

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Application of ATN Undersea Cable Corporation for a) File No. SCL-LIC-20180417-00008
License to Construct, Land, and Operate the VILink)
Cable System, an Undersea Cable System Linking the)
Islands of St. Thomas and St. Croix in the United)
States Virgin Islands, United States)

**SUPPLEMENT TO APPLICATION FOR DOMESTIC SUBMARINE CABLE LANDING
LICENSE AND REQUEST FOR STREAMLINED TREATMENT**

ATN Undersea Cable Corporation (“ATN Cable”), pursuant to the Act Relating to the Landing and Operation of Submarine Cables in the United States, 47 U.S.C. §§ 34-39 (the “Cable Landing License Act”), Executive Order 10530, and Section 1.767 of the Commission’s rules, 47 C.F.R. § 1.767, submit this supplement (“Supplement”) to their submarine cable landing license application filed April 12, 2018 (“Application”). The Application requests a license to land and operate a non-common carrier submarine cable between the islands of St. Thomas and St. Croix, both of which are located within the United States Virgin Islands (“USVI”). The submarine cable system is known as the VILink System. At the request of the staff of the International Bureau (“Bureau”), ATN Cable files this Supplement to provide further detail regarding the ownership and control of ATN Cable’s proposed landing stations, as well as to clarify certain matters related to ATN Cable’s request for streamlined processing of the Application.

I. CONTROL OF VILINK SYSTEM FACILITIES

As set forth in the Application, the VILink System will be a high-capacity digital fiber-optic cable system that will provide increased capacity, redundancy, resiliency, and reliability in

connection with communications between the islands of St. Thomas and St. Croix, both of which are located within the USVI. The VILink System’s landing station in St. Thomas will be located in Nazareth, and the landing station in St. Croix will be located in Christiansted. Specifically, the terminal facilities for the VILink System will be housed within the central offices of Virgin Islands Telephone Corporation d/b/a Viya (“Viya”), which is the USVI’s incumbent local exchange carrier and which shares a common ultimate parent company with ATN Cable—ATN International, Inc. (“ATN”). Viya’s Nazareth central office is located at 9M-2 Nazareth Red Hook Quarter, Red Hook, USVI 00802 (18°19'17.33"N 64°51'17.58"W), and Viya’s Christiansted central office is located at 9 King Street, Christiansted, USVI 00820 (17°44'42.46"N 64°42'17.83"W).¹

As stated in Section I of ATN Cable’s application,

The VILink System will be owned by ATN Cable, a wholly owned and controlled subsidiary of [ATN]. ATN also is the ultimate parent company of [Viya], and various Viya affiliates that provide wireline voice and broadband, mobile wireless, and cable television services in the USVI.²

¹ ATN Cable’s Application states that ATN Cable will provide the exact location of its landing stations no later than 90 days prior to commencement of construction of the VILink System in accordance with Section 1.767(a)(5) of the Commission’s rules. *See* Application of ATN Undersea Cable Corporation for Domestic Submarine Cable Landing License and Request for Streamlined Treatment, FCC, IBFS File No. SCL-LIC-20180417-00008, at 5 & n.3 (filed Apr. 12, 2018) (“Application”) (application for License to Construct, Land, and Operate the VILink Cable System, an Undersea Cable System Linking the Islands of St. Thomas and St. Croix in the United States Virgin Islands, United States); 47 C.F.R. § 1.767(a)(5). Although tentative coordinates for the location of the beach manhole (“BMH”) vaults for the VILink System are referenced in the Exhibit A to the Application, the location of the landing stations was not specifically identified therein. The landing locations are set forth in the text above. ATN Cable currently expects to construct the VILink System at the BMH and landing station locations set forth in Exhibit A and herein, respectively, and will provide notice to the Commission no later than 90 days prior to the commencement of construction if these plans change.

² *See* Application at 2.

Thus, Viya and its affiliates are commonly controlled sister companies and therefore affiliates of ATN Cable. ATN Cable further specified in the Application that it will

operate and have exclusive control over the VILink System, including its landing points which consist of beach manholes. ATN Cable may rely on its direct parent company ATN and/or its USVI sister company Viya to obtain certain real estate, easements, or other access rights from third parties in connection with the construction of the VILink System, but ATN Cable will lease any such third party rights from ATN and/or Viya. Further, ATN Cable, and not ATN or Viya, will exclusively control the operation of all VILink System landing stations.³

ATN Cable herein provides additional information about the ownership and control of its proposed VILink System facilities and the underlying land on which the VILink System landing stations will be located.

ATN Cable anticipates that Viya will lease the land under the Nazareth BMH vault on St. Thomas from Marriott for a 25-year term, and Viya will sublet access to the Nazareth BMH vault real estate to ATN Cable for the same term. Similarly, Viya will lease the land under the Christiansted BMH vault on St. Croix from the USVI government for a 25-year term, and Viya will sublet access to the Christiansted BMH vault real estate to ATN Cable for the same term. Viya, or one of its commonly controlled USVI affiliates, will own both beach manhole (“BMH”) vaults, the fiber backhaul facilities from the BMH vaults to their respective landing stations, and the Nazareth and Christiansted landing stations, which, as set forth above, are anticipated to be located in Viya’s Nazareth and Christiansted central offices. Viya (or its affiliate), will lease, or provide an indefeasible right of use (“IRU”) over, all of these facilities to ATN Cable for a 25-year term. In turn, ATN Cable will own the submarine fiber route between the Nazareth and Christiansted BMH vaults; sublet from Viya (or its affiliate) access to the BMH vaults, backhaul

³ *Id.* at 9, n.12.

facilities, and landing stations; and own the transmission and electronic facilities located at both BMH vaults and landing stations.

