

GU Holdings Inc.

Re: SCL-LIC-20181008-00034

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Granted
date: December 21, 2018
authorized by: Deputy Chief, Telecommunications and Analysis Division, International Bureau.
signature: Francis Anthony

Expires: June 19, 2019

In the Matter of)
)
GU HOLDINGS INC.)
)
International Bureau)
)
Application for a License to Construct, Land,)
and Operate a Submarine Cable)
)
Connecting the United States and Chile)

File Nos. SCL-LIC-20181008-00034
SCL-STA-2018 _____

REQUEST FOR SPECIAL TEMPORARY AUTHORITY

Pursuant to 47 U.S.C. §§ 34-39, Executive Order 10530, and 47 C.F.R. § 1.767, GU Holdings Inc. (the "Applicant") hereby requests special temporary authority ("STA") to construct, connect, and test the portion of the Curie cable system in U.S. territory prior to the Commission's grant of the Applicant's pending cable landing license application.¹ Without such authority, construction of the Curie cable system would likely be delayed at significant cost to the Applicant and thereby delay the benefits of new U.S.-South America capacity that the cable will provide. The Applicant therefore seeks STA beginning no later than January 9, 2019, and ending 180 days from grant. The Applicant has notified the Team Telecom agencies of this request.

The Applicant acknowledges that grant of such STA will not prejudice action by the Commission on the underlying application and that such STA is subject to cancellation or modification upon notice. The Commission has authority to grant the requested STA and has previously granted STA requests seeking similar relief.

¹ See GU Holdings Inc., *Application for a License to Construct, Land, and Operate a Submarine Cable Connecting the United States and Chile*, FCC File No. SCL-LIC-20181008-00034 (filed Oct. 8, 2018) (*Curie Application*); see also Public Notice, *Streamlined Submarine Cable Landing License Applications Accepted for Filing*, Report No. SCL. 00227S (rel. Oct. 30, 2018) (*Public Notice*).

I. BACKGROUND

On October 8, 2018, the Applicant applied for authority to construct, land, and operate Curie, a high-capacity fiber-optic submarine cable system connecting the U.S. and Chile.² The Commission placed the Curie Application on streamlined public notice on October 30, 2018,³ but later removed the application from streamlined processing at the request of the Team Telecom agencies pending completion of a national security and law enforcement review.

The Applicant is actively engaged in discussions with the Team Telecom agencies necessary for the national security and law enforcement review. However, the Applicant does not expect that those discussions will be concluded in time for the Commission to fully consider and grant the underlying application by January 9, 2019, the date on which the Applicant and the system supplier have planned to begin laying the cable in U.S. territory. Laying the cable is part of a series of interrelated processes, the delay or reordering of which would impose substantial additional costs on the Applicant and raise concerns about the continuing availability of a cable-laying ship for the project. Consequently, the Applicant seeks STA now in order to ensure that construction, connection, and testing in U.S. territory may proceed on schedule. The Applicant does not seek authority for other operation of the cable and will not begin to provide service using the Curie cable system until a cable landing license is issued by the Commission.

II. GRANT OF THE STA REQUEST WILL SERVE THE PUBLIC INTEREST

Grant of this STA request will serve the public interest, convenience, and necessity. Delaying the construction start date for the cable would delay the availability of its substantial transmission capacity and impose significant economic costs on the Applicant. Depending on the

² See *Curie Application*.

³ See *Public Notice*.

length of the delay, the financial viability of the project could be at risk. Conversely, grant of this STA request would help to ensure realization of the project's public benefits. Specifically, the cable will provide significant new and replacement capacity on the U.S.-South America route, where demand has increased substantially in recent years. It will also provide geographically diverse capacity, as the first cable to directly connect South America to the West Coast of the United States.⁴

III. THE FCC HAS AUTHORITY TO GRANT THE STA REQUEST

The Commission has on numerous occasions granted STAs for construction, connection, and testing prior to the grant of a cable landing license, and it should also do so in this case. Recently, the Commission granted, upon showings similar to the facts presented here, STAs for construction, connection, and testing of the Crosslake Fibre, Hawaiki, and BRUSA cable systems.⁵ Neither the Cable Landing License Act nor Executive Order 10530 (delegating submarine cable licensing authority from the President to the Commission, subject to Executive Branch review) limits the Commission's ability to issue such relief.⁶ The Applicant seeks similar authority here to construct, connect, and test the Curie cable in U.S. territory.

⁴ *Curie Application* at 1-2.

⁵ See Request for Special Temporary Authority, FCC File No. SCL-STA-20180606-00014 (granted Jun. 18, 2018); Request for Special Temporary Authority, FCC File No. SCL-STA-20170721-00018 (granted Jul. 28, 2017); Request for Special Temporary Authority, FCC File No. SCL-STA-20170712-00017 (granted Jul. 19, 2017).

⁶ See 47 U.S.C. §§ 34-39; Executive Order 10530, 19 Fed. Reg. 2709 (May 10, 1954).

IV. CONCLUSION

For the foregoing reasons, the Commission should grant this STA request as expeditiously as possible, and in any event no later than January 9, 2019.

Respectfully submitted,

/s/ Ulises R. Pin

Ulises R. Pin

Denise S. Wood

Morgan, Lewis & Bockius LLP

1111 Pennsylvania Ave., NW

Washington, DC 20004

(202) 373-6000

ulises.pin@morganlewis.com

denise.wood@morganlewis.com

Counsel for GU Holdings Inc.

December 7, 2018

CERTIFICATE OF SERVICE

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

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
(via first class U.S. mail, postage prepaid)

U.S. Coordinator
EB/CIP
U.S. Department of State
2201 C Street, NW
Washington, DC 20520-5818
(via first class U.S. mail, postage prepaid)

David Krech
International Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
(via electronic mail to david.drech@fcc.gov)

Defense Information Systems Agency
Attn: GC/DO1
6910 Cooper Avenue
Fort Meade, MD 20755-7088
(via first class U.S. mail, postage prepaid)

Denise Coca
International Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
(via electronic mail to denise.coca@fcc.gov)

Office of Chief Counsel/NTIA
U.S. Department of Commerce
14th Street and Constitution Ave., NW
Washington, DC 20230
(via first class U.S. mail, postage prepaid)

Tom Sullivan
International Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
(via electronic mail to tom.sullivan@fcc.gov)

Troy Tanner
International Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
(via electronic mail to troy.tanner@fcc.gov)

/s/

Denise S. Wood
December 7, 2018