

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C.

In the Matter of

Information Collections Being Reviewed by the
Federal Communications Commission

Cable Landing License Act, 47 C.F.R. §§ 1.767,
1.768, 1.40001, 1.40003, Executive Order 10530

OMB Control Number 3060-0944

FR ID 131013

COMMENTS OF EDGE CABLE HOLDINGS USA, LLC¹

The Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (“Team Telecom” or the “Committee”) currently collects² information for submarine cable landing license applications using materially similar (but constantly expanding) set “triage” questions (the “Standard Questions”) and imposes materially similar security-mitigation obligations on all Applicants not subject to “secondary assessment” under Executive Order 13913 (“Standard Mitigation Obligations”). Neither the Standard Questions nor the Standard Mitigation Obligations have undergone review under the Paperwork Reduction Act (“PRA”).³ In the *PRA Notice*, the Federal Communications Commission (“FCC” or “Commission”) proposes to fix the first half of this long-standing legal deficiency by

¹ Edge Cable Holdings USA, LLC (“Edge USA”) owns and operates U.S.-territory submarine cable infrastructure to support the global platform of its ultimate parent company, Meta Platforms, Inc.

² See Information Collections Being Reviewed by the Federal Communications Commission, Notice and Request for Comments, 88 Fed. Reg. 16253 (Mar. 16, 2023) (“*PRA Notice*”). Because the *PRA Notice* does not list an FCC docket number for filing via ECFS, Edge USA is filing these comments in IB Docket No. 16-155.

³ 4 U.S.C. §§ 3501-3520 (“PRA”).

imposing an obligation on Applicants to use an earlier set of Standard Questions (the “2021 Standard Questions”) as part of the FCC application process. But unless Team Telecom is prohibited from independently issuing its own set of Standard Questions, this new requirement would simply impose duplicative and unduly burdensome efforts with little to no utility, in clear violation of the PRA.⁴

For the reasons described in more detail below, in order to stay within the confines of the PRA, the Commission should either withdraw its request for approval of the 2021 Standard Questions and seek approval of the current Standard Questions used by Team Telecom, or else finalize and require Team Telecom to use 2021 Standard Questions. The Commission should also ensure that any updates by the Committee to the Standard Questions are approved by the Office of Management and Budget (“OMB”) *before* either the Commission or the Committee begins using the questions in its review process. Finally, in the spirit of the Commission’s goals of increasing transparency and efficiency, the Commission should put the Standard Mitigation Obligations on public notice for comment, as they did for the 2021 Standard Questions; subject them to the PRA approval process in a similar fashion; and require Team Telecom to use the Standard Mitigation Obligations ultimately approved by the Commission.

I. BACKGROUND

The Commission requests OMB approval for revisions of its existing information collection in order to incorporate changes from three Commission orders: the *Mandatory Electronic Filing Order*, the *2020 Executive Branch Review Order*, and the *2021 Executive*

⁴ Although these comments focus on the 2021 Standard Questions for cable landing license applications, the issues raised by Edge USA similarly affect the other Standard Questions included within the scope of the *PRA Notice*.

Branch Standard Questions Order.⁵ In the *2020 Executive Branch Review Order*, the Commission adopted rules and procedures to streamline and increase the transparency of the review process for applications for new submarine cable landing licenses and transfers of control and assignments of such licenses.⁶ Among other things, the Commission directed the International Bureau to “draft, update as appropriate, and make available on a publicly available website, a standardized set of national security and law enforcement questions (Standard Questions).”⁷ The Commission also adopted five categories of information for which cable landing license applicants must provide detailed and comprehensive information to the Committee.⁸ These procedures seek to ensure that Team Telecom’s interactions with the Commission’s Applicants pursuant to Executive Order 13913⁹ are consistent with the basic transparency, consistency, and efficiency requirements under the PRA.

In its *2021 Executive Branch Standard Questions Order*, the Commission adopted the 2021 Standard Questions appended as attachments to the *Order*.¹⁰ These are the questions for which the Commission currently seeks OMB approval. In connection with this request for OMB

⁵ See *Mandatory Electronic Filing of Section 325(c) Applications, International Broadcast Applications, and Dominant Carrier Section 63.10(c) Quarterly Reports*, Order, 36 FCC Rcd. 12038 (Off. Int’l Aff. 2021) (“*Mandatory Electronic Filing Order*”); *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, Report & Order, 35 FCC Rcd. 10927 (Off. Int’l Aff. 2021) (“*2020 Executive Branch Review Order*”); and *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, Order, 36 FCC Rcd. 14848 (Off. Int’l Aff. 2021) (“*2021 Executive Branch Standard Questions Order*”).

⁶ See *2020 Executive Branch Review Order*.

⁷ *Id.* ¶ 40.

⁸ *Id.* ¶ 42.

⁹ See Exec. Order No. 13913 § 4(i).

¹⁰ *2021 Executive Branch Standards Questions Order* ¶ 6.

approval, the Commission seeks comment on, among other things, whether its proposed information collections have “practical utility;” “the accuracy of the Commission’s burden estimate;” “ways to enhance the quality, utility, and clarity of the information collected;” and “ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.”¹¹

II. THE CURRENT APPLICATION PROCESS IS RIFE WITH SIGNIFICANT BURDENS, DELAYS AND LACK OF TRANSPARENCY

Despite the Commission’s goals of increasing transparency and streamlining the review process, the process unfortunately remains opaque, complex, and subject to significant delays and timing variability. Currently, an applicant for a cable landing license must submit a response to the most recent Standard Questions issued by Team Telecom, which Team Telecom typically issues within a few weeks after receiving an application referral from the Commission.¹²

Because Team Telecom has continued to update the questionnaires that it uses to assess applications, the current Standard Questions are substantially different in form and include a significant number of new common questions compared to the 2021 Standard Questions, as explained in part III.B below. Unless a company is a frequent applicant, or its counsel frequently represents applicants, before Team Telecom, it would have no way of knowing about the current Standard Questions, as they are not posted publicly anywhere, whether on the Commission’s website or elsewhere.¹³ Such arrangements are neither fair nor transparent. Even for a company

¹¹ *PRA Notice*.

¹² This referral process suffers from its own transparency problems, as the Commission often refers applications beyond the “reportable foreign ownership” criteria set forth in 47 C.F.R. § 1.40001, including most (but not all) cable landing license applications.

¹³ Team Telecom does not maintain a website, issue its own regulations, or publish its own Standard Questions or Standard Mitigation Obligations.

such as Edge USA—which is a frequent applicant—the continual iterative changes make it difficult to prepare for and expedite a review. Although Team Telecom typically requires that a response to Standard Questions be submitted within three weeks of issuance, Edge USA (and its consortium partners, for consortium systems where consortium partners are joint applicants) typically begin work on a questionnaire response—given the most recent version of the Standard Questions that it has seen, with further input from outside counsel—months in advance of filing an application with the Commission. Edge USA does so because the voluminous and burdensome nature of the Standard Questions means that three weeks is not nearly enough time to prepare a complete response. This practical necessity to prepare a questionnaire response well in advance of the application further underscores the importance of having the actual applicable Standard Questions made public in advance of a review.

Advance publication of the current Standard Questions would still not address the significant uncertainty and delay resulting from the issuance of follow-up questions by Team Telecom—what the Commission has sometimes called “tailored questions.” This process is not time-bound and often consists of multiple rounds of follow-up questions that add months to the overall review process in advance of a “completeness determination” under Section 5(b)(iii) of Executive Order 13913, which starts the 120-day clock for an initial review.¹⁴ Publication of the actual Standard Questions used by the Committee would at least avoid the problematic scenario proposed by the Commission in the *PRA Notice*.

¹⁴ Exec. Order No. 13913 § 5(b)(iii).