As a result of the foregoing, all aspects of the VILink System will be owned by USVI entities that are wholly owned subsidiaries of ATN (*i.e.*, ATN Cable, Viya, or a Viya affiliate), except the bare land underlying the BMH vaults, which will be leased. Further, ATN Cable will exclusively operate and control the VILink System, and will have unfettered access to those component facilities that it leases or IRUs from other commonly controlled ATN subsidiaries.

To the extent that the Bureau staff believes that the foregoing ownership and control structure for the components of the VILink System requires Viya or a Viya affiliate to be listed as an applicant in the Application, ATN Cable respectfully requests a waiver of Section 1.767(h)(1) to remain the sole submarine cable landing station licensee under the Application. ATN Cable believes that such a waiver should not be required because all aspects of the VILink System will be owned by commonly controlled affiliates of ATN Cable (other than the real estate underlying the BMH vaults⁴) and exclusively controlled and operated by ATN Cable for the entire license term.⁵

However, if the Bureau staff disagrees, then ATN Cable notes that the FCC previously has granted such a waiver of Section 1.767(h)(1) when a landing station is owned by an

⁴ The Commission generally has not required a lessor of real estate underlying a BMH vault or landing station to be an applicant in a submarine cable landing license. *See, e.g., Actions Taken Under Cable Landing License Act*, Public Notice, 32 FCC Rcd 1436 (IB 2017) (“*DOCOMO Grant*”) (granting a submarine cable landing license, SCL-LIC-20160314-00008, to applicant that leased the land for multiple cable landing stations without requiring the real estate lessor to be an applicant and without requiring a waiver of 47 C.F.R. § 1.767(h)(1) in connection with such land leases).

⁵ *See Actions Taken Under Cable Landing License Act*, Public Notice, 32 FCC Rcd 348, 349 (IB 2017) (granting applicants a submarine cable landing license, SCL-LIC-20151104-00029, where applicant Microsoft Infrastructure Group, LLC proposed to “lease and control the U.S. cable landing station” without requiring a waiver under 47 C.F.R. § 1.767(h)(1) and without requiring the cable landing station lessor to be listed as an applicant in the application).

unrelated third party and leased to, and controlled by, the applicant.⁶ As explained by the Commission, “[t]he purpose of the 1.767(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.”⁷ As set forth above, in this instance all VILink System component facilities that are not directly owned by ATN Cable will be owned by its affiliates and therefore under common control with ATN Cable. Further, ATN Cable will have unfettered access to and exclusive control of all such component facilities. Consequently, the Application does not raise any of the concerns that were intended to be addressed by Section 1.767(h)(1), and a waiver of this rule is appropriate under the instant circumstances.

II. STREAMLINED PROCESSING REQUEST

As part of ATN Cable’s request for streamlined processing of its Application, ATN Cable certified that the activities proposed in the Application comply with the enforceable policies of the USVI’s Coastal Zone Management Program (“CZM Program”) and that such activities will be conducted in a manner consistent with the CZM Program.⁸ Via this Supplement, ATN Cable clarifies that the USVI’s CZM Program does not contain requirements related to submarine cables. The only landing locations for the VILink System are in the USVI. Therefore, neither the Coastal Zone Management Act nor the USVI CZM Program create any additional requirements

⁶ See, e.g., *DOCOMO Grant*, 32 FCC Rcd at 1437-38 (granting a waiver of 47 C.F.R. § 1.767(h)(1) with respect to submarine cable landing license SCL-LIC-20160314-00008 where the applicant, DOCOMO Pacific, Inc., entered into an agreement with a third party, Tata Communications (America) Inc. (“Tata”), for an IRU to access Tata’s Piti, Guam BMH vault, conduit connecting the BMH vault to a Tata-owned landing station, and the Tata landing station).

⁷ *DOCOMO Grant*, 32 FCC Rcd at 1438 (citing *Review of Commission Consideration of Applications under the Cable Landing License Act*, Report and Order, 16 FCC Rcd 22167, 22194 ¶¶ 53-54 (2001)).

⁸ Application at 11-12.

or preconditions to the deployment by ATN Cable and the licensing by the Commission of the VILink System. ATN Cable reiterates that the proposed VILink System will have no foreign country destination markets and therefore that ATN Cable has no affiliation with a foreign carrier in any of the VILink System's destination markets. Given these facts, ATN Cable renews its request for streamlined processing of the Application under Section 1.767(k) of the Commission's rules.⁹

V. CONCLUSION

For the foregoing reasons, ATN Cable respectfully submits that the public interest, convenience, and necessity would be furthered by the streamlined grant of the Application.

Respectfully submitted,

ATN Undersea Cable Corporation,
by its parent company ATN International, Inc.

By: /s/ Douglas J. Minster

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Date: July 9, 2018

⁹ 47 C.F.R. § 1.767(k).

CERTIFICATION

I hereby depose and state under penalty of perjury as follows:

I, Brad Martin, am President of ATN Undersea Cable Corporation and Executive Vice President of Operations for its parent company, ATN International, Inc. I am authorized to enter this certification on behalf of ATN Undersea Cable Corporation. All of the factual information contained in this Application and the Exhibits hereto are true and correct to the best of my knowledge and belief.

By: /s/ Brad Martin

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served this date upon the following:

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