



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, Policy 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.

The Commission most recently amended its rules applicable to submarine cable landing licenses 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), 67 Fed. Reg. 1615 (Jan. 14, 2002). An updated version of sections 1.767 and 1.768 of the rules is available at <http://www.fcc.gov/ib/pd/pf/telecomrules.html>. See also http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-02-598A1.pdf for a March 13, 2002 Public Notice; http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-01-332A1.pdf for the December 14, 2001 Report and Order.

Submarine Cable Landing License

Grant of Authority

Date of Action: 10/21/2014

Acceptability for Filing Public Notice: The Application was placed on Public Notice on April 11, 2014. See Emerald Networks Holdings Limited, Application for a License to Land and Operate a Fiber Optic Submarine Cable System, the Emerald Express Cable Network, Linking the United States, Iceland and Ireland, File No. SCL-LIC-20140206-00002, Streamlined Submarine Cable Landing License Applications Accepted for Filing, Report No. SCL-00152S (Int'l Bur., rel. April 11, 2014). No comments or oppositions were filed in response to the Public Notice.

Coordination with the Department of State and other Executive Branch agencies has been accomplished pursuant to section 1.767(b) of the Commission's rules, 47 C.F.R. § 1.767(b), and procedures established with the State Department. 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 (2001) (Submarine Cable Landing License Report and Order); Streamlined Procedures for Executive Branch Review of Submarine Cable Landing License Requests, Media Note (Revised) (rel. Dec. 20, 2001) available at: <http://2001-2009.state.gov/r/pa/prs/ps/2001/6951.htm> The Department of Homeland Security filed a Petition to Adopt Conditions to Authorizations and Licenses on October 21, 2014.

Action Taken: (1) Grant of the Cable Landing License to Emerald Networks Holdings Limited for the purpose of landing and operating a non-common carrier fiber-optic submarine cable system, the Emerald Express Cable Network, directly linking Shirley, New York (US), Molvik, Iceland, and Kilalla Bay, Ireland; (2) waiver of section 1.767(h)(1) of the Commission's rules 47 C.F.R. § 1.767(h)(1), in connection with the license; and, (3) grant of the Petition to Adopt Conditions to Authorizations and Licenses filed by the Department of Homeland Security on October 21, 2014.

Licensee Information: Emerald Networks Holdings Limited (Emerald), an Ireland corporation, is majority-owned subsidiary of Aqua Ventures International FZE (Aqua Ventures), a United Arab Emirates company. See Letter from Robert E. Stup, Jr., counsel to Emerald Networks Holdings Limited, to Marlene H. Dortch, Secretary, FCC, dated April 8, 2014, at 1. Aqua Ventures owns and controls over 70% of Emerald. The Bake Family Trust directly owns 100% of Aqua Ventures. The sole, indirect owner of Aqua Ventures is Christopher Paul Bake, a Dutch citizen. Mr. Bake is the sole beneficiary of the trust. Dominion Fiduciary Trust Limited, a company incorporated under the laws of the Bailiwick of Jersey, is the trustee of the Bake Family Trust. No other person or entity holds a ten percent or greater ownership interest in Emerald. Id.

Cable Design and Capacity: The proposed Emerald Express Cable Network will be a non-common carrier fiber-optic submarine cable system directly linking the U.S., Iceland, and Ireland. The cable network will be a high capacity digital fiber-optic system comprised of four fiber pairs capable of providing transmission capacity of up to 40 Terrabits per second (Tbps) between Ireland and the United States. Each fiber pair is designed to carry 100 wavelengths of light, with each wavelength operating at an initial speed of 100 Gigabits per second (Gbps), equivalent to 10 Tbps per fiber pair, resulting in 40 Tbps cross-sectional capacity. In the future the cable may be extended to other points in Europe and/or Africa.

Ownership of the Cable System and Landing Points: The cable stations for the Emerald Express Cable Network will be located at Shirley, New York, Kilalla Bay, Ireland, and Molvik, Iceland. The cable network will utilize the existing cable station at Shirley, N.Y., which is owned by AT&T. In Ireland and Iceland, the landing points will be newly constructed cable stations that will be owned and operated by Emerald.

Emerald requests a waiver of section 1.767(h)(1) of the Commission's rules, 47 C.F.R. § 1.767(h)(1), which requires that any entity that owns or controls a cable landing station in the United States shall be an applicant for, and licensee on, a cable landing license. See Letter from Robert E. Stup, Jr., counsel to Emerald Networks Holdings Limited, to Marlene H. Dortch, Secretary, FCC, dated March 28, 2014, at 2. According to Emerald, pursuant to an agreement between AT&T and Emerald, AT&T will provide Emerald with secure space, reliable powering, housing for Emerald's equipment within the cable station, and use of certain AT&T conduits extending from the station necessary for Emerald to operate its cable system. Id. at 1. Through a separate agreement, Emerald has contracted with AT&T for maintenance of the cable in and around the station, and Emerald will own and have total control of the cable and all landing station equipment and functions relating to the cable, including the power feed equipment, the submarine terminal line equipment, the system interface equipment, and the optical distribution frame. Id at 1-2. Thus according to Emerald, AT&T should not be required to be a licensee of the cable system because AT&T is not a party to the cable system agreement, has no rights over the operation or business of the cable system, and does not, as intended under Commission rules, have a significant ability to affect the operation of the cable system. Id.

The purpose of the 1.761(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, 53-54. While AT&T is the owner of the cable landing station where the Emerald Express Cable Network will land in the United States, we find that, based upon the agreements between Emerald and AT&T described above, AT&T will not have the ability to affect the operation of the cable system. Emerald will retain effective operational authority and provide direction to AT&T in all matters relating to the Emerald Express Cable Network. Accordingly, we grant Emerald a waiver of section 1.767(h)(1) and do not require AT&T to be on this Cable Landing License.

Regulatory Status of Cable: Emerald proposes to operate the cable system on a non-common carrier basis. Emerald states that the North Atlantic region is presently served by many other cable systems, so there are numerous alternative facilities in the region. Emerald further states that it will not offer capacity to the public indifferently, but rather the available capacity will be used by Emerald and offered to other carriers on terms tailored to their particular needs.

The applicant has 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: Emerald shall comply with the routine conditions set out in section 1.767(g)(1)-(14) of the Commission's rules, 47—
C.F.R. § 1.767(g)(1)-(14), 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 October 21, 2014 by the
Department of Homeland Security. Accordingly, we condition grant of this cable landing license on compliance by Emerald with the
commitments and undertakings set forth in the October 1, 2014 letter from Gregory Varisco, President, Emerald Networks Holding Limited to
the Assistant Secretary, Office of Policy, Department of Homeland Security (October 1 2014 Letter). 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 authorization 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 October 1, 2014 Letter are publicly
available and may be viewed on the FCC website through the International Bureau Filing System (IBFS) by searching for
SCL-LIC-20140206-00002 and accessing "Other filings related to this application" from the Document Viewing area.
