



PUBLIC NOTICE

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Actions Taken Under Cable Landing License Act

Section 1.767(a) Cable Landing Licenses, Modifications, and Assignments or Transfers of Control of Interests in Cable Landing Licenses (47 C.F.R. § 1.767(a))

By the Chief, Telecommunications and Analysis Division, International Bureau:

Pursuant to An Act Relating to the Landing and Operation of Submarine Cables in the United States, 47 U.S.C. §§ 34-39 (Cable Landing License Act), Executive Order No. 10530, Exec. Ord. No. 10530 reprinted as amended in 3 U.S.C. § 301, and section 1.767 of the Commission's rules, 47 C.F.R. § 1.767, the following applications ARE GRANTED. These grants of authority are taken under section 0.261 of the Commission's rules, 47 C.F.R. § 0.261. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of this public notice.

These applications have been coordinated with the Department of State and other Executive Branch agencies pursuant to section 1.767(b) of the Commission's rules, 47 C.F.R. § 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>.

This public notice serves as each cable landing licensee's Cable Landing License, or modification thereto, pursuant to the Cable Landing License Act and sections 1.767 and 1.768 of the Commission's rules. Cable landing licensees should review carefully the terms and conditions of their licenses. Failure to comply with these terms and conditions or relevant Commission rules and policies could result in fines or forfeitures.

Acceptability for Filing Public Notice: Application filed by America Europe Connect 2 USA, Inc., America Europe Connect 2 Limited, Edge Cable Holdings USA, LLC, GU Holdings Inc., and Optibulk Havfrue AS (Applicants) for a license to land and operate within the United States a non-common carrier fiber-optic submarine cable system connecting Wall, New Jersey; Blaabjerg, Denmark; Old Head Beach, Leckanvy, Ireland; and Kristiansand, Norway (Havfrue system). The Application was placed on Public Notice on May 25, 2018. See Streamlined Submarine Cable Landing License Applications Accepted for Filing, File No. SCL-LIC-20180511-00010, Public Notice, Report No. SCL-00214S (IB, rel. May 25, 2018). No comments or oppositions were filed in response to the Public Notice. Applicants were granted Special Temporary Authority to construct, connect the U.S. end points of, and test at their own risk those portions of the Havfrue system in U.S. territory. See File No. SCL-STA-20190717-00019.

The Application has been coordinated with the Department of State and other Executive Branch agencies pursuant to section 1.767(b) of the Commission's rules, 47 C.F.R. §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 <https://2001-2009.state.gov/r/pa/prs/ps/2001/6951.htm>. The Department of Homeland Security (DHS) filed a letter to defer action on July 2, 2018. DHS filed a Petition to Adopt Conditions to Authorizations and Licenses on September 5, 2019. DHS has no objection to the Commission approving authority to land and operate the Havfrue system, provided that the Commission conditions approval on the commitment of America Europe Connect 2 USA, Inc. et al. to abide by the undertakings set forth in the September 2, 2019, Letter of Assurances to DHS.

Actions Taken: (1) Grant of Cable Landing License to America Europe Connect 2 USA, Inc. et al. for the purpose of landing and operating a non-common carrier fiber-optic submarine cable network, the Havfrue system, connecting Wall, New Jersey; Blaabjerg, Denmark; Old Head Beach, Leckanvy, Ireland; and Kristiansand, Norway, (2) waiver of section 1.767(h)(1) of the Commission's rules, 47 CFR § 1.767, in connection with the license, and (3) grant of the Petition to Adopt Conditions to Authorizations and Licenses filed on September 5, 2019, by the Department of Homeland Security.

Licensee Information: The Applicants for the cable landing license for the Havfrue system are the following: (1) America Europe Connect 2 USA, Inc. (AEC2 USA), (2) America Europe Connect 2 Limited (AEC2), (3) Edge Cable Holdings USA, LLC (Edge USA), (4) GU Holdings Inc. (GU Holdings), and (5) Optibulk Havfrue AS (Optibulk) (together, Applicants).

