

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of

CROSSLAKE FIBER USA LP,

Application for a License to Land and Operate
a Private Fiber-Optic Submarine Cable System
Connecting Wilson, New York, and Toronto,
Ontario,

THE CROSSLAKE FIBRE CABLE SYSTEM

File No. SCL-STA-2018-_____
SCL-LIC-20180216-00002
SCL-AMD-20180510-00009

REQUEST FOR SPECIAL TEMPORARY AUTHORITY

Pursuant to 47 U.S.C. § 34, Executive Order No. 10,530, and 47 C.F.R. § 1.767, Crosslake Fiber USA LP (“CF USA LP,” FRN 0027136142), hereby requests special temporary authority (“STA”) to construct, connect the U.S. end points of, and test at its own risk those portions of the Crosslake Fibre system in U.S. territory prior to the Commission’s grant of CF USA LP’s pending cable landing license application.¹ CF USA LP specifically requests that the Commission authorize construction prior to the expiration of the 90 day notice period set for in 47 C.F.R. § 1.767(a)(5), in light of the amended landing point notified to the Commission on May 10, 2018. Absent the grant of STA, CF USA LP would almost certainly be delayed at

¹ Crosslake Fiber USA LP, Application for a License to Land and Operate a Private Fiber-Optic Submarine Cable System Connecting Wilson [Cambria], New York, and Toronto, Canada, the Crosslake Fibre Cable System, File No. SCL-LIC-20180216-00002 (filed Feb. 16, 2018) (“Original Application”), as amended FCC File No. SCL-AMD-20180510-00009 (filed May 10, 2018) (revising landing point details) (“Amendment” and together with the Original Application, the “Application”).

significant cost, thereby also delaying the benefits of the Crosslake Fibre system, which will bring much needed capacity on the U.S.-Canada route. CF USA LP therefore seeks STA, and a corresponding waiver of the landing point advance notification requirement of 47 C.F.R. § 47.167(a)(5), beginning no later than June 22, 2017, with STA ending 180 days from grant. CF USA LP has notified the Team Telecom agencies of this request.

CF USA LP acknowledges that grant of this request will not prejudice action by the Commission on the underlying Application and that the STA is subject to cancellation or modification upon notice. Further, CF USA LP acknowledges that such STA can be revoked by the Commission on its own motion without a hearing.

I. THE GRANT OF STA WILL SERVE THE PUBLIC INTEREST AND WILL NOT FRUSTRATE THE COMMISSION'S RULES

CF USA LP respectfully submits that grant of STA will serve the public interest, convenience, and necessity and will not frustrate the purpose of the Commission's rules.

On February 16, 2018, CF USA LP applied for authority to land and operate the Crosslake Fibre system. As reflected in the application amendment filed on May 10, 2018, the Crosslake Fibre system will connect Wilson, New York with Toronto, Ontario. The Commission placed the application on streamlined public notice on March 8, 2018.² The Team Telecom agencies later requested that the Application be processed on a non-streamlined basis pending completion of a national security review. CF USA LP will provide much needed capacity on the

² *Streamlined Submarine Cable Landing License Applications Accepted for Filing*, Public Notice, Report No. SCL-00209S (rel. Mar. 8, 2018).

U.S.-Canada route.³ It will also provide diverse and highly-secure capacity on that route, thereby enhancing continuity of service.⁴

CF USA LP intends to commence commercial operation of the Crosslake Fibre system in the third calendar quarter of 2018. As noted in the Original Application, the schedule for a short-haul, unrepeated system such as Crosslake Fibre is much shorter than for transoceanic systems. However, there is a very short weather window in which to complete construction and limited vessel availability in Lake Ontario. Accordingly, it is imperative that CF USA LP begin construction no later than June 22, 2018 to avoid costly and unnecessary delays.

Grant of CF USA LP's corresponding waiver request will not frustrate the underlying purpose of 47 C.F.R. § 47.167(a)(5), which requires an applicant to provide the Commission with specific landing point information 90 days in advance of construction. As noted in the Application, CF USA LP will construct an equipment hut – not a cable landing station – to shelter its ILA equipment at the New York landing point. While CF USA LP originally intended this hut to be at the beach manhole, it has, for commercial and operational reasons, moved it a short distance (11 miles) inland to Cambria, New York. This move will have no substantive impact that would compel the Commission to require adherence to the 90-day notification rule.