III. APPROVAL OF THE 2021 STANDARD QUESTIONS WOULD NOT COMPORT WITH THE PRA

A. The PRA Requires Federal Agencies to Ensure the Greatest Possible Benefit and Utility of Information Collected

Federal agencies must comply with the PRA when they seek to collect information from the public. The PRA was designed, among other things, to “ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government” and to “improve the quality and use of Federal information to strengthen decision-making, accountability, and openness in Government and society.”¹⁵ The PRA “sets out processes designed to ensure that both the value of collecting the information and the public burden of providing that information are considered carefully.”¹⁶ Specifically, the PRA requires that OMB approve all collections of information by a federal agency from the public before they can be implemented.

Collections of information include (1) requests for information for transmission to the government, such as application forms and written report forms, (2) reporting or recordkeeping requirements, and (3) third-party or public disclosure requirements. Many information collections, recordkeeping requirements, and third-party disclosure requirements are contained in or authorized by regulations as monitoring or enforcement tools, while others appear in questionnaires and their accompanying instructions.¹⁷

¹⁵ 44 U.S.C. § 3501(2), (4).

¹⁶ OMB, Mem. for the Heads of Executive Departments and Agencies and Independent Regulatory Agencies, *Flexibilities under the Paperwork Reduction Act for Compliance with Information Collection Requirements* at 1 (July 22, 2016), https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/inforeg/inforeg/pra_flexibilities_memo_7_22_16_final.pdf.

¹⁷ OMB, Mem. for Chief Information Officers, General Counsels & Solicitors, *Ensuring Full Compliance with the Information Collection Provisions of the Paperwork Reduction Act* at 3 (Nov. 14, 2001), https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/assets/OMB/inforeg/pra_memo111401.pdf (“OMB Nov. 14, 2001 Memo”).

The PRA “charges OMB with the responsibility of weighing the burdens of the collection on the public against the practical utility it will have for the agency.”¹⁸ “A central goal of OMB review is to help agencies strike a balance between collecting information necessary to fulfill their statutory missions and guarding against unnecessary or duplicative information that imposes unjustified costs on the American public.”¹⁹ “To obtain OMB approval of a collection of information, an agency shall demonstrate that it has taken every reasonable step to ensure that the proposed collection of information:

- (i) “Is the least burdensome necessary for the proper performance of the agency’s functions to comply with legal requirements and achieve program objectives;
- (ii) “Is not duplicative of information otherwise accessible to the agency; and
- (iii) “Has practical utility. The agency shall also seek to minimize the cost to itself of collecting, processing, and using the information, but shall not do so by means of shifting disproportionate costs or burdens onto the public.”²⁰

Additionally, pursuant to the PRA, “agencies shall engage in advance testing of information collections, . . . in order (1) to ensure that they are not unnecessarily complex, burdensome, or confusing, (2) to obtain the best available information about the likely burdens on members of the public (including small businesses), and (3) to identify ways to reduce burdens and to

¹⁸ OMB Nov. 14, 2001 Memo at 3.

¹⁹ OMB, Mem. for the Heads of Executive Departments and Agencies and Independent Regulatory Agencies, *Information Collection under the Paperwork Reduction Act* (Apr. 7, 2010), https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/inforeg/PRAPrimer_04072010.pdf (“OMB Apr. 7, 2010 Memo”).

²⁰ 5 C.F.R. § 1320.5(d)(1)(i)-(iii). *See also* 44 U.S.C. 3506; 5 C.F.R. § 1320.8; OMB Apr. 7, 2010 Memo; OMB, Information Collection Budget, Fiscal Year 1999 at 2, <https://play.google.com/books/reader?id=IcKnySvoA54C&hl=en> (in developing a paperwork clearance request, “the agency needs to demonstrate to OMB that the collection of information is the least burdensome way of obtaining information necessary for the proper performance of its functions, that the collection is not duplicative of others, and that the collection has practical utility”).

increase simplification and ease of comprehension.”²¹ “With respect to Federal forms, simplicity and ease of comprehension are exceedingly important.”²²

B. The PRA Notice Does Not Acknowledge the Committee’s Modifications to the 2021 Standard Questions.

The Commission’s request for OMB approval of the Standard Questions adopted in its *2021 Executive Branch Standards Questions Order* does not satisfy the PRA’s requirements. The Standard Questions from 2021 are no longer used by the Committee. Rather, the Committee uses more recently modified standardized questionnaires in its assessment of applications, including those for the landing in the United States of submarine cables with reportable foreign ownership. Accordingly, PRA approval of the 2021 Standard Questions would result in duplicative and unduly burdensome efforts with little to no utility, because applicants would be required to first submit responses to the 2021 Standard Questions, before submitting responses to whatever questionnaires are currently in use by the Committee.

The *PRA Notice* fails to recognize that the Standard Questions approved in 2021 are substantially different in form and inconsistent in scope with the standard questionnaires currently in use by the Committee. For example, the current set of Standard Questions relating to submarine cable landing station licenses “solicits the initial information” for the Committee’s

²¹ OMB, Mem. for the Heads of Executive Departments and Agencies and Independent Regulatory Agencies, *Testing and Simplifying Federal Forms* at 1 (Aug. 9, 2012), https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/inforeg/inforeg/memos/testing-and-simplifying-federal-forms.pdf (“OMB Aug. 9, 2012 Memo”).

²² *Id.* See also OMB, Mem. for the Heads of Executive Departments and Agencies and Independent Regulatory Agencies, *Reducing Reporting and Paperwork Burdens* at 1 (June 22, 2012), https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/inforeg/inforeg/memos/reducing-reporting-and-paperwork-burdens.pdf (“Eliminating unjustified regulatory requirements, including unjustified reporting and paperwork burdens, is a high priority of this Administration.”) (“OMB June 22, 2012 Memo”).

assessment of an application.²³ Yet the set of 2021 Standard Questions also purportedly “solicits the initial information” that the Committee will consider.²⁴ Plainly, only one of these questionnaires can constitute the Committee’s “initial solicitation” of information. The *PRA Notice* fails to acknowledge this conflict, let alone resolve it.

Further, the *PRA Notice* does not account for the Committee’s substantial changes in its Standard Questions following the Commission’s adoption of those questions in 2021. Current questionnaires issued by Team Telecom overlap substantially in form and content to the Standard Questions approved in the *2021 Executive Branch Standards Questions Order*. But the current questionnaires differ substantially in terms of key definitions, the scope of the questions, and the number of questions as compared with the Standard Questions. The current Standard Questions are significantly longer, with many more questions.²⁵ They include modified key definitions, including differing definitions between standard questionnaires and mitigation instruments, that affect responses to a significant number of questions and scope of compliance obligations. They delve into new substantive areas, such as compliance with the Commission’s Covered List, dealings with foreign adversary companies, and applicants’ unregulated corporate and management networks and operations.²⁶ They require duplication of information already submitted as part of the underlying FCC Application, including basic system and ownership

²³ See Exhibit A, Submarine Cable Landing License Triage Questions (Mar. 2023).

²⁴ See Attach. C, *2021 Executive Branch Standards Questions Order* at 14912.

²⁵ Compare Exhibit A, Submarine Cable Landing License Triage Questions (Mar. 2023) with Attach. C, *2021 Executive Branch Standards Questions Order*.

²⁶ See Exhibit A, Submarine Cable Landing License Triage Questions (Mar. 2023) at Section 1, Questions 11-12, 16.

information. And they include Microsoft Excel spreadsheets for the collection of numerous forms of data (not just personal identifying information of particular individuals).²⁷

While the Standard Questions have evolved over time, the pace of changes has increased considerably over the last 12 months. The Committee itself has repeatedly described the 2023 Standard Questions as “standard,” so they cannot be characterized as tailored questions for individual reviews pursuant to 47 C.F.R. § 1.40004(a). The Committee continues to expand its questionnaires far beyond the scope of the Commission’s jurisdiction and activities covered by particular licenses and authorizations, with no apparent substantive or procedural limits. After approving the Standard Questions in 2021, the Commission appears not to have engaged further with the Committee about evolving questionnaires, and in any event has not exercised oversight over, nor imposed any limits on, the questionnaires. The *PRA Notice* does not indicate what, if anything, the Commission intends to do regarding the updated Standard Questions.

