern Cross Next's landing station in Hermosa Beach, California, which is owned and operated by RTI Infrastructure, Inc. (RTI-I). The cable landing station in Sydney, Australia is owned and controlled by Optus Networks Pty Limited. The cable landing station in Takapuna, New Zealand is owned and controlled by Spark New Zealand Trading Limited. The cable landing station in Suva, Fiji is owned and controlled by Fiji International Telecommunications Pte Limited. A new cable landing station will be constructed in Savu Savu, Fiji and will be owned and controlled by the Government of Fiji. The cable landing station in Apia, Samoa is owned and controlled by Samoa Submarine Cable Company Limited. A new cable landing station will be constructed in Nukunonu, Tokelau and will be owned and controlled by Telecommunication Tokelau Corporation. A new cable landing station will be constructed in Tabwakea, Kiritimati, Kiribati and will be owned and controlled by Bwebwerikinet Limited.

Applicants request a waiver of section 1.767(h)(1) so that RTI-I need not be a joint applicant for the Southern Cross Next cable landing license. Section 1.767(h)(1) requires that "any entity that owns or controls a cable landing station in the United States" shall be "applicants for, and licensees on, a cable landing license." 47 C.F.R. § 1.767(h)(1). According to Applicants, RTI-I will not have the ability to affect significantly Southern Cross NEXT's operation, and inclusion of RTI-I as a joint applicant is not necessary to ensure compliance by the Applicants with the Cable Landing License Act, the Commission's cable landing license rules, or the terms of any cable landing license. PCLI will contract with RTI-I for the provision of certain limited services that will not provide RTI-I with any ability to affect significantly Southern Cross NEXT's operation, and PCLI will provide direction to RTI-I in all matters relating to Southern Cross NEXT. The Applicants also state that PCLI will seek to ensure that all indefeasible rights of use (IRUs) and lease agreements for the cable landing station facilities will have initial terms, with extension options at its sole discretion, for a total of 25 years each, coextensive with the term of the cable landing license.

The Applicants propose to operate Southern Cross NEXT on a non-common carrier basis. The Applicants intend to sell bulk capacity to particular carrier, enterprise, and Internet content customers pursuant to individually-negotiated IRUs and capacity leases, the terms of which, Applicants assert, will vary depending on the characteristics and needs of the particular capacity purchaser. The Applicants argue that the existence of competing facilities providing connectivity (both submarine cables, and in the case of the U.S.-Tokelau and U.S.-Kiribati routes, satellite links) on the relevant U.S.-South Pacific routes will ensure that Southern Cross NEXT would not function as a bottleneck facility on those routes. The Applicants argue that with respect to satellite competition on the U.S.-Tokelau and U.S.-Kiribati routes, "the Commission has previously found that the existence of intermodal competition from satellite facilities is sufficient to justify non-common carrier status for a submarine cable system, and that the facilities need not be identical in order to offer procompetitive benefits." The Applicants state that Southern Cross NEXT "will enhance competition by competing vigorously with other submarine cable systems on the U.S.-South Pacific routes" (cables such as the Hawaiki system, which offers competition on the U.S.-Australia, U.S.-New Zealand, and U.S.-Samoa routes, and the PPC-I and Australia-Japan cable, which both connect Australia with Guam). Consequently, the Applicants argue that the Commission should not require them to operate Southern Cross NEXT on a common carrier basis.

PCLI, a Delaware corporation, is wholly owned by Pacific Carriage Holdings Limited Inc. (PCHLI), a Delaware investment company. The following entities have direct ownership in PCHLI: TCNZ (Bermuda) Limited (TCNZ Bermuda), a Bermuda investment company, holds a 38.12% voting and economic interest; Optus Networks Pty Limited (Optus), an Australia telecommunications company, holds a 30.49% voting and economic interest; Telstra Holdings Pty Limited (Telstra Holdings), an Australian investment company, holds a 25.00% voting and economic interest; and MFS Globenet Inc. (MFS), an indirect wholly-owned subsidiary of Verizon Communications, Inc., holds the remaining 6.40% voting and economic interest in PCHLI. The indirect owners of PCHLI are: (1) Spark New Zealand Limited, a publicly traded New

—Zealand telecommunications company that has no 10% or greater investors, holds a 100% voting and economic interest in TCNZ Bermuda. (2) Singtel Optus Pty Limited (Singtel Optus), an Australia telecommunications company, holds a 100% voting and economic interest in Optus. Singtel Optus is wholly owned by Singapore Telecom Australia Investments Pty Limited, an Australia investment holding company, which is wholly owned by SingTel Australia Investment Ltd (Singtel Australia), an Australia investment holding company. SingTel Australia is wholly owned by Singapore Telecommunications Limited (Singtel), a Singapore telecommunications company. Temasek Holdings (Private) Limited (Temasek), a Singapore investment holding company, holds a 49.81% voting and economic interest in Singtel. Temasek is wholly owned by the Government of Singapore through the Minister for Finance. Singtel's shares trade on the Singapore Exchange and are widely held. No investor holding any of Singtel's publicly-traded shares holds a 10% or greater direct or indirect interest in PCLI. (3) Telstra Corporation Limited (Telstra), a publicly traded Australia telecommunications company, holds a 100% voting and economic interest in Telstra Holdings. Telstra's shares are widely held and that no party holding an interest in Telstra holds a 10% or greater direct or indirect voting or economic interest in PCHLI.

SCCL, a Bermuda company, is wholly-owned by Southern Cross Cables Holdings Limited (SCCHL), a Bermuda investment company. The following entities have direct ownership in SCCHL: TCNZ (Bermuda) holds a 38.12% voting and economic interest; SingTel EInvestments Pte Ltd (SingTel EInvestments), a Singapore investment company, a 30.49% voting and economic interest; Telstra Holdings, a 25.0% voting and economic interest; and MFS holds the remaining 6.40% voting and economic interest in SCCHL. The indirect owners of SCHLI are: (1) Spark New Zealand Limited, which holds a 100% voting and economic interest in TCNZ Bermuda. (2) Singapore Telecommunications Limited (Singtel), a Singapore telecommunications company, holds a 100% voting and economic interest in SingTel EInvestments. Temasek holds a 49.81% voting and economic interest in Singtel. No individual or entity holds a 10% or greater direct or indirect voting or economic interest in SCHLI through Singtel. Temasek is wholly owned by the Government of Singapore through the Minister for Finance. (3) Telstra holds a 100% voting and economic interest in Telstra Holdings. No individual or entity holds a 10% or greater direct or indirect voting or economic interest in SCHLI though Telstra.

The Applicants each agree 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 be removed from streamlined processing and 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.