



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.

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: 09/10/2008

Acceptability for Filing Public Notice: The Application was placed on Public Notice on June 2, 2008. See PPC 1 Limited and PPC 1 (US) Inc., Application for a license to land and operate a non-common carrier fiber-optic submarine cable system, the PPC 1 System, connecting Sydney, Australia, Piti, Guam and Madang, Papua New Guinea, File No. SCL-LIC-20080213-00001, Public Notice, Non-Streamlined Submarine Cable Landing License Applications Accepted for Filing, Report No. SCL-00064NS (Int'l Bur., June 2, 2008). No oppositions or other comments were filed in response to the Public Notice. The Application has been coordinated with the Department of State and other relevant 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, 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 and the Department of Justice filed a Petition to Adopt Conditions to Authorizations and Licenses on September 8, 2008.

Actions Taken: (1) Grant of Cable Landing License to PPC 1 Limited and PPC 1 (US) Inc. for the purpose of landing and operating a non-common carrier fiber-optic submarine cable system, the PPC 1 System, connecting Australia, Guam and Papua New Guinea, and (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.

Licensee Information: PPC 1 (US), Inc. will construct, own, and operate the shore-end and wet-link portions in the United States, including in U.S. territorial waters, of the segment connecting Sydney, Australia with Piti, Guam ("Australia-Guam Trunk"). PIPE International (Australia) Pty. Ltd. will construct, own, and operate the wet-link and shore-end portions of the Australia-Guam Trunk in Australia, including in Australian territorial waters, and will own the cable station at Cromer, New South Wales. PPC 1 Limited will construct, own, and operate the wet-link portions of the Australia-Guam Trunk outside the territorial waters of the United States and Australia, and will construct, own, and operate the wet-link and shore-end portions of the segment connecting Madang, Papua New Guinea with a branching unit located on the Australia-Guam Trunk ("PNG Spur"), including in Papua New Guinea territorial waters. Telkom PNG Limited will own the cable station in Madang, Papua New Guinea.

PPC 1 (US) Inc. is a corporation organized under the laws of the State of Delaware and is a direct, wholly-owned subsidiary of PPC 1 Limited. PPC 1 Limited is a limited-liability company organized under the laws of Bermuda and is a direct, wholly-owned subsidiary of PIPE International Pty Ltd. ("PIPE International"), an Australian company. PIPE International is a direct, wholly-owned subsidiary of PIPE Networks Limited ("PIPE Networks"), a widely-held, publicly traded Australian company. Stephen Ross Baxter and Bevan Slattery, both Australian citizens, hold 18% and 14 % of the ordinary shares of PIPE Networks, respectively. There are no other ten percent or greater direct or indirect owners of PIPE Networks, PPC 1 Limited or PPC 1 (US) Inc.

Cable Design and Capacity: The proposed PPC 1 System will be a non-common carrier fiber-optic submarine cable system, connecting Australia, Guam and Papua New Guinea. The PPC 1 System consists of two segments of digital fiber-optic cable: (1) the Australia-Guam Trunk, connecting Sydney, Australia with Piti, Guam; and (2) the PNG Spur, connecting Madang, Papua New Guinea with a branching unit located on the Australia-Guam Trunk. There will be an additional branching unit allowing for a future connection to Popondetta, Papua New Guinea.

The Australia-Guam Trunk will consist of two optical fiber pairs, with a design capacity of 96 wavelengths (10 Gbps) on each fiber pair, for a total design capacity of 1.92 Tbps. The initial configuration of the Australia-Guam Trunk will provide a total of 140 Gbps of capacity. The initial configuration of the PNG Spur will provide a total of 20 Gbps of capacity, 10 Gbps on the Papua New Guinea-Guam route and 10 Gbps on the Papua New Guinea-Australia route.

Cable Landing Point Arrangements: The PPC 1 System will use the existing cable station at Piti, Guam, which is owned by VSNL International (Guam) Inc. ("VSNL Guam"). PPC 1 (US) Inc. will enter into an agreement with VSNL Guam giving PPC 1 (US) Inc. a long-term lease in VSNL Guam's ducts and conduits connecting the PPC 1 system's Guam beach landing with the Piti cable station and a long-term lease in the collocation space in the Piti cable station building. PPC 1 (US) Inc. will have exclusive control over and access to PPC 1 System terminal equipment. Equipment for the PPC 1 System will be separately caged and controlled exclusively by the Applicants from their network operations center in the Cromer cable station in Sydney, Australia. See Letter from Kent D. Bressie, Counsel for PPC 1 Limited and PPC 1 (US), Inc., to Marlene H. Dortch, Secretary, FCC, dated May 9, 2008, at 1.

Section 1.767(h) 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." The purpose of this 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. VSNL Guam owns the existing cable station at Piti, Guam, but will not be able to affect significantly the operation of the PPC 1 System. The Applicants will retain operational authority over PPC 1 System facilities and provide direction to VSNL Guam in all matters relating to the PPC 1 System. Pursuant to a collocation agreement between the Applicants and VSNL Guam, VSNL might, but only at the Applicants' request, perform certain limited "remote hands" maintenance services on the Applicants' equipment. Id. at 2-3. See 47 C.F.R. § 1.767(h)(1). Accordingly, we grant Applicants a waiver of section 1.767(h)(1) and do not require VSNL Guam to be on this Cable Landing License.

Regulatory Status of Cable: The Applicants will operate the PPC 1 Cable system on a non-common carrier basis. Applicants state they will make capacity on the PPC 1 system available to other carriers, Internet service providers, and large end users on an indefeasible right-of-use (IRU) or leased-capacity basis. The capacity will not be sold indifferently to the user public, but will be assigned pursuant to individualized decisions and tailored arrangements based on the needs of the individual capacity purchaser. Applicants also contend that there is sufficient existing or planned facilities on the routes or on alternative routes to prevent it from exercising market power in offering services. See Application at 5-8.

Applicants have 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

Conditions and Requirements: Applicants 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, 47 C.F.R. § 1.768 (notifications and prior approval for submarine cable landing licensees that are or propose to become affiliated with a foreign carrier).

Applicants "shall at all times comply with any requirements of United States government authorities regarding the location and concealment of the cable facilities, buildings, and apparatus for the purpose of protecting and safeguarding the cables from injury or destruction by enemies of the United States of America." 47 C.F.R. § 1.767(g)(3). The International Bureau will inform the licensees of specific requirements in connection with this condition.

We grant the Petition to Adopt Conditions to Authorizations and Licenses (Petition) filed in this proceeding on September 8, 2008 by the Department of Homeland Security and the Department of Justice (collectively, the "Executive Branch Agencies"). Accordingly, we condition grant of this application on PPC 1 Limited and PPC 1 (US) Inc., abiding by the commitments and undertakings contained in their September 4, 2008, Agreement with the Executive Branch Agencies. A copy of the Petition and the September 4, 2008 Agreement are publicly available and may be viewed on the FCC website through the International Bureau Filing System (IBFS) by searching for SCL-LIC-20080213-00001 and accessing "Other filings related to this application" from the Document Viewing area.

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).