C. Approval of the Obsolete 2021 Standard Questions Does Not Accord with the PRA’s Directives.

Far from being the least burdensome method of obtaining the information, the *PRA Notice* is proposing to increase the burden significantly to cable landing license applicants. Applicants are already required to submit the current version of the Standard Questions after filing an application. The current application process already violates the PRA, as the government has not obtained OMB approval for *any* set of Standard Questions, as evidenced by the fact that the Commission is only now seeking approval for the 2021 Standard Questions.²⁸

²⁷ See Exhibit B, Triage Questionnaire PII Supplement (Mar. 2023); Exhibit C, Triage Questionnaire Supplement (Mar. 2023) (both providing sample data collection templates).

²⁸ See 44 U.S.C. § 3507; 5 C.F.R. § 1320.5; OMB, Mem. for the Chief Information Officers, *Minimizing Paperwork and Reporting Burdens; Data Call for the 2018 Information Collection Budget (FY 2017 Data)* (Aug. 6, 2018), <https://www.whitehouse.gov/wp-content/uploads/2018/08/Minimizing-Paperwork-and-Reporting-Burdens-Data-Call-for-the->

The *PRA Notice* only compounds the issue. The effect of the *PRA Notice* appears to be that applicants will now be forced to submit responses to the 2021 Standard Questions at the time of filing, as required by 47 C.F.R. § 1.40003(b), *in addition* to submitting responses to whichever version of the Standard Questions is actually in use by the Committee at the time of the application. Absent restrictions on the Committee’s use of its own set of standard questions, the *PRA Notice* ensures that applicants will be forced to incur the burden of submitting at least two sets of Standard Questions for every application—the 2021 version for which the Commission seeks PRA approval, and whichever version is in effect when the Committee reviews the application.

Again, because the questionnaires are different in form and scope, the initial questionnaire will likely be immediately superseded by the version the Committee is actually using at any given time. Responding to the current questionnaire (2023 or later vintage), will require drafting and/or redrafting responses in order to address new questions, changes in definitions and scope, or simply in the latest form in which the Committee requires the information be submitted. This is burdensome as well as duplicative. Applicants will have to submit two sets of questionnaires for the same transaction, rather than submitting the correct questionnaire in the first instance. This duplicative process also has little to no practical utility. Neither the Commission nor Team Telecom will use the 2021 Standard Questions to evaluate

[2018-ICB.pdf](#) (“OIRA reports two categories of PRA violations: (1) collections in use without OMB approval and (2) lapses in renewal or discontinuation. Violations falling under the first category, collections in use without OMB approval, occur when the agency fails to receive OIRA approval for the information collection request before it begins to collect information.”); OMB, Information Collection Budget, Fiscal Year 2018 at 10, <https://www.whitehouse.gov/wp-content/uploads/2020/12/2018-ICB-Report-Final.pdf> (“OIRA staff continues to highlight the importance of minimizing duplication, simplification, reducing burden through the use of technology, and focusing on the practical utility of information collected.”).

applications, yet applicants will be required to spend time and resources completing the obsolete 2021 questionnaire.²⁹ And, ironically, the Committee’s use of post-2021 questionnaires that have not gone through the PRA approval process would itself likely constitute a violation of the PRA.

The Commission’s promulgation of the stale 2021 Standard Questions would also undermine the Commission’s twin goals in seeking to reform the process for Executive Branch review of certain applications: increasing transparency and timing predictability. Promulgation of the 2021 Standard Questions would mislead many applicants regarding the substantive nature and scope of Team Telecom reviews and deprive them of the ability to begin preparation of a questionnaire response far in advance of filing an application with the Commission.

This proposal also increases confusion, especially for small businesses or entities that are not repeat players before Team Telecom, as such entities may not be aware that the questionnaire required with the application is not the actual questionnaire that Team Telecom will ultimately require the applicant to complete in order to evaluate the application. Such confusion and “[u]ndue complexity may discourage applications and participation.”³⁰ Additionally, promulgation of the 2021 Standard Questions, and triggering of resubmissions using newer questionnaires, would prolong overall Commission and Committee reviews—which, as described above, are already lengthy and burdensome. Moreover, the *PRA Notice* fails to account for the substance and burden (in hours) that this resubmission process would entail, or to explain the value of responses to stale 2021 Standard Questions.³¹

²⁹ See 44 U.S.C. § 3502(11) (“[T]he term ‘practical utility’ means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion.”).

³⁰ OMB June 22, 2012 Memo.

³¹ Cf. 44 U.S.C. 3506(c)(1)(A)(iv) ([A]gencies must provide “a specific, objectively supported estimate of burden”); OMB Aug. 9, 2012 Memo at 2 (“When renewing information

This is the exact opposite of what the PRA requires. The waste, duplication, and delay of the resubmission process would fail to satisfy PRA requirements to minimize paperwork burden, avoid duplication, and consolidate information requests. Given the already time-consuming nature of the Committee's reviews, the Commission should focus its efforts on making the process less burdensome, not more.

IV. THE COMMISSION SHOULD WITHDRAW THE 2021 STANDARD QUESTIONS AND IMPLEMENT A PROCESS TO ENSURE UP-TO-DATE OMB APPROVALS OF THE STANDARD QUESTIONS

In order to enhance the quality, utility, and clarity of the information collected, as required by the PRA, the Commission should withdraw the 2021 Standard Questions and instead seek comment on Team Telecom's current Standard Questions and any subsequent new or revised Standard Questions—accounting for the substantially greater regulatory burden and greater number of hours required to respond to these longer questionnaires. The Commission should also seek updated OMB approvals on an ongoing basis as the Committee updates the questions, *prior to* the use of the questions in Committee reviews. This would assist the Commission in meeting its PRA obligations, including its obligation to conduct burden reduction initiatives and report on such initiatives to OMB.³²

collection requests, agencies shall, to the extent feasible and appropriate, compile actual evidence about the burden imposed by those requests, and refine or simplify the requests on the basis of such evidence.”).

³² See, e.g., OMB June 22, 2012 Memo (“Agencies should eliminate unnecessary and redundant collections. They should also, where appropriate, streamline existing collections (as, for example, by reducing the number of questions and increasing simplicity).”); OMB, Mem. for the Heads of Executive Departments and Agencies and Independent Regulatory Agencies, *Behavioral Science Insights and Federal Forms* at 2 (Sept. 15, 2015), https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/inforeg/inforeg/memos/2015/behavioral-science-insights-and-federal-forms.pdf (“[A]n agency might consider focusing on those forms that affect the greatest number of respondents, take the longest for respondents to fill out, or are key components to accessing government services. Agencies could also choose to prioritize those forms that present operational concerns, such

For example, the Commission should ensure that the Committee publishes a standard questionnaire, and that the Committee does in fact use that questionnaire in its reviews. This should be coupled with assurances that the Committee start the 120-day review clock once applicants have provided complete responses to the standard questions—not after multiple rounds of bespoke questions with no time horizon.

If it does not withdraw the current proposal, the Commission should take similar steps to ensure that the Committee actually utilizes the 2021 Standard Questions rather than simply making duplicative demands in a different form, or issuing new “standard” questions that have not gone through PRA review.

