



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-00182S

Tuesday May 31, 2016

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 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.

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), 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 Telefonica International Wholesale Services USA, Inc. (TIWS USA), TI Wholesale Services Puerto Rico, Inc. (TIWS Puerto Rico), and Telefonica International Wholesale Services America, S.A. (TIWS America) (together, the "Applicants") for a license to land and operate a non-common carrier fiber-optic submarine cable network connecting Virginia Beach, Virginia; San Juan, Puerto Rico; and Fortaleza and Rio de Janeiro, Brazil (BRUSA cable system).

The BRUSA cable system will be a high capacity digital fiber-optic cable system consisting of eight fiber pairs, with an initial capacity of 1 terabit per second (Tbps) per fiber pair, and a total design capacity of 108 Tbps, or 13.5 Tbps per fiber pair. The main trunk of the cable system will consist of four "express route" fiber pairs, and will extend from Virginia Beach to Rio de Janeiro. Two more fiber pairs will be located on a spur connecting San Juan, Puerto Rico to the main trunk of the cable, and the remaining two fiber pairs will be located on a spur connecting Fortaleza, Brazil to the main trunk of the cable system. BRUSA will land at existing cable stations in San Juan, Fortaleza and Rio de Janeiro, and a new station in Virginia Beach. The Applicants will provide specific landing point information for the Virginia Beach landing in a separate landing point notification. BRUSA will have a total length of 11,200 kilometers, and the Applicants intend to commence commercial operation of the BRUSA cable system in the second calendar quarter of 2018.

Applicants state that BRUSA will provide route diversity on U.S.-South American routes with an entirely new landing point on the U.S. mainland. They state that since other U.S.-Brazil cables land in Florida or New Jersey, a new cable landing point at Virginia Beach will increase route diversity and minimize the risk that a single natural disaster or other event will disrupt all U.S.-Brazil communications. BRUSA will provide new, low latency connectivity to data centers in the Northern Virginia region which will greatly benefit carriers and enterprises using such facilities. BRUSA will also offer significant new capacity on a route where capacity demand is increasing each year and existing systems are nearing the end of their useful lives.

The Applicants will own BRUSA as follows: (1) TIWS USA, a Florida company, will own and control a new cable landing station located at Virginia Beach, Virginia, and the portion of the BRUSA wet segment in the U.S. territorial sea extending from Virginia Beach, Virginia, (2) TIWS Puerto Rico, a Puerto Rico company, will own and control the existing cable station in San Juan, Puerto Rico, and will own that portion of the BRUSA wet segment in the U.S. territorial sea extending from San Juan, Puerto Rico, (3) Telefonica International Wholesale Services Brasil Limitada (TIWS Brazil) will own and control the existing cable landing stations in Fortaleza and Rio de Janeiro, Brazil, and will own those portions of the BRUSA wet segment in the Brazilian territorial sea extending from Fortaleza and Rio de Janeiro, Brazil, and (4) TIWS America, a Uruguay company, will own those portions of the BRUSA wet segment in international waters, beyond the U.S. and Brazilian territorial seas.

The Applicants propose to operate the BRUSA cable system on a non-common carrier basis. Applicants claim that they will sell bulk capacity to particular 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 characteristics and needs of the particular capacity purchaser. They further state that the BRUSA cable system will enhance competition by competing vigorously on international routes with existing cable systems and the planned Seabras-1 and Monet systems.

Subsequent to filing the application, Telefonica undertook a corporate reorganization. As a result, TIWS America is now a wholly-owned, direct subsidiary of Telxius Telecom, S.A.U., which is a wholly-owned, direct subsidiary of Telefonica S.A. TIWA USA and TIWS Puerto Rico continue to be direct, wholly-owned subsidiaries of TIWS America. Telefonica S.A.'s shares are traded publicly on the Madrid Stock Exchange. No other person or entity has a 10% or greater direct or indirect equity or voting interest in any of the Applicants. See Letter from Kent Bressie, counsel for Telefonica International Wholesale Services USA, Inc., TI Wholesale Services Puerto Rico, Inc., and Telefonica International Wholesale Services America, S.A., to Marlene Dortch, FCC, dated May 17, 2016, filed in SCL-LIC-20160330-00011.

TIWS USA, TIWS Puerto Rico, and TIWS America are affiliated with a foreign carrier that is presumed to have market power in Brazil. TIWS USA, TIWS Puerto Rico, and TIWS America each agree to accept and abide by the reporting requirements in section 1.767(l), 47 C.F.R. § 1.767(l), for the U.S.-Brazil route.

Applicants agree to abide by the routine conditions specified in section 1.767(g) of the Commission's rules, 47 C.F.R. § 1.767(g).

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.

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.