



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
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Report No. SCL-00284NS

Wednesday September 30, 2020

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 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. 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.

Filings relating to this application 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 C.F.R. § 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 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>.

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.

Submarine Cable Landing License

Application filed by Edge Cable Holdings USA, LLC (Edge USA), China Mobile International Limited (CMI), and Amazon Data Services, Inc. (Amazon Data, formerly Vadata, Inc.) (collectively, the Applicants) for a license to land and operate within the United States a non-common carrier fiber-optic submarine cable system connecting Grover Beach, California and Pagudpud, Philippines, the CAP-1 Cable System. The CAP-1 system reflects a reconfiguration of the Applicant's proposed Bay to Bay Express (BtoBE) cable system, the application for which was withdrawn on September 10, 2020. See SCL-LIC-20181125-00037. The Commission has granted the Applicants Special Temporary Authority (STA) to construct, connect and test at their own risk those portions of the CAP-1 system in U.S. territory while the underlying Application is pending. See Actions Taken Under Cable Landing License Act, File No. SCL-STA-20200910-00045, Public Notice, Report No. SCL-00285 (IB, rel. Sept. 24, 2020).

The CAP-1 system will have six fiber pairs and consist of a single trunk 12,000 kilometers in length between Grover Beach, California and Pagudpud, Philippines. The cable will have a design capacity of 90 waves x 200 Gigabits per second (Gbps) or equivalent per fiber pair using current technology, with an aggregate design capacity of 108 Terabits per second (Tbps). Applicants have not yet made a decision about the initial lit capacity of the system. Applicants intend to commence commercial operation of the CAP-1 system by the fourth calendar quarter of 2022.

Applicants state that the CAP-1 system will provide significant new capacity on routes where capacity demand continues to increase substantially each year. Further, they state that the system will also provide geographically diverse data center connectivity for the Applicants.

The ownership and control of CAP-1 system's wet segment and common infrastructure is as follows: (1) Edge USA will hold a 41.6667% equity and a 50% voting interest in the portion of the system within U.S. territorial waters. Its affiliate, Edge Network Services Limited (Edge Network Services), will hold a 41.6667% equity and a 50% voting interest in the portion of the system beyond U.S. territory, and including Philippines territory. (2) CMI will hold a 50% equity and 42.8571% voting interest. (3) Amazon Data will hold an 8.3333% equity and 7.1429% voting interest. Applicants state that Edge Network Services is not required to be an applicant for the cable landing license under the Commission's rules, 47 CFR § 1.767(h)(2), because it will not use the U.S. end points of the CAP-1 cable system.

The ownership and control of each of the cable landing stations are the following: (1) Edge USA will control, under a contract with PC Landing Corp., the existing Grover Beach cable landing station which is owned and operated by PC Landing Corp. (2) Edge will control the cable station in the Philippines, with ownership of the Philippine cable station to be provided to the Commission when determined.

Applicants request a waiver of section 1.767(h)(1) so that PC Landing Corp., a U.S. company, need not be a joint applicant for the CAP-1 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, PC Landing Corp. will have no ability to affect significantly CAP-1 system's operation, and inclusion of PC Landing Corp. 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 Edge USA will enter an agreement with PC Landing Corp. that will grant Edge USA a license for PC Landing Corp.'s cable landing station manhole and for a conduit connecting that manhole with PC Landing Corp.'s cable landing station. Under the contemplated agreement, PC Landing Corp. will also grant to Edge USA a long-term license for collocation space for power feed equipment in PC Landing Corp.'s cable landing station - space over which Edge USA, on behalf of the Applicants, will have exclusive control. Edge USA will also retain operational authority over the CAP-1 landing facilities at Grover Beach and provide direction to PC Landing Corp. in all matters relating to the CAP-1 system. Edge USA will seek to ensure that both license agreements will have initial 15-year terms, with the option of two five-year extensions that may be exercised at Edge USA's sole discretion, for a maximum of 25 years each.