V. THE COMMISSION SHOULD SEEK COMMENT ON, AND PRA APPROVAL FOR, STANDARD MITIGATION OBLIGATIONS

The question of PRA compliance in Team Telecom information collections is not limited to Standard Questions for reviews. It also includes mitigation conditions in the form of letters of assurances, letters of agreement, and national security agreements, which the Commission incorporates as license and transaction-approval conditions in its authorizations. Section 2(e) of Executive Order 13913 requires that Team Telecom establish “standard mitigation measures,” defined as “those measures agreed upon by the Committee Members (as defined in subsection 3(b) of this order) and Committee Advisors (as defined in subsection 3(d) of this order).”³³ Standard mitigation includes substantial standardized information collections in the form of (among others): (1) notifications for initial disclosures of, and changes to, Principal Equipment, vendors, particular personnel, and licensee services; (2) submission of physical and logical

as high error rates or frequently incomplete responses that require agency resources to follow up, or those that require the most processing time.”).

³³ Exec. Order No. 13913 § 2(e).

security policies and procedures and personnel screening procedures; and (3) annual reports.

There may be slight variations in mitigation across submarine cable systems licensed at the same time, due to the drafting preferences of individual Team Telecom staff members or the ability of applicants and their counsel to negotiate changes, but these variations do not render such information collections as non-standard.

Indeed, Team Telecom’s mitigation conditions are fairly similar to the mitigation instruments used by the Defense Counterintelligence and Security Agency (“DCSA”) to mitigate foreign ownership, control, and influence over cleared contractors holding facility security clearances to perform on classified government contracts. As with Team Telecom mitigation, DCSA’s mitigation templates are modified slightly in particular mitigation cases. Unlike Team Telecom mitigation, however, the suite of mitigation instruments used by DCSA, including a Security Control Agreement, a Special Security Agreement, a Voting Trust Agreement, and a Proxy Agreement, have all received OMB approval under the PRA.³⁴ They are also published on DCSA’s website.³⁵

As it did with the 2021 Standard Questions, the Commission should seek comment on all material aspects of the current Standard Mitigation Obligations, and adopt obligations that incorporate industry stakeholder comment. The Commission should seek PRA approval for, and

³⁴ See 32 C.F.R. § 117.5, 11; National Industrial Security Program, 79 Fed. Reg. 19467, 19469 (Apr. 9, 2014) (“It has been certified that 32 CFR part 117 does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.”); National Industrial Security Program Operating Manual, 85 Fed. Reg. 83300 (Dec. 21, 2020); DCSA, Submission for OMB Review; Comment Request, 84 Fed. Reg. 52077 (Oct. 1, 2019); *see, e.g.*, DCSA, Submission for OMB Review; Comment Request, 87 Fed. Reg. 2422 (Feb. 14, 2022).

³⁵ *Mitigation Agreements*, DCSA (last visited May 15, 2023), <https://www.dcsa.mil/Industrial-Security/Entity-Vetting-Facility-Clearances-FOCI/Foreign-Ownership-Control-or-Influence/Mitigation-Agreements/>.

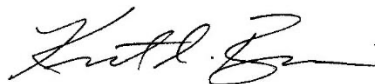
publish, standard Team Telecom mitigation conditions in order to ensure fairness, transparency, and consistency across applicants and submarine cable systems subject to standard mitigation and should also seek comment on the burden of paperwork resulting from standard Team Telecom mitigation conditions.

VI. CONCLUSION

For all of the foregoing reasons, Edge USA urges the Commission to withdraw the 2021 Standard Questions from the PRA approval process, seek comment on Team Telecom's current Standard Questions, and implement a process to ensure that future standard questionnaires are approved prior to the use of the questions in Committee reviews, and commence a similar notice and comment/subsequent PRA process with respect to Standard Mitigation Obligations.

Dated: May 15, 2023

Respectfully submitted,



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EXHIBIT A

**COMMITTEE FOR THE ASSESSMENT OF FOREIGN PARTICIPATION IN THE UNITED STATES
TELECOMMUNICATIONS SERVICES SECTOR**

**Submarine Cable Landing License
Triage Questions**

Submarine Cable Name:

Applicants:

FCC File Number:

Purpose: This list of questions solicits the initial information that the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (“the Committee”) will use to assess any national security and law enforcement concerns raised by the above-referenced Federal Communications Commission (“FCC”) application.

Dissemination of Information: Please note that the information received pursuant to this request and any subsequent requests for information may be shared and used in accordance with Section 8 of Executive Order 13913, Establishing the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector. The information may be disclosed, as appropriate, to the members and advisors of the Committee, other Executive Branch agencies and officials, the FCC, the Judiciary, and Congress, among others.

Instructions

- 1) Complete all Sections:** When a “Yes” answer is indicated, please provide further information as appropriate. In addition to seeking further details regarding your company and its security-related practices, the following questions are particularly directed at identifying and assessing the complete scope of the equipment which you will be operating and the services which you will be offering should the FCC grant those authorities.
- 2) Identify Sensitive Information:** Please specifically mark any documents or answers provided that contain trade secrets or commercial or financial information that is privileged or confidential. Personally Identifiable Information may be submitted in a separate attachment.
- 3) Obligation to Update:** Inform the Committee if there are any material changes to any of the information provided in the triage responses while the Committee’s review is ongoing, including, but not limited to, changes in ownership, equipment, Communications Assistance for Law Enforcement Act (“CALEA”) compliance, etc.
- 4) Response Format:** Please uniquely and sequentially Bates-number your responses to the questions, including any attachments, with an endorsement on each page. The Bates number must be a unique, consistently formatted identifier; the number of digits in the numeric portion of the format should not change in subsequent productions, if any, nor should spaces, hyphens, or other separators be added or deleted. Produce any Excel documents in native format (if desired, you may also produce a PDF version for record keeping purposes).

- 5) Responses Relating to Multiple Entities:** When a question asks for information regarding multiple entities, please create a separate, indented paragraph for each entity's response. Please begin each indented paragraph with the italicized name (or acronym) for the entity responding. If one response applies to multiple entities, it is acceptable to provide a joint response, provided it is marked as such and it is clear to whom the response applies.
- 6) Responses Applicable to Multiple Questions:** To the extent that one response applies to multiple questions, it is acceptable to refer to the earlier-provided response by Section, Question, and Bates number range.

QUESTIONS

Applicant Information

- 1) Provide each Applicant's name, address, principal place of business, and place of incorporation.

Section I: Submarine Cable System Overview

- 1) How many fiber pairs will comprise the submarine cable system and what is its design capacity?
- 2) Identify all the owners of the proposed submarine cable system. If more than one, indicate the ownership percentage.
- 3) Identify which entity owns and/or controls each segment of the cable and which entity owns or controls which fiber pairs and/or what capacity.
- 4) Provide a brief description of the operational purpose of the submarine cable system and the anticipated market segmentation. Provide copies of any Joint Build Agreement, maintenance agreement, or similar document for the submarine cable system, if available.
- 5) Describe the types of services the submarine cable system will deliver and the anticipated customer base.
- 6) Provide a list of the anticipated addresses or physical locations for all of the submarine equipment, transmission/transport equipment, network equipment and infrastructure; who owns/leases it (if leased provide details for the owner); information on any party sharing the facility or equipment; and if it is an existing or new facility, to include, but not be limited to:
 - a) The Network Operations Center ("NOC") and back-up NOC, if any:
 - b) All Submarine Cable Landing Stations ("CLS"):
 - c) All associated data centers and distribution facilities:
 - d) All associated Points of Presence ("POP"):
 - e) Submarine Equipment:
- 7) List current and anticipated vendors, contractors, or subcontractors involved in providing, installing, operating, managing, or maintaining the Principal Equipment¹ ("PE"). For each

¹ For the purposes of this questionnaire, "Principal Equipment" means the primary components of the Domestic Communications Infrastructure ("DCI") and the Wet Plant. Principal Equipment includes: network element servers; routers; switches; repeaters; submarine line terminal equipment ("SLTE"); system supervisory equipment ("SSE");

entity, provide country of incorporation/primary place of business, general business type (*e.g.*, holding company, investment firm, etc.), all business addresses, EIN,² website, and related phone numbers in the attached Service Provider spreadsheet.

