

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
C/S Venture Investors, L.P.
Carlyle U.S. Venture Partners, L.P.,
Carlyle Venture Partners, L.P.,
Carlyle Venture Coinvestment, L.L.C.,
Transferors,
and
Neptune Global Systems, LLC
Transferee
Application for Approval of the Transfer of
(Indirect) Control of Neptune Pacific License
Corporation, a Corporation Holding a License to
Land and Operate in the United States a
Submarine Fiber Optic Cable
Between the United States and Japan

File No. SCL-T/C-20000519-00020

MEMORANDUM OPINION AND ORDER

Adopted: September 29, 2000

Released: October 2, 2000

By the Chief, Telecommunications Division:

I. INTRODUCTION

1. On May 19, 2000, Neptune Global Systems, LLC ("Neptune Global") and C/S Venture Investors, L.P., Carlyle U.S. Venture Partners, L.P., Carlyle Venture Partners, L.P., and Carlyle Venture Coinvestment, L.L.C. (collectively, Carlyle, and together with Neptune Global, the Applicants), filed an application for approval of the transfer of control of Neptune Pacific License Corporation ("NPLC"), along with its license to land and operate a non-common carrier submarine cable between Pacific City, Oregon and Japan, with a branching unit to Seward, Alaska (the North Pacific Cable) from Carlyle to Neptune Global. The Applicants submitted the

1 On April 22, 1987, the Common Carrier Bureau granted a conditional cable landing license for the Pacific Telecom Cable. See Pacific Telecom Cable, Inc., File No. I-SCL-86-002, Cable Landing License, 2 FCC Rcd 2686 (CCB 1987) (Pacific Telecom Cable Conditional License Order). On November 15, 1989, the Commission granted a final cable landing license for the cable system. See Pacific Telecom Cable, Inc., File No.

application pursuant to the Cable Landing License Act² and Section 1.767 of the Commission's Rules.³ For the following reasons we grant the Applicants' request.

II. BACKGROUND

2. Neptune Global is a Delaware limited liability company, and is owned exclusively by U.S. citizens. All of the directors and officers of NPLC are U.S. citizens, and all of the entities that own, directly or indirectly, any interest in NPLC are controlled by U.S. citizens. Applicants assert that Neptune Global was formed by individuals with extensive experience in the design, construction, operation, and maintenance of submarine fiber optic cable systems. Neptune Global is not a telecommunications carrier nor is it affiliated with a foreign carrier.⁴

3. NPLC holds the license for a non-common carrier submarine cable between Pacific City, Oregon and Japan, with a branching unit to Seward, Alaska. Under the proposal, the transfer of control of NPLC will result from the transfer of control of Neptune Communications, LLC ("Neptune Communications"), which is the indirect parent company of NPLC (Neptune Communications has 100 percent ownership of Neptune Pacific Holdings, Inc., which has 100 percent ownership of NPLC).⁵ Neptune Communications currently is owned by Neptune Global (28.48 percent) and Carlyle (71.52 percent). Neptune Global proposes to acquire Carlyle's 71.52 percent ownership interest in Neptune Communications. As a result of the proposed transaction, Neptune Communications would be a wholly owned subsidiary of Neptune Global, and indirect control of NPLC would pass to Neptune Global. The cable landing license will remain with NPLC, and NPLC will continue to operate the North Pacific Cable on a non-common carrier basis.

I-SCL-86-002(M), 4 FCC Rcd 8061 (1989). On April 2, 1998, the International Bureau's Telecommunications Division approved the transfer of control of the Pacific Telecom Cable from Pacific Telecom, Inc., to Neptune Pacific Holdings. *See Pacific Telecom, Inc., Transferor, and Neptune Pacific Holdings, Inc., Transferee Joint Application for Approval of Transfer of Control of Pacific Telecom Cable, Inc., a Corporation Holding a License to Land and Operate in the United States a Submarine Fiber Optic Cable Between the United States and Japan*, File No. SCL-86-002-M-TC-2, 13 FCC Rcd 6680 (IB/TD rel. Apr. 2, 1998). On May 14, 1999, the Commission approved a *pro forma* assignment of the license to NPLC (SCL-ASG-19990405-00008). Under that *pro forma* assignment, NPLC was assigned the license, but ownership and operation of the cable remained in Pacific Telecom Cable, Inc. (now called PT Cable, Inc.), also a wholly owned subsidiary of Neptune Pacific Holdings, Inc. Applicants assert that, upon consummation of this transaction, both NPLC and PT Cable, Inc., would remain wholly owned subsidiaries of Neptune Pacific Holdings, Inc. *See Application at 2, n. 1.*

² 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").