AEC2 USA, a Delaware corporation, is wholly-owned, on a direct basis, by AEC2, an Irish company. AEC2 USA will serve as the U.S. landing party for Havfrue, and AEC2 will hold participation and voting interests in the Main Trunk and Ireland Branch. The ten-percent-or-greater direct or indirect interest holders of AEC2 USA and AEC2 are: (1) Aqua Comms Designated Activity Company (Aqua Comms Parent), an Irish company (100% voting and equity interest in AEC2); (2) Aqua Ventures International FZE (Aqua Ventures), a United Arab Emirates company (53% voting and equity interest, on a fully diluted basis, in Aqua Comms Parent); (3) The 2013 Bake Family Trust, a Jersey company (100% voting and equity interest in Aqua Ventures); (4) Dominion Fiduciary Trust Limited (Dominion Fiduciary Trust), a Jersey company (100% voting interest in The 2013 Bake Family Trust, serving as the trustee of, and controlling that trust); (5) Christopher Paul Bake, a Netherlands citizen (serving as economic settlor of The 2013 Bake Family Trust, and holding discretionary power to distribute economic benefits to the beneficiaries of The 2013 Bake Family Trust); (6) Pangaea Two Acquisition Holdings XV, LLC (Pangaea Holdings), a Delaware company (19.6% direct voting and equity interest, on a fully diluted basis, in Aqua Comms Parent); (7) Pangaea Two Acquisition Holdings Parallel XV, LLC (Pangaea Holdings Parallel), a Delaware company (8.8% voting and equity interest, on a fully diluted basis, in Aqua Comms Parent); (8) Pangaea Two LP (Pangaea Two), a Delaware company (100% voting and equity interest in and sole member of Pangaea Holdings); (9) Pangaea Two Parallel, LP (Pangaea Parallel), a Cayman Islands company (100% voting and equity interest in and sole member of Pangaea Holdings Parallel); (10) Pangaea Two GP, LP (Pangaea Two GP), a Delaware company (100% voting interest in, and general partner of each of Pangaea Two and Pangaea Parallel (equity interests of Pangaea Two and Pangaea Parallel are each held by limited partners, with none holding a 10% or greater interest)); (11) Pangaea Two Admin GP, LLC (Pangaea Two Admin), a Cayman Islands company (100% voting interest in, and general partner of Pangaea Two GP (equity interests of Pangaea Two GP are held by limited partners, with none holding a 10% or greater interest)); (12) Cartesian Capital Group, LLC (Cartesian Capital), a Delaware company (100% voting and equity interest in, and managing member of, Pangaea Two Admin); (13) Peter M. Yu, a U.S. citizen (Between 50 and 74% voting and equity interest in Cartesian Capital); and (14) Irish Strategic Investment Fund of National Treasury Management Agency (ISIF), a sovereign development fund controlled and managed by the Government of Ireland (13.8% voting and equity interest in Aqua Comms Parent). Based on publicly available information, Mr. Yu has a controlling interest in Cartesian Capital and has ultimate control of Pangaea Holdings and Pangaea Holdings Parallel, the two entities with direct interests in Aqua Comms Parent. No other individual or entity holds a direct or indirect 10-percent-or-greater interest in Aqua Comms Parent, AEC2 or AEC2 USA.

Edge USA, a Delaware corporation, is a wholly-owned, direct subsidiary of Facebook, Inc. (Facebook), a Delaware corporation. Edge USA will hold participation and voting interests in the Main Trunk and the Ireland Branch. The ten-percent-or-greater direct or indirect interest holders of Facebook are: (1) CZI Holdings, LLC (CZI), a Delaware company (51.93% voting interest in Facebook and 13.39% equity interest in Facebook's outstanding shares); and (2) Mark Zuckerberg, a U.S. citizen who serves as Chairman and CEO of Facebook (100% ownership interest in all of CZI's member interests and, together with his ownership positions in Facebook, owns approximately 14.04% of Facebook's outstanding shares and holds an approximate 59.63% voting interest in Facebook that includes (a) a 53.10% voting interest for shares he holds directly or controls through CZI; and (b) a 6.53% voting interest that he has authority to vote pursuant to voting agreements with (i) Dustin Moskovitz, Trustee of The Dustin Moskovitz 2008 Annuity Trust dated March 10, 2008, and (ii) Dustin Moskovitz, Trustee of The Dustin A. Moskovitz Trust dated December 27, 2005. The remainder of Facebook's shares are publicly traded on the NASDAQ Stock Market. No other individual or entity holds a direct or indirect 10-percent-or-greater interest in either Facebook or Edge USA.

GU Holdings, a Delaware corporation, is an indirect, wholly-owned subsidiary of Google LLC (Google). GU Holdings and its affiliates will hold participation and voting interests in the Main Trunk. Google is wholly-owned, on an indirect basis, by Alphabet Inc. (Alphabet), a Delaware company whose shares trade publicly on the NASDAQ Stock Market. Mr. Larry Page, a U.S. citizen, holds 42.5% of Alphabet's Class B common stock, giving him a 25.9% voting interest in Alphabet. Mr. Sergey Brin, a U.S. citizen, holds 41.1% of Alphabet's Class B common stock, giving him a 25.1% voting interest in Alphabet. Applicants state that as of March 29, 2018, Alphabet has no 10-percent-or-greater direct or indirect

shareholders other than Mr. Page and Mr. Brin. No other individual or entity holds a direct or indirect 10-percent-or-greater interest in Alphabet.

Optibulk, a Norwegian limited company, is wholly-owned, on a direct basis, by Bulk Infrastructure AS (Bulk), a Norwegian company. Optibulk will hold participation and voting interests in the Main Trunk and the Norway Branch. Bulk is 71.5% owned and 90.5% controlled by Bulk Industrier AS (Bulk Industrier), a Norway company. Mr. Peder Naerbo, a citizen of Norway, holds a 100% voting and equity interest in Bulk Industrier. No other individual or entity holds a direct or indirect 10-percent-or-greater interest in Optibulk.

Cable Design and Capacity: The Havfrue system will consist of six fiber pairs on the Main Trunk (U.S.-Denmark) and Ireland branch, and two fiber pairs on the Norway Branch, with a total design capacity of 18 Terrabits per second (Tbps) per fiber pair (for a total of 108 Tbps). The length of the Main Trunk is 7,211 kilometers, and the Ireland and Norway branches are 316 and 199 kilometers, respectively.

The Havfrue system will consist of three segments: (1) The Main Trunk will connect the existing cable landing station at Wall, New Jersey with a new cable landing station at Blaabjerg, Denmark, (2) The Ireland Branch will connect a new cable landing station at Old Head Beach, Leckanvy, Ireland with a branching unit on the Main Trunk, and (3) The Norway Branch will connect a new cable landing station at Kristiansand, Norway with a branching unit on the Main Trunk.

Ownership of the Cable System: The ownership and control of the Main Trunk of the Havfrue system is the following: (1) AEC2 (33.333% equity and voting interest); (2) Edge USA, a Facebook affiliate, will hold a 33.333% equity and voting interest in the U.S. territory portion of the system, and Edge Network Services Limited (Edge), a Facebook affiliate, will hold a 33.333% equity and voting interest in the portion of the system located in international waters and Danish territory; (3) GU Holdings will hold a 16.667% equity and voting interest in the U.S. territory portion of the system. Google Infrastructure Bermuda Ltd. (GIB) will hold a 16.667% equity and voting interest in international waters and a GU Holdings/GIB affiliate in Denmark will own and control a 16.667% interest in Havfrue's Main Trunk located in Danish territory; and (4) Optibulk (16.667% equity and voting interest). Applicants state that because neither Edge nor AEC2 Denmark, nor GIB, nor GU Holdings/GIB affiliate in Denmark will use U.S. endpoints of the Havfrue system, none of these entities is required to be a joint applicant for the cable landing license under Commission rules, 47 CFR § 1.767(h)(2).

The ownership and control of the Ireland branch is held by AEC2 and Edge, with AEC2 holding a 66.667% equity and voting interest and Edge holding the remaining 33.333% voting and equity interests.

The Norway branch is wholly-owned and controlled by Optibulk.

Cable System Landing Points: The ownership and control of each of the cable landing stations are: (1) NJFX, LLC (NJFX) owns the existing cable landing station located at Wall, New Jersey, and the station will be jointly controlled by AEC2 USA, Edge USA, GU Holdings, and Optibulk; (2) America Europe Connect 2 Denmark ApS (AEC2 Denmark), Edge Denmark, GU Holdings/GIB affiliate in Denmark, and Optibulk will jointly own the new cable landing station to be constructed at Blaabjerg, Denmark, and AEC2 Denmark will control the station; (3) AEC2 and Edge will jointly own the new cable landing station constructed at Old Head Beach, Leckanvy, Ireland, and AEC2 will control the landing station; and (4) Optibulk will own and control the new cable station to be constructed at Kristiansand, Norway. Real property rights granted by NJFX at the Wall, New Jersey landing location cable will be held by the Havfrue parties jointly. Applicants will provide specific landing point information for the Kristiansand, Norway, landing in a separate, subsequent landing point notification.

The Applicants request a waiver of section 1.767(h)(1) of the Commission's rules, 47 CFR § 1.767(h)(1) so that NJFX need not be a joint applicant for the Havfrue system. Section 1.767(h)(1) requires that "any entity that owns or controls a cable landing station in the United States" shall be "applicant for, and licensee on, a cable landing license." 47 CFR § 1.767(h)(1). According to the Applicants, NJFX will have no ability to affect significantly Havfrue system's operation, and inclusion of NJFX 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. Applicants state that for Havfrue's Wall, New Jersey landing, they will enter into an agreement with NJFX granting them the right to use collocation space for common system equipment (including power feed equipment) in the cable landing station. At the joint direction of the Applicants, AEC2 USA will enter into an agreement with NJFX for the provision of operation and maintenance services at the cable station. The Applicants have jointly agreed that AEC2 USA will have exclusive control over the power feed equipment that they will locate in NJFX's cable landing station, and that AEC2 USA will provide direction to NJFX in all matters relating to the common system equipment. Further, all agreements between the joint applicants and NJFX will have terms and extension terms at the Applicants' sole discretion, for a total of 25 years.

