



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
445 12th STREET S.W.
WASHINGTON D.C. 20554

News media information 202-418-0500
Internet: <http://www.fcc.gov> (or <ftp.fcc.gov>)
TTY (202) 418-2555

Report No. SCL-00272

DA No. 20-714
Tuesday July 7, 2020

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.

Submarine Cable Landing License
Grant of Authority

Date of Action: 07/01/2020

Acceptability for Filing Public Notice: Application filed by AT&T Corp. on behalf of the Columbus II Consortium for a new cable landing license to allow the continued operation of the Columbus II Cable System for an additional 25-year term following the expiration of the current license on October 1, 2019. AT&T filed a supplement to the Application on March 8, 2019, that updates the U.S. Virgin Islands landing station map. Applicants were granted Special Temporary Authority (STA) to allow the continued operation of the Columbus II cable following expiration of the license, while the Commission considered the application for a new cable landing license. See File Nos. SCL-STA-20190823-00027 and STA-20200124-00002.

Columbus II is a common carrier fiber-optic submarine cable system that links the U.S. mainland with the U.S. Virgin Islands. The Columbus II Cable System was originally licensed in 1993 and commenced service on October 1, 1994. See American Telephone and Telegraph Company, et al., File No. SCL-93-001, Cable Landing License, 8 FCC Rcd 5038 (CCB 1993). (The IBFS file number is SCL-LIC-19921110-00004.) Columbus II originally connected the U.S. mainland with the U.S. Virgin Islands, Mexico, Spain, Italy and Portugal. The international segments were retired in June 2009. See SCL-LIC-19921110-00004, Actions Taken Under the Cable Landing License Act, 24 FCC Rcd 7051, 7052-53 (IB 2009). The Columbus II cable will continue to be operated as a common carrier system.

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 <http://www.state.gov/r/pa/prs/ps/2001/6951.htm>. The Department of Homeland Security (DHS), with the concurrence of the Department of Justice and the Department of Defense, filed a letter to defer action on the Application on May 28, 2019. DHS filed a Petition to Adopt Conditions to Authorizations and Licenses on June 30, 2020. DHS has no objection to the Commission approving authority to allow the continued of the Columbus II Cable System for an additional 25-year term, provided that the Commission conditions its approval on the commitment of AT&T Corp. to abide by the undertakings set forth in the June 22, 2020, Letter of Assurances from AT&T Corp. to DHS.

Actions Taken: (1) Grant of Cable Landing License to AT&T Corp., Servicio di Telecomunicacia di Aruba (SETAR) N.V.; and Telefonica Larga Distancia De Puerto Rico, Inc. for the purpose of landing and operating a common-carrier fiber-optic submarine cable system, the Columbus II Cable System, that connects the U.S. mainland with the U.S. Virgin Islands; (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 by DHS on June 30, 2020.

Licensee Information: The Columbus II Consortium is comprised of 21 members. Most members have less than a 5% interest in the cable system and therefore are not required to be a licensee under the Commission's rules. See 47 CFR § 1.767(h)(2). The following three members will be licensees: (1) AT&T Corp.; (2) Servicio di Telecomunicacia di Aruba (SETAR) N.V. (SETAR); and (3) Telefonica Larga Distancia De Puerto Rico, Inc. (TLD PR) (collectively, Applicants).

AT&T Corp., a New York company, is a direct, wholly owned subsidiary of AT&T Inc., a publicly traded Delaware company in which no person or entity holds a ten percent or greater direct or indirect voting or equity interest.

SETAR, the incumbent local exchange carrier in Aruba, is wholly owned by the Government of Aruba. No other person or entity holds a ten percent or greater direct or indirect voting or equity interest in SETAR.

TLD PR, a Puerto Rico company, is 100% owned and controlled by Telefonica International Holding B.V., a Netherlands company, which, in turn, is wholly owned by Telefonica S.A., a publicly traded Spanish company. No other person or entity holds a ten percent or greater direct or indirect voting or equity interest in Telefonica.