The Applicants propose to operate the CAP-1 system on a non-common carrier basis, either by using the capacity as in input for services offered by them and their respective affiliates or by providing bulk capacity to wholesale and enterprise customers on particularized terms and conditions pursuant to individualized negotiations. Applicants state that CAP-1 will provide Edge USA and its affiliates with capacity to support Facebook's global platform to connect its users and data centers. CMI and its affiliates will use the capacity to support its wholesale capacity businesses in Asia and the Americas, offering bulk capacity to particular carrier, enterprise, and government customers pursuant to individually-negotiated indefeasible rights-of-use (IRUs) and capacity leases, the terms of which will vary depending on the needs of the capacity purchaser. CAP-1 will provide Amazon Data and its affiliates with capacity to support Amazon Data's cloud services offerings and connect its data centers.

Applicants assert that the existence of ample competing submarine cable facilities providing U.S.-Philippines connectivity ensures that the CAP-1 system would not function as a bottleneck facility on those routes. They state that the CAP-1 system will compete directly with the Asia-America Gateway and TGN Intra-Asia/TGN Pacific systems on the U.S-Philippines route, and will also compete with the APCN-2, Asia Pacific Gateway, Asia Submarine-cable Express, and EAC/C2C, systems, which provide connectivity between the Philippines and Japan, with onward connectivity to the United States via a variety of systems.

Edge USA, a Delaware corporation, is a wholly owned, direct subsidiary of Facebook, Inc. (Facebook), a Delaware corporation. CZI Holdings, LLC (CZI), a Delaware company, holds a 50.77% voting interest and 12.62% equity interest in Facebook. Mark Zuckerberg, a U.S. citizen who serves as Chairman and CEO of Facebook owns all of the member interest of CZI. He also holds approximately 13.43% of Facebook's outstanding shares and holds an approximate 58.84% voting interest in Facebook that includes (a) a 50.77% voting interest for shares he holds directly or controls through CZI; and (b) a 6.8% 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 and, as of June 30, 2020, Facebook has no other 10% or shareholders.

CMI, a Hong Kong corporation, manages and operates the international business of China Mobile Limited (CML), of which it is a wholly owned indirect subsidiary. CMI is wholly owned by China Mobile International Holdings Limited (CMIHL), which is wholly owned by CML, both Hong Kong entities. China Mobile Hong Kong (BVI) Limited (CMHK-BVI), a British Virgin Islands company has a 72.72% voting and ownership interest in CML. CMHK-BVI is wholly owned by China Mobile (Hong Kong) Group Limited (CMHKG), a Hong Kong company, which is wholly owned by China Mobile Communications Corporation (CMCC), a People's Republic of China company. CMCC is 100% owned by the Chinese Government and subject to the supervision of the State-Owned Assets Supervision and Administration Commission (SASAC) of the State Council of the People's Republic of China. No other individual or entity owns 10% or more of CMI's shares.

Amazon Data, a Delaware corporation, is wholly owned by Amazon.com Services LLC which is in turn wholly owned Amazon.com, Inc. (Amazon Parent), both U.S. entities. Mr. Jefferey P. Bezos, a U.S. citizen who serves as Chairman, President and CEO of Amazon Parent (as of February 18, 2020, owned approximately 15.1% of Amazon Parent's outstanding shares and held sole voting and investment power with respect to 55,551,216 shares and sole voting and no investment power with respect to 19,498,534 shares. Amazon Parent's shares are traded publicly on the NASDAQ Stock Market and, as of September 10, 2020, Amazon Parent has no 10% or greater direct or indirect shareholder other than Mr. Bezos.

Applicants agree to accept and abide by the routine conditions specified in section 1.767(g) of the Commission's rules, 47 C.F.R. §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 foreign ownership in the CAP-1 Cable System.

INFORMATIVE

SCL-LIC-20181125-00037

Edge Cable Holdings USA, LLC

On September 10, 2020, Edge Cable Holdings USA, LLC, China Mobile International Limited (CMI), and Amazon Data Services, Inc. (formerly Vadata, Inc.) notified the Commission that they were withdrawing their application for a cable landing license to connect United States, Singapore, Hong Kong, and Malaysia, the Bay to Bay Express (BtoBE) cable system.

SCL-LIC-20200827-00038

GU Holdings Inc.

On September 16, 2020, the Chair of 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 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)).

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 C.F.R. §§ 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.