The purpose of the 1.767(h)(1) requirement is to ensure that entities having a significant ability to affect the operation of the cable system become licensees so that they are subject to the conditions and responsibilities associated with the license. See Submarine Cable Landing License Report and Order, 16 FCC Rcd at 22194-95, paras. 53-54. While NJFX is the owner of the cable station where the Havfrue system lands in the United States, we find that, based upon the agreements between the Applicants and NJFX described above, NJFX will not have the ability to affect significantly the operation of the cable system. The Applicants have jointly agreed that AEC2 USA will have exclusive control over the power feed equipment in the station and provide direction to NJFX in all matters relating to the common system equipment. Accordingly, we grant the applicants a waiver of 1.767(l) and do not require NJFX to be on the cable landing license for the Havfrue system.

Regulatory Status of the Cable: The Applicants propose to operate the cable system on a non-common carrier basis. They state that the Havfrue system will enhance competition on the U.S.-Denmark, U.S.-Ireland, and U.S.-Norway routes by competing vigorously with other unaffiliated submarine cable systems (i.e., TAT-14, Apollo, Atlantic Crossing-1, GTT Atlantic (formerly known as Hibernia Express), Denmark-Norway 5 & 6, and Skagerrak 4 systems). Further, Applicants state that the system will provide significant new and replacement capacity and geographical diversity on U.S.-European routes, where most of the existing trans-Atlantic cables connect the U.S. with the United Kingdom and demand in the region continues to increase substantially each year. Applicants state that they will not sell capacity indifferently to the public, but rather will use capacity to connect their users to data centers for services offered by them and their respective affiliates, or sell capacity to wholesale and enterprise customers pursuant to individually negotiated indefeasible rights of use (IRUs) and capacity leases, the terms of which will vary depending on the characteristics and needs of the particular capacity purchaser.

Applicants have provided information and demonstrated that the proposed operation of the cable on a non-common carrier basis satisfies the requirements set forth in National Association of Regulatory Utility Commissioners v. FCC, 525 F.2d 630, 642 (D.C. Cir 1976) (NARUC I), cert. denied, 425 U.S. 992 (1976). See also Submarine Cable Landing License Report and Order, 16 FCC Rcd at 22202-22203, paras. 69-70; Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Notice of Proposed Rulemaking 15 FCC Rcd 20789, 20815-20818, paras. 62-67.

Conditions and Requirements: Applicants shall comply with the routine conditions specified in section 1.767(g)(1)-(14) of the Commission's rules, 47 CFR § 1.767(g)(1)-(14), and with the requirements of section 1.768 of the Commission's rules, 47 CFR § 1.768 (notifications and prior approval for submarine cable landing licensees that are or propose to become affiliated with a foreign carrier).

We grant the Petition to Adopt Conditions to Authorizations and Licenses (Petition) filed in this proceeding on September 5, 2019, by the Department of Homeland Security. Accordingly, we condition grant of this application on America Europe Connect 2 USA, Inc., America Europe Connect 2 Limited, Edge Cable Holdings USA, LLC, GU Holdings Inc., and Optibulk Havfrue AS abiding by the commitments and undertakings contained in the letter from Nigel Bayliff, Chief Executive Officer, America Europe Connect 2 USA, Inc. and America Europe Connect 2 Limited, Kevin Salvadori, Director, Edge Cable Holdings USA, LLC, Austin Schlick, President, GU Holdings Inc., and Nina Bull, VP Legal, Optibulk Havfrue AS, to the Assistant Secretary for Border, Immigration and Trade, Office of Policy, U.S. Department of Homeland Security (2019 LOA). A failure to comply and/or remain in compliance with any of these commitments and undertakings shall constitute a failure to meet a condition of the cable landing license and thus grounds for declaring the license terminated without further action on the part of the Commission. Failure to meet a condition of the license may also result in monetary sanctions or other enforcement action by the Commission. A copy of the Petition and the 2019 LOA are publicly available and may be viewed on the FCC website through the International Bureau Filing System (IBFS) by searching for SCL-LIC-20180511-00010 and accessing "Other filings related to this application" from the Document Viewing area.

Applicants are required to file a Landing Point Notification providing the specific geographic coordinates and other information regarding the cable landing station in Kristiansand, Norway no later than 90 days prior to placing the cable in service, consistent with section 1.767(a)(5) and 1.767(g)(8) of the Commission's rules, 47 CFR §§ 1.767(a)(5), 1.767(g)(8).