Cable Design and Capacity: The Columbus II Cable System consists of one segment that is 2,070 miles in length and connects a cable landing station in West Palm Beach, Florida to a cable landing station in Magens Bay, St. Thomas. It has two fiber pairs with a current design capacity of 800 gigabits per second (Gbps). The United States terminal points currently operate at up to 600 Gbps of capacity. The cable system capacity has been upgraded six times between 2009 and 2018.

Ownership of the Cable System and Landing Points: The Applicants will hold the following interests in Columbus II:

AT&T Corp. will have a 66.03614% voting and equity interest.

SETAR will have a 10.33757% voting and equity interest; and

TLD PR will have a 5.62518% voting and equity interest.

The ownership and control of the cable landing stations are as follows: (1) AT&T Corp. owns and will continue to operate the cable landing station at West Palm Beach, Florida, and (2) AT&T of the Virgin Islands, Inc. (AT&T VI) owns the cable landing station at Magens Bay, St. Thomas, Virgin Island. AT&T Corp. will continue to retain operational authority over the Magens Bay landing facilities. AT&T VI is a 59.10% owned indirect subsidiary of AT&T Corp., and an indirect wholly owned subsidiary of AT&T Inc., the 100% parent of AT&T Corp. The Columbus II parties jointly own landing station equipment, including submarine line terminal equipment, and optical distribution frames, which collectively provide the interface between the submersible cable and each party's terrestrial network. Each cable landing party own the buildings housing the landing station, its network protection equipment and digital cross connects, and its share of jointly owned facilities.

Applicants request a waiver of section 1.767(h)(l) of the Commission's rules, which 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 the

Applicants, AT&T VI will have no ability to affect significantly the operation of the Columbus II, and inclusion of AT&T VI as a joint applicant is not necessary to ensure compliance by the Applicants collectively with the Cable Landing License Act, the Commission's cable landing license rules, or the terms of the cable landing license. According to the Applicants, all personnel who operate the Magens Bay landing station are supervised, directly or indirectly, by AT&T Corp. personnel. AT&T Corp. has and will retain operational authority over the Magens Bay, Virgin Islands cable landing facility and will continue to provide direction to AT&T VI in all matters relating to the Columbus II cable system.

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 AT&T VI is the owner of the Virgin Islands landing station, we find that, based on the record in this proceeding, AT&T VI will not have the ability to affect significantly the operation of the cable system. Accordingly, we grant AT&T Corp a waiver of 1.767(h)(1) and do not require AT&T VI to be on the cable landing license for the Columbus II Cable System.

Regulatory Status of the Cable: The Applicants propose to continue to operate the Columbus II Cable System on a common carrier basis.

Conditions and Requirements: AT&T Corp., SETAR and TLD PR, will comply with the routine conditions set out in 1.767(g) of the Commission rules, 47 C.F.R. § 1.767 (g), and with the requirements of section 1.768 of the Commission's rules, § 1.768 (Notification by 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 June 30, 2020 by the Department of Homeland Security (DHS). Accordingly, we condition grant of the application on AT&T Corp. abiding by the commitments and undertakings contained in the June 22, 2020, Letter of Assurances from Juan G. Flores, Senior Vice President, Core Network Operations, AT&T Corp. to the Assistant Secretary for Trade and Economic Security, Office of Strategy, Policy and Plans, DHS (2020 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 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 2020 LOA are publicly available and may be viewed on the FCC website through the International Bureau Filing System (IBFS) by searching for SCL-LIC-20190326-00010 and accessing "Other filings related to this application" from the Document Viewing area.

License term: Under the Commission's rules a cable landing license shall expire 25 years after the in-service date for the cable. 47 CFR § 1.767(g)(15). As Columbus II is already in-service, this license shall expire 25 years from grant, July 1, 2045.