³ 47 C.F.R. § 1.767.

⁴ *See Application at 2-3.*

⁵ *See id. at 2.*

III. DISCUSSION

4. Applicants request approval for the acquisition by Neptune Global of all of the ownership interest of Neptune Communications held by Carlyle pursuant to the above-described transaction. The application was placed on public notice on June 2, 2000, and no parties filed comments.⁶ Pursuant to Section 1.767(b) of the Commission's rules,⁷ the Cable Landing License Act, and Executive Order No. 10530,⁸ we informed the Department of State of the application.⁹ The Department of State, after coordinating with the National Telecommunications and Information Administration and the Department of Defense, stated that it had no objections to the transfer of control of the cable landing license.¹⁰

5. Under Section 1.767(a)(8) of the Commission's rules, Neptune Global is required to disclose its affiliations with foreign carriers.¹¹ Neptune Global certifies that it is not, and is not affiliated with, a foreign carrier.¹²

6. Applicants assert that consummation of the proposed transaction would serve the public interest for the same reasons the Commission recognized in granting the initial cable landing license in 1987.¹³ For example, Applicants assert that the North Pacific Cable provides additional capacity, enhances competition and service reliability, and promotes technological development in the provision of telecommunications service in the Pacific Ocean region.¹⁴ Applicants assert further that Neptune Global will ensure the continued involvement of experienced personnel in the operation of NPLC and ensure the North Pacific Cable's continued viability.¹⁵ We agree that approval of this transaction will result in public interest benefits by promoting competition in the Pacific Ocean region.

⁶ See Non Streamlined Applications Accepted for Filing, Report No. Tel-00239NS, Public Notice (rel. June 2, 2000).

⁷ 47 C.F.R. § 1.767(b).

⁸ Exec. Order No. 10530, *reprinted as amended in* 3 U.S.C.A. § 301 app. at 459-60 (1994) ("*EO 10530*").

⁹ Letter from George Li, Deputy Chief, Telecommunications Division, International Bureau, Federal Communications Commission, to Steven Lett, Deputy U.S. Coordinator, Office of International Communications and Information Policy, U.S. Department of State (June 1, 2000).

¹⁰ Letter from Ambassador Geoffrey W. Chapman, United States Coordinator, Acting, International Communications and Information Policy, U.S. Department of State, to Donald Abelson, Chief, International Bureau, Federal Communications Commission (Sep. 22, 2000).

¹¹ See 47 C.F.R. § 1.767(a)(8).

¹² See Application at 5.

¹³ See *id.* at 5.

¹⁴ See *Pacific Telecom Cable Conditional License Order*, 2 FCC Rcd at 2687.

¹⁵ See Application at 6.

7. Upon consideration of the application and in view of the foregoing, we conclude that a grant of the application would be consistent with the Cable Landing License Act. We therefore consent to the transfer of control of NPLC from Carlyle to Neptune Global. This Order constitutes a modification of the initial authorization to reflect this transfer of control. We do not modify the initial authorization in any other respect.

IV. ORDERING CLAUSES

8. In consideration of the foregoing and pursuant to the Cable Landing License Act and Executive order No. 10550, 47 U.S.C. §§ 34-39, 3 U.S.C. § 301, IT IS ORDERED that the application, File No. SCL-T/C-20000519-00020 IS GRANTED, and the cable landing license, SCL-86-002, IS MODIFIED to reflect this transfer of control.

10. This Order is issued under Section 0.261 of the Commission's rules, 47 C.F.R. § 0.261, and is effective upon release. 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 public notice of this order (see 47 C.F.R. § 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

Jacquelynn Ruff
Associate Chief, Telecommunications Division
International Bureau