- 8) Provide a description of all PE, including a list of functions supported and information related to the manufacturer, model, and/or version number of any such equipment in the attached PE spreadsheet.
- 9) List current and anticipated vendors, contractors, or subcontractors involved in providing maintenance and security for the submarine cable system. For each entity, provide country of incorporation/primary place of business, general business type (*e.g.*, holding company, investment firm, etc.), all business addresses, EIN, website, and related phone numbers in the attached Service Provider spreadsheet.
- 10) Will there be any distributed acoustic sensing technology or other sensor/cable monitoring technology deployed on the cable?
 - a) If yes, describe the particular technology to be used, and the scope, function, and goal of the technology.
 - b) If not already included in the PE and Service Provider spreadsheets, add all vendors and equipment involved in the sensing/monitoring and data collection, processing, and storage.
 - c) If applicable, will the data collected be disclosed to third parties? If so, please detail the company name, business address, EIN, and website, along with the purpose of the disclosure.
 - d) Please provide any policies relating to the technology and data collected.

signal modulators and amplifiers; power feed equipment (“PFE”); tilt and shape equalizer units (“TEQ/SEQ”); optical distribution frames (“ODF”); branching units (“BU”); synchronous optical network (“SONET”), synchronous digital hierarchy (“SDH”), wave division multiplexing (“WDM”), dense wave division multiplexing (“DWDM”), coarse wave division multiplexing (“CWDM”), or optical carrier network (“OCx”) equipment, as applicable; and any non-embedded software necessary for the proper monitoring, administration, and provisioning of the submarine cable system (with the exception of commercial-off-the-shelf (“COTS”) software used for common business functions, *e.g.*, MS Office). “Domestic Communications Infrastructure” or “DCI” means: (a) any portion of the cable system that physically is located in the United States, up to the submarine line terminating equipment, including (if any) transmission, switching, bridging, and routing equipment, and any associated software (with the exception of COTS software used for common business functions, *e.g.*, MS Office) used by or on behalf of the Applicant(s) to provide, process, direct, control, supervise, or manage Domestic Communications; and (b) NOC facilities. Wet Plant means: hardware components installed and residing on the undersea portion of the submarine cable system, including fiber optic cables, repeaters, branching units, and routers (if any). Wet Plant includes all the components used in order to define the topology of the undersea portion of the submarine cable system.

² Employer Identification Number: Federal Tax Identification Number to identify a business entity. Please provide where requested, if available, but it is not essential.

- 11) Please indicate whether the cable owners currently utilize or plan to utilize any equipment or services listed on the FCC’s Covered List. *See FCC, List of Equipment and Services Covered by Section 2 of the Secure Networks Act*, <https://www.fcc.gov/supplychain/coveredlist>. If so, please describe in detail, including a description of any phase out plans.
- 12) Do any of the cable owners currently utilize or plan to utilize any equipment or services directly or indirectly made or provided by an entity on the FCC’s Covered List, regardless of whether the specific equipment or service is listed? If so, please describe in detail.
- 13) Have the cable owners applied for any funding from the FCC’s Secure and Trusted Communications Networks Reimbursement Program (“SCRIP”), also referred to as the Rip and Replace Program? *See FCC, Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, <https://www.fcc.gov/supplychain>. If yes, please describe the application(s) in detail and provide copies of any application documents.
- 14) Are any of cable owners, or any individual or entity holding or controlling greater than a 5 percent equity stake in the cable owners, subject to the FCC’s supply chain annual reporting requirements under Section 5 of the Secure and Trusted Communications Networks Act of 2019 (*see* 47 U.S.C. § 1604) and 47 C.F.R. § 1.50007? *See FCC, Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs—Supply Chain Annual Reporting Requirement*, <https://www.fcc.gov/supplychain>. If so, please describe their most recent annual submission(s) in detail. If available, please provide copies of the certification(s) and/or submission(s).
- 15) Do the cable owners currently use or plan to use logic-bearing (*e.g.*, readable, writable, programmable) hardware, firmware, or software in their networks or systems that (1) support customers in the United States or communications to, from, or within the United States or (2) store U.S. customer content or records from a provider:
- a) Listed on the U.S. Department of Commerce’s Entity List, or
 - b) Subject to a removal or exclusion order issued by the Secretary of Homeland Security, the Secretary of Defense, or the Director of National Intelligence pursuant to the SECURE Technology Act, 41 U.S.C. § 1321 et seq.?
- If so, please detail the equipment, the services it supports, the number of customers affected, why it is used, and any security precautions taken.
- 16) Do the cable owners currently use or plan to use (directly or through a service provider) any services or any equipment with logic-bearing (*e.g.*, readable, writable, programmable) hardware, firmware, or software that was designed, produced, or maintained by suppliers owned or controlled by, or subject to the jurisdiction or direction of, a U.S. Foreign Adversary (as designated by the U.S. Department of Commerce under Executive Order

13873 and its implementing regulations)? If so, please detail the equipment/service provider, why it is used, and any security precautions taken.

- 17) In the attached Government Customers spreadsheet, list all expected and actual Federal, State, and local government customers, including pursuant to any classified contracts, and include a description of all services to be provided, or services that are currently being provided, to such customers.
- 18) To the extent not covered by previous responses, do the Applicants provide or expect to provide services to government agencies and/or public service entities that provide services used in emergency communications such as law enforcement or fire and rescue? If yes, please identify these government agencies and/or public service entities in the Government Customers spreadsheet.

Section II: Overview of Submarine Cable System Owners

- 1) Identify each individual or entity, whether direct or indirect, holding or controlling greater than a 5 percent equity stake in each submarine cable system owner (whether voting or non-voting), highlighting any foreign entities or foreign government-controlled entities. Please be sure to include the ultimate parent owner of each cable owner and any other companies/individuals owning more than a 5 percent equity stake in the chain of ownership.
- a) For each such individual or entity, include a clear explanation of involvement in the submarine cable system owner, including whether they will have a management role.
- b) For each such individual or entity, provide all identifying information, as follows:
- i) For individuals, provide name (to include all names and aliases used by that person), country of citizenship (indicate whether the individual is a dual citizen and all countries where citizenship is held), date and place of birth, U.S. alien number and/or social security number (if applicable), passport identifying information (including number and country), all residence addresses, all business addresses, and all phone numbers.³
- ii) For entities, provide country of incorporation/primary place of business, general business type (*e.g.*, holding company, investment firm, etc.), EIN, website, all business addresses, and related phone numbers in the attached Owners (Entities) spreadsheet.
- 2) Please describe the creation of the Applicant companies, including a description of when and why (*e.g.*, to own and operate the Cable System) they were established.

³ See attached Personally Identifiable Information (“PII”) supplement with exemplary format for such identification information.

