



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
TTY 202 / 418-2555
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

DA 05-1269
April 29, 2005

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 application IS GRANTED. This grant of authority is taken under section 0.261 of the Commission's rules, 47 C.F.R. § 0.261, and is effective upon release of this public notice. 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.

SCL-LIC-20050304-00011

Tyco Telecommunications (US) Inc.
SUBMARINE CABLE LANDING LICENSE

Action Taken: Grant of a separate submarine cable landing license to Tyco Telecommunications (US) Inc. for the mostly-unbuilt original southern segment of the Tyco Pacific submarine cable, extending between California, Hawaii, and Guam.

The Tyco Pacific submarine cable landing license (File No. SCL-LIC-20000717-00026) currently is held jointly by Tyco Telecommunications (US) Inc. (“Tyco Telecom”) and its affiliate Tyco Networks (Guam) L.L.C. (“Tyco Guam”). As originally approved by the Commission, the Tyco Pacific cable system included a southern segment extending between California, Hawaii and Guam. Southern Segment A consisted of the whole of the submarine cable system between and including the system interface at the Piti, Guam cable station to be built and owned or controlled by TyCom Networks (Guam) LLC, now Tyco Guam, and the system interface at a new cable station to be built and owned or controlled by TyCom Networks (US) Inc. (“TyCom US”), the predecessor-in-interest to Tyco Telecom, in Honolulu, Hawaii. Southern Segment B consisted of the whole of the submarine cable system between and including the system interface at the Hawaii cable station and a system interface in Los Angeles, California to be built and owned or controlled by TyCom US.

In November 2002, the Commission granted a request to modify the Tyco Pacific submarine cable landing license (File No. SCL-MOD-20020826-00079). The modification approved the construction of a new southern segment between Nedonna Beach/Hillsboro, Oregon and Toyohashi, Japan, which subsequently was constructed and placed into operation. The modification also specified that the joint licensees would defer construction of the previously-planned California-Hawaii-Guam southern segment, except for an already-constructed six-mile stub extending from Hermosa Beach, California. The joint licensees have not built the remainder of the California-Hawaii-Guam southern segment. The six-mile-long stub currently does not connect the Hermosa Beach beach landing with any U.S. or foreign point and is not capable of being operational absent further construction.

In a separate action today, we grant two applications (File Nos. SCL-ASG-20050304-00003 and SCL-T/C-20050304-00005) that seek consent to assign or transfer control of essentially all of the built portions of Tyco Pacific, a non-common carrier cable, to VSNL Telecommunications (US) Inc. (“VSNL USA”).¹ These applications, however, do not request authority for VSNL USA to acquire the mostly unbuilt original southern segment of Tyco Pacific. Instead, the joint licensees request, and in our separate action today we grant, the modification of the Tyco Pacific cable landing license to remove the California-Hawaii-Guam original southern segment, currently unbuilt except for a six-mile-long stub.² Prior to closing the assignments and transfer of control described in File Nos. SCL-ASG-20050304-00003 and SCL-T/C-20050304-00005, Tyco Guam will assign to Tyco Telecom, on a *pro forma* basis, its entire ownership interest in the original southern segment (California-Hawaii-Guam), including its interests in any new cable landing license issued for that segment.³ Thus, at the time of closing, Tyco Guam will have no interest in the unbuilt southern segment, the cable stub, or the separate cable landing license that we here issue for the unbuilt segment and cable stub.

We assign File No. SCL-LIC-20050304-00011 to this separate cable landing license for the original southern segment of Tyco Pacific.

Conditions and Requirements:

¹ *Tyco Telecommunications (US) Inc., Assignor and VSNL Telecommunications (US) Inc., Assignee, et al., Assignments, Transfer of Control, and Modification*, File Nos. SCL-ASG-20050304-00003, SCL-T/C-20050304-00005, SCL-MOD-20050304-00004, Public Notice, Actions Taken Under Cable Landing License Act, DA 05-1268 (PD/Int’l Bur. Apr. 29, 2005).

² *See supra* note 1 (granting SCL-MOD-20050304-00004). *See also* Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from Kent D. Bressie, Counsel for Tyco Telecommunications (US) Inc. and Tyco Networks (Guam) L.L.C., dated March 15, 2005.

³ *See* File No. SCL-MOD-20020412-00027, amending the Tyco Pacific cable landing license to permit the filing of post-transaction notifications of *pro forma* transfers or assignments.

Our issuance of the cable landing license is subject to the conditions set out in 47 C.F.R. § 1.767(g)(1)-(14). We will continue to regulate the California-Hawaii-Guam cable as a non-common carrier facility. Section 1.767(g)(10) of the rules, 47 C.F.R. § 1.767(g)(10), reserves the right of the Commission to impose common carrier regulation if it finds that the public interest so requires. Section 1.767(g)(8), 47 C.F.R. § 1.767(g)(8), requires Tyco Telecom to provide the specific landing point and cable station locations prior to construction. Tyco shall notify the Commission within 30 days of today's date that it accepts the cable landing license.

Cable Design and Capacity:

Between and including a system interface at the Piti, Guam cable station and a system interface at a new cable station to be built and owned or controlled by Tyco Telecom at Honolulu, Hawaii; and between and including the system interface at the Honolulu, Hawaii cable station and a system interface at a Los Angeles cable station to be built and owned or controlled by Tyco Telecom, with a landing at Hermosa Beach, California. *See also Tycom Networks (US) Inc. and Tycom Networks (Guam) L.L.C.*, 15 FCC Rcd 24078 (Int'l Bur. 2000) (original southern segment).

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