Grant of CF USA LP's request will also serve the public interest in two particular ways. *First*, it will ensure the timely construction and commencement of operations of the Crosslake Fibre system, bringing much needed additional and highly secure capacity on the U.S.-Canada route. *Second*, it will avoid imposing needless and avoidable costs on CF USA LP by delaying construction for nearly a year.

³ See Original Application at 2.

⁴ *Id.*

II. THE FEDERAL COMMUNICATIONS COMMISSION HAS AUTHORITY TO GRANT THE STA AND WAIVER REQUEST

The Commission has ample authority to issue an STA for construction and testing prior to the grant of a cable landing license. Neither the Cable Landing License Act nor Executive Order 10,520 (delegating submarine cable licensing authority from the President to the Commission, subject to Executive Branch review) limits the Commission's ability to issue an STA for construction, testing, and/or operational authority prior to grant of a cable landing license.⁵

To the contrary, the Commission has exercised such authority on numerous occasions and should also do so in this case. Most recently, the Commission has granted upon a showing of good cause STA for purposes of construction in U.S. territory, connection of a system's end points, and testing in U.S. territory prior to the issuance of a cable landing license for the SEA-US, Quintillion, Monet, FASTER and Atisa systems.⁶ CF USA LP seeks the same authority here to construct, connect the U.S. end points, and test the Crosslake Fibre system in U.S. territory.

⁵ See 47 U.S.C. §§ 34-39; Executive Order 10,530.

⁶ See e.g., GTI Corporation *et al.*, Request for Special Temporary Authority, FCC File No. SCL-STA-20160914-00018 (granted Sept. 26, 2016) (granting STA to construct and test U.S.-territory facilities for the SEA-US submarine cable system prior to the grant of a cable landing license); Quintillion Subsea Operations, LLC, Request for Extension of Special Temporary Authority, FCC File No. SCT-STA-20160907-00017 (granted Sept. 20, 2016) (granting request to extend STA to construct, land, and test the Quintillion submarine cable system prior to the grant of a cable landing license); Quintillion Subsea Operations, LLC, Revised Application for Special Temporary Authority, FCC File No. SCL-STA-20160330-00010 (granted Apr. 11, 2016) (granting STA to construct, land, and test the Quintillion submarine cable system prior to the grant of a cable landing license); GU Holdings, Inc., Application for Special Temporary Authority, FCC File No. SCL-STA-20160630-00014 (granted July 11, 2016) (granting STA to construct and test U.S.-territory facilities for the Monet submarine cable system prior to the grant of a cable landing license); GU Holdings, Inc., Application to Extend Special Temporary Authority, FCC File No. SCL-STA-20160204-00006 (granted Feb. 17, 2016) (granting request to extend STA to construct test

CONCLUSION

For the foregoing reasons, the Commission should expeditiously grant this STA request.

Respectfully submitted,



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June 6, 2018

Attachments

U.S.-territory facilities for the FASTER submarine cable system prior to the grant of a cable landing license); GU Holdings, Inc., Application for Special Temporary Authority, FCC File No. SCL-STA-20150804-00025 (granted Aug. 12, 2015) (granting STA to construct and test U.S.-territory facilities for the FASTER submarine cable system prior to the grant of a cable landing license); DOCOMO Pacific, Inc., Application for Special Temporary Authority, FCC File No. SCL-STA-20170209-00002 (granted Feb. 15, 2017) (granting STA to construct and test U.S.-territory facilities for the Atisa submarine cable system prior to the grant of a cable landing license).

CERTIFICATE OF SERVICE

I, Kent Bressie, hereby certify that consistent with 47 C.F.R. § 1.767(j), I have served copies of the foregoing request for special temporary authority and wavier of 47 C.F.R. § 1.767(a)(5) by hand delivery or electronic mail this 6th day of June, 2018, to the following:

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