- 3) Please generally describe the operations of the Applicant companies, including a description of the anticipated number and type of employees.
- 4) Please describe in detail governance of the Applicants, to include membership, observer rights, special rights, or nomination rights, and a description of such rights and a statement as to the composition of the Applicant(s)'s board or other governing body.
- 5) Will "limited partners" (or equivalent structure) in investment funds hold any ultimate equity or voting interest in the Applicants? If yes:
 - a) Please briefly describe the limited partners in each fund (*e.g.*, U.S. or foreign? Which countries? Individuals or entities? What types of entities? U.S. or foreign government-controlled entities? Approximately how many investors are there?).
 - b) Please provide identifying information for any foreign government or foreign government-owned/controlled/affiliated limited partners (name, country, address, amount of ownership).
 - c) Are the limited partners "insulated" under the FCC's definition (47 C.F.R. § 1.5003)?
 - d) If so, please provide the terms of the shareholder agreement that insulates the limited partners and advise if there are circumstances under which they might become uninsulated.
 - e) If not already described, detail what, if any, formal or informal, influence, control, or access limited partners will have over/to the Applicants.
 - f) Please detail any formal or informal arrangements among foreign persons that hold an ownership interest in the Applicants or their owner(s) and foreign persons to act in concert on particular matters affecting the company(ies), and provide a copy of any documents that establish those rights or describe those arrangements.
- 6) To the extent not already explained, please generally describe what role, if any, each individual or entity holding or controlling greater than a 5 percent equity stake in each cable owner will have in the day-to-day management, control, governance, operation, and/or oversight of the Applicants. This response should include, but not be limited to, any of these entities' or individuals' expected abilities (whether or not codified in a legal document) to:
 - a) Hold one or more seats on the board of directors and/or board of managers for the Applicants (or similar governing bodies);
 - b) Direct the decisions of the Applicants, including involvement in substantive decision making related to critical infrastructure, critical technologies, or sensitive customer data;
 - c) Access networks or facilities belonging to the Applicants; and/or

- d) Review, edit, or otherwise access data regarding the Applicants' customers / subscribers and/or traffic on their networks.
- 7) Please provide the dollar amount that each cable owner has/will invest in the submarine cable system.
- 8) What is the source of funding for each cable owner's investment?
- 9) Please provide a detailed ownership structure diagram for each cable owner showing each individual or entity holding or controlling a greater than 5 percent equity stake in the cable owners.
- 10) List all other subsea cables systems in which each cable owner or its parents have equity and detail the amount of equity each owner holds in each cable system.
- 11) Do any of the submarine cable system owners have existing (or planned) relationships/partnerships (formal or informal) with any foreign companies, foreign governments, and/or any foreign government-controlled companies? Yes ☐ No ☐
- If yes, explain the nature of the relationship, including whether the relationship currently exists and/or is intended to continue in the future, and indicate whether the relationship/partnership includes or will include a management role by any foreign companies and/or any foreign government-controlled companies. Provide the name(s) of any individuals associated with such foreign companies and/or foreign government-controlled companies who will serve in a management role.
- 12) Will any foreign government or foreign political party, directly or indirectly, have any direction, control, or influence over any activity of the Applicants? If yes, please describe in detail.
- 13) Do the submarine cable system owners currently operate or plan to operate a website? Yes ☐ No ☐ If yes, provide all URL addresses for any current or known future sites and describe whether the information therein is up to date.
- 14) For each member of the Applicant(s)'s senior management team, list the names (where applicable) of the CEO (Chief Executive Officer), President, CFO (Chief Financial Officer), CIO (Chief Information Officer), CTO (Chief Technical Officer), COO (Chief Operating Officer), Senior VPs, and any other positions involved in exercising day-to-day management responsibilities: **(a)** Explain the nature and extent of each senior manager's involvement in the Applicant's business; and **(b)** Provide each senior manager's name (all names and aliases used by the individual), citizenship (indicate whether the individual is a dual citizen, list all countries of citizenship), date and place of birth, U.S. alien number and/or social security number (if applicable), passport identifying information (including number and country), all

residence addresses, all business addresses, and all phone numbers in the attached PII spreadsheet.

15) Identify whether the Applicants maintain, or intend to maintain, a senior officer or employee (who is a U.S. citizen residing in the United States with an active security clearance or who is eligible to obtain one) who will be the point of contact for law enforcement concerns, including responding to requests or compulsory processes from U.S. law enforcement or other U.S. government agencies.

a) If a law enforcement point of contact is maintained, or is intended to be maintained, please explain the relationship to Applicants and in the PII spreadsheet provide name, all countries of citizenship, date and place of birth, U.S. social security number (if applicable), all passport identifying information (including number and country), all residence addresses, all business addresses, and all phone numbers. Please also identify whether the individual has an active U.S. Government security clearance.

b) Identify whether, if required by law, regulation, or a license condition, the Applicants will report to the appropriate law enforcement agencies, immediately upon discovery:

i) Any act of compromise of a lawful interception of communications?

Yes ☐ **No** ☐

ii) Any unauthorized access to customer information and/or call-identifying information?

Yes ☐ **No** ☐

iii) Any act of unlawful electronic surveillance that occurred on their premises or via electronic systems under their control?

Yes ☐ **No** ☐

iv) Any felony (an offense carrying a maximum potential sentence of a term of imprisonment of more than a year) conviction, U.S. or foreign, of the Applicants, any company officers/directors, or any individual/company with 5 percent or greater ownership interest in the Applicants?

Yes ☐ **No** ☐

16) Has the Applicant or its parent(s) been involved in bankruptcy proceedings, or any other legal proceeding undertaken for the purpose of liquidating, reorganizing, refinancing, or otherwise seeking relief from all or some of the Applicant's debts, in any jurisdiction over the past 5 years? **Yes ☐ **No** ☐ If so, please detail.**

17) Has the Applicant, any company officers/directors, or any individual/company with 5 percent or greater ownership interest⁴ in the Applicant ever been involved or associated with a

⁴ "Ownership interest" in these questions should include the ultimate parent/owner of the Applicant and any other companies/individuals in the chain of ownership.

previous application to the FCC? **Yes** ☐ **No** ☐ If yes, please provide application identifying information; describe any resulting authorizations or licenses granted; and identify and provide a copy of any related mitigation agreements, including any letters of agreement or national security agreements.

- 18)** Has the Applicant, any company officers/directors, or any individual/company with 5 percent or greater ownership interest in the Applicant ever been blocked, sanctioned, penalized, or had an authorization or other permission revoked by the FCC? **Yes** ☐ **No** ☐ If yes, please provide details.
- 19)** Has the Applicant, any company officers/directors, or any individual/company with 5 percent or greater ownership interest in the Applicant ever been involved or associated with a previous filing to the Committee on Foreign Investment in the United States (“CFIUS”) **Yes** ☐ **No** ☐ If yes, please provide filing identifying information.
- 20)** Has the Applicant, any company officers/directors, or any individual/company with 5 percent or greater ownership interest in the Applicant ever been blocked, sanctioned, penalized, or had an authorization or other permission prohibited, suspended, or revoked by CFIUS? **Yes** ☐ **No** ☐ If yes, please provide details.
- 21)** Has the Applicant, any company officers/directors, or any individual/company with 5 percent or greater ownership interest in the Applicant, ever been convicted of any felony (an offense carrying a maximum potential sentence of a term of imprisonment of more than a year) in the United States or any other country? To include any settlements or negotiated resolutions, non-prosecution agreements, or deferred prosecution agreements. **Yes** ☐ **No** ☐ If yes, please provide details, including name(s) of company officials and/or company involved, dates, offenses, jurisdiction/court, sentence.
- 22)** Has the Applicant, any company officers/directors, or any individual/company with 5 percent or greater ownership interest in the Applicant, ever been subject to any criminal, administrative, or civil penalties imposed for violating the regulations of the FCC, the U.S. Department of State, the U.S. Department of the Treasury (to include, but not be limited to, the Internal Revenue Service, the Office of Foreign Assets Control, the Financial Crimes Enforcement Network (“FinCEN”), and the Office of the Comptroller of the Currency), the U.S. Department of Energy, the U.S. Department of Commerce, the U.S. Federal Trade Commission, the U.S. Securities and Exchange Commission, the U.S. Environmental Protection Agency, the World Bank Group, or the U.S. Commodity Futures Trading Commission, or for violating the regulations of any comparable state or foreign agency? To include any settlements or negotiated resolutions, non-prosecution agreements, or deferred prosecution agreements. **Yes** ☐ **No** ☐ If yes, please provide details, including name(s) of company officials and/or company involved, dates, violations, agency, penalty, and if a fine was imposed, status of payment.

