



PUBLIC NOTICE

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Report No. SCL-00152S

Friday April 11, 2014

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 license; (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 the Commission has informed the applicant in writing that the application, upon further examination, has been 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.

Copies of all applications listed here are available for public inspection in the FCC Reference and Information Center, located in room CY-A257 at the Portals 2 building, 445 12th Street, SW, Washington DC 20554. The center can be contacted at (202) 418-0270. 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), 202-418-0432 (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 Emerald Networks Holdings Limited (Emerald) for a license to construct, land and operate a non-common carrier fiber-optic submarine cable system linking Shirley, New York, Molvik, Iceland, and Kilalla Bay, Ireland (Emerald Express Cable Network). The cable system may be extended to other points in Europe and/or Africa in the future.

The Emerald Express 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.

The cable stations for the Emerald Express Cable Network will be located at Shirley, New York, Kilalla Bay, Ireland, and Molvik, Iceland. The cable system 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.*

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.

Emerald, an Ireland corporation, is a 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 over 70% of, and controls, 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.*

Applicant agrees to accept and abide by the routine conditions specified in section 1.767(g)(1)-(14) of the Commission's rules, 47 C.F.R. §1.767(g)(1)-(14).

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.

The Commission's rules applicable to submarine cable landing licenses (47 C.F.R. §§ 1.767, 1.768) are available at <http://www.fcc.gov/ib/td/pf/telecomrules.html>. See also http://hraunfoss.fcc.gov/edoc_public/attachmatch/DA-02-5981A1.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.

By this notice, we inform the public that submarine cable landing license applications and international section 214 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, these extraordinary circumstances may result where Executive Branch agencies petition the Commission to defer decision on certain transactions 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 and international section 214 applications. 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.