23) Has the Applicant, any company officers/directors, any individual/company with 5 percent or greater ownership interest in the Applicant, or any associated foreign entities, ever been on the Specially Designated Nationals And Blocked Persons List (“SDN List”), the BIS Unverified List or Entity List in 15 C.F.R. part 744, or equivalent list of the United Nations Security Council or European Union?

Yes ☐ No ☐ If yes, please provide details.

24) Have any of the submarine cable system owners, any company officers/directors, or any individual/company with 5 percent or greater ownership interest in the owners, ever been charged with, penalized for, or convicted of any of the following:

a) Criminal violations of U.S. law, including espionage-related acts or criminal violations of the International Trade in Arms Regulations (“ITAR”) or the Export Administration Regulations (“EAR”) ? Yes ☐ No ☐

b) Deceptive sales practices, violations of the Consumer Fraud Act and regulations, and/or other fraud or abuse practices whether pursuant to Federal, State, or local law? Yes ☐ No ☐

c) Violations of any laws (Federal, State, or local) in connection with the provision of telecommunications services, equipment and/or products and/or any other practices regulated by the Telecommunications Act of 1996 and/or by state public utility commissions? Yes ☐ No ☐

If yes to any of the above, please describe in detail, including name(s) of company officials and/or company involved, date(s), and current status or final disposition of matter, including any terms of settlement. Please provide any available supporting documentation.

25) Please provide an estimate of the Applicants’ and their owners’ current market share of submarine cable transmission capacity in the [relevant geographic] market. How will this market share change when the Cable System goes into service?

Section III: Security Overview⁵

1) What, if any, outside capabilities via remote access will exist for the submarine cable system owners to control or monitor operations over the network (e.g., audit mechanisms, record access monitoring)? If remote access is available, please provide a copy of the remote access security policy, if available. If no such policy is available, please describe in detail any remote access procedures.

2) Will any third party vendors, associated companies, or investors have remote access/monitoring to the network, systems, or records? If so, please provide additional

⁵ For the purposes of these questions, the entities controlling the cable operations and security, directly or indirectly, should answer, including those entities involved in securing and/or providing physical and logical access to the cable; maintaining U.S. records; and selecting, installing, and maintaining PE and service providers.

details, *i.e.*, third party identifying information, role, and reason for their access, in the attached Service Provider spreadsheet.

- 3) What access control provisions, physical and logical security policies are in place for your submarine cable system for day-to-day operations and maintenance? If the policies exist and are available in writing, please provide copies of these policies.

- 4) Do the submarine cable system owners have any screening and/or vetting procedures which will be applied to U.S. or non-U.S. persons (employees, contractors, or others) who have access, remote or otherwise, to the submarine cable system owners' facilities, equipment, or data? **Yes** ☐ **No** ☐

If yes, please provide copies of the written procedures. If these procedures are not available in writing, please explain all such procedures in detail.

- 5) What provision will be made to monitor suspicious activity occurring over the paths of the cable?

- 6) Will any non-U.S. citizen, including management, have access to one or more of the following:

- a) Physical facilities and/or PE? **Yes** ☐ **No** ☐

If yes, provide identity of person(s) in the attached PII spreadsheet and explain the type of access and records that will be provided.

- b) Network control, monitoring, and/or auditing features, including any NOC facilities? **Yes** ☐ **No** ☐

If yes, provide identity of person(s) in the attached PII spreadsheet and explain the type of access and records that will be provided.

- c) Communications content and data? **Yes** ☐ **No** ☐

If yes, provide identity of person(s) in the attached PII spreadsheet and explain the type of access and records that will be provided.

- d) Customer and billing records? **Yes** ☐ **No** ☐

If yes, provide identity of person(s) in the attached PII spreadsheet and explain the type of access and records that will be provided.

- 7) Will the submarine cable system owners store and/or maintain any domestic communications content, customer records, or billing records? **Yes** ☐ **No** ☐ If so:

- a) Describe what types of records will be stored.

- b) Provide all addresses of locations where such records will be stored and/or remotely accessed/managed via electronic systems. If the cable owners utilize cloud storage for records, please identify the cloud provider(s), if applicable, in the attached Service

Provider spreadsheet. Please also identify the location(s) of any relevant data centers utilized for cloud storage.

- c) If any storage location differs from the submarine cable system owners' primary business address, explain the general purpose of the location and its function within the cable owners' business.
 - d) Describe all physical and electronic security measures utilized for all locations/systems to protect the confidentiality of records.
- 8) Describe all lawful intercept capabilities of the submarine cable system owners to include switching platforms, mediation devices, and use of third party service providers for provisioning and delivery. Please identify any relevant third party service providers in the attached Service Provider spreadsheet.
- 9) Do the cable owners have a cybersecurity and/or supply chain risk assessment program(s)? If yes, please describe in detail, including whether they engage assessors, consultants, auditors, or other third parties in connection with any such program.
- 10) Do the cable owners have policies and procedures designed to oversee and identify cybersecurity and supply chain security risks associated with their use of third party service and equipment providers (including, but not limited to, those providers that have access to their customer and employee data)? If so, please describe in detail or provide copies of any written policies.
- 11) If applicable, how do cybersecurity and supply chain security considerations affect the cable owners' selection and oversight of third party service and equipment providers? What contractual and other mechanisms are used to mitigate cybersecurity and/or supply chain risks related to these providers?
- 12) Do/will the cable owners' supply chain risk assessments, if any, of PE and services include an analysis of potential nation-state cyber threats related to the original equipment manufacturer; the service provider/equipment manufacturer's ultimate beneficial ownership; and/or the location of the service provider's/manufacture's employees? If so, please describe in detail.
- 13) Please generally describe what actions the cable owners will take to prevent, detect, and minimize the impact of cybersecurity and supply chain incidents. For example, if not previously described, please describe any business continuity, contingency, and recovery plans for cybersecurity and supply chain incidents. Please provide copies of any relevant written policies, if available.
- 14) Do and/or will the cable owners consider cybersecurity and supply chain risks as part of their business strategy, risk management, financial planning / oversight, and capital allocation? If yes, please describe.

- 15)** Who at the cable owners is responsible for the oversight of cybersecurity and supply chain risks, *e.g.*, the entire board(s) of directors / managers, specific board members, and/or a board committee? Please also describe:
- a)** How the board(s) of directors / managers are informed about cybersecurity and supply chain risks;
 - b)** Whether certain management positions or committees are responsible for measuring and managing cybersecurity and supply chain risks (including prevention, mitigation, detection, and remediation of incidents); and the relevant expertise of such managers or committees; and
 - c)** Whether the cable owners have a chief information security officer or similar position, and if so, to whom the individual reports and that individual's expertise.
- 16)** Please describe the cable owners' policies and procedures for asset management and replacement. If a policy is available, please provide a copy.
- 17)** If applicable, have the cable owners inspected their networks for products or systems that have been affected by the Log4j vulnerability? If so, please describe.
- 18)** Have the cable owners taken the steps to mitigate the vulnerability as recommended by the Cybersecurity and Infrastructure Security Agency ("CISA"), the Federal Bureau of Investigation ("FBI"), and the National Security Agency ("NSA") in Alert (AA21-356A): [Mitigating Log4Shell and Other Log4j-Related Vulnerabilities | CISA](#) or subsequent CISA publications?

If mitigation is still a work in progress:

- a)** What is the cable owners' strategy for detecting compromises resulting from Log4j vulnerabilities? Please describe how the cable owners are mitigating risk while remediation occurs and identify any attack or compromise they have experienced already.
 - b)** How are the cable owners directing their mitigation efforts? Please list any outside firms the cable owners have contracted to assist in monitoring and mitigation in the Service Provider spreadsheet, as well as identify resources they are using to guide their mitigation efforts (*e.g.*, DHS/CISA, vendor patching websites, etc.), and what stage of mitigation they are in (*e.g.*, identifying affected systems, installing patches).
 - c)** Have the cable owners identified any products or systems that have been affected by the vulnerability, but do not yet have a patch or cannot be patched? If so, which, and how do the cable owners plan to address the issue?
- 19)** Have the cable owners been in contact with their service providers and/or vendors to confirm they are taking the steps to mitigate the vulnerability as recommended by CISA, the FBI, and

the NSA in Alert (AA21-356A): [Mitigating Log4Shell and Other Log4j-Related Vulnerabilities | CISA](#) or subsequent CISA publications?

- a) Have the cable owners identified any products or services that have been affected by the vulnerability, but do not yet have a patch or cannot be patched? If so, which, and how do they plan to address the issue?

20) Security Incidents: If the answer is “yes” to any of the questions below, please provide details (who, what, when, where, why, and how). In the past five years, have the cable owners:

- a) Experienced a loss of the confidentiality, integrity, and/or accessibility of U.S. communications, U.S. records, or U.S. infrastructure?
- b) External Threat: Experienced any unauthorized external access or damage to their networks, records, equipment, or systems? (For example, hacking, distributed denial-of-service (“DDOS”) attacks, supply chain attacks, etc.)
- c) Insider Threat: Experienced unauthorized access (or access exceeding authorization), disclosure, or damage to their networks, records, equipment, or systems from an employee, service provider, equipment provider, or other vendor?

Section IV: Submarine Cable System Network Overview

1) Please provide:

- a) A network topology map or diagram that includes end-to-end physical and logical topology;
- b) Network and telecommunications architecture descriptions and associated descriptions of interconnection points and controlled gateways to the DCI and Wet Plant;
- c) Network operational plans, processes, and procedures; and
- d) Descriptions of interfaces and connections to the cable system for service offload, disaster recovery, or administrative functions.

2) Please provide an end-to-end map of the cable route, including xy coordinates.

3) Please identify and describe the segments of the Applicant(s)’s cable network (*e.g.*, corporate network to host internal email; management network to control the proposed cable; production network to deliver services to cable customers; core; edge; etc.).

- a) Identify the function of each segment and what systems are hosted/controlled by each.

- b) Identify which segment(s) control and/or host U.S. customer records (customer information and traffic information); U.S. Lawful Process; PE; and U.S. domestic communications and which system(s) (or software) are used on that segment.
 - c) Describe how each segment of the network is protected (*e.g.*, firewalls, demilitarized zones (“DMZ”), separate credentials, etc.) and how it is accessed from other segments. If a policy exists on the subject, please provide a copy.
- 4) Will the cable owners require multifactor authentication for their corporate, management, and/or production networks? If so, please describe in detail how this is implemented and provide a copy of any relevant policies.
 - 5) What encryption products/technologies, if any, have or will be installed on the cable owners’ networks?
 - 6) Are the submarine cable system owners or their affiliates able to control operations at any POP, data center, and/or NOC from any overseas locations? **Yes** ☐ **No** ☐
If yes, what is the nature of the foreign-based control?
 - 7) Explain how disaster recovery will be managed, including interconnection mechanisms with other submarine cable landings for restoration in the case of outages due to cable disruptions. Identify any third parties who will be contracted for the restoration and/or repair of damaged cables in the attached Service Provider spreadsheet. Provide a copy of a restoration plan for the submarine cable system, if available.
 - 8) Will the cable owners use interconnecting carriers and/or establish public or private peering relationships? **Yes** ☐ **No** ☐ If yes, provide details, including an identification of the relevant interconnecting carriers and/or peering partners in the Peering and Transit Partners spreadsheet.
 - 9) If available, please provide the cable owner(s)’s peering/transit and routing security policy. If there is no written policy, please describe in detail the cable owner(s)’s normal or planned procedures.
 - 10) Will the submarine cable system owners rely on underlying carrier(s) to furnish services to their customers and/or resell any services? **Yes** ☐ **No** ☐
If yes, provide details and list whose services and what services will be resold in the Underlying Carriers spreadsheet.
 - 11) Do and/or will the cable owners have a business relationship, including a peering relationship, with any of the following entities, for which the FCC has denied or revoked their FCC licenses?
 - a) China Telecom (Americas) Corporation: **Yes** ☐ **No** ☐

- i) If yes, please describe the relationship in detail, including a description of whether any China Telecom (Americas) Corporation employees, contractors, or affiliates have or will have access to the cable owners' data, networks, or facilities.
- ii) If applicable, please describe how, if at all, the cable owners anticipate this relationship will change given the FCC's revocation of China Telecom (Americas) Corp.'s domestic and international Section 214 authorizations. *See In the Matter of China Telecom (Americas) Corp.*, FCC File Nos. ITC-214-20010613-00346, ITC-214-20020716-00371, ITC-T/C-20070725-00285, GN Docket No. 20-109, Order on Revocation and Termination, FCC-21-114 (Nov. 2, 2021), <https://www.fcc.gov/document/china-telecom-americas-order-revocation-and-termination>.
- b) China Unicom (Americas) Operations Limited: Yes ☐ No ☐
- i) If yes, please describe the relationship in detail, including a description of whether any China Unicom (Americas) Operations Limited employees, contractors, or affiliates have or will have access to the cable owners' data, networks, or facilities.
- ii) If applicable, please describe how, if at all, the cable owners anticipate this relationship will change given the FCC's revocation of China Unicom (Americas) Operations Limited's domestic and international Section 214 authorizations. *See In the Matter of China Unicom (Americas) Ops. Ltd.*, FCC File Nos. ITC-214-20020728-00361, ITC-214-20020724-00427, GN Docket No. 20-110, Order on Revocation, FCC 22-9 (Feb. 2, 2022), <https://www.fcc.gov/document/china-unicom-americas-order-revocation>.
- c) Pacific Networks Corp. and ComNet (USA) LLC: Yes ☐ No ☐
- i) If yes, please describe the relationship(s) in detail, including a description of whether any Pacific Networks Corp. and/or ComNet (USA) LLC employees, contractors, or affiliates have or will have access to the cable owners' data, networks, or facilities.
- ii) If applicable, please describe how, if at all, the cable owners anticipate this relationship will change given the FCC's revocation of Pacific Networks Corp.'s and ComNet (USA) LLC's domestic and international Section 214 authority. *See In the Matter of Pacific Networks Corp. and ComNet (USA) LLC*, FCC File Nos. ITC-214-20090105-00006, ITC-214-20090424-00199, GN Docket No. 20-111, Order on Revocation and Termination, FCC-22-22 (Mar. 23, 2022), <https://www.fcc.gov/document/fcc-revokes-pacific-networks-comnets-telecom-service-authority-0>.
- d) China Mobile International (USA) Inc.: Yes ☐ No ☐

- i) If yes, please describe the relationship in detail, including a description of whether any China Mobile International (USA) Inc. employees, contractors, or affiliates have or will have access to the cable owners' data, networks, or facilities.
- ii) If applicable, please describe how, if at all, this relationship changed after the FCC denied China Mobile International (USA) Inc.'s international Section 214 application. *See In the Matter of China Mobile International (USA) Inc.*, FCC File No. ITC-214-20110901-00289, Memorandum Op. and Order, FCC-19-38, 34 FCC Rcd. 3361 (May 10, 2019), <https://www.fcc.gov/document/fcc-denies-china-mobile-telecom-services-application-0>.

Section V: Submarine Cable System Critical Infrastructure Services

- 1) Will the submarine cable system provide services to any sectors of U.S. critical infrastructure? Yes ☐ No ☐ If yes, please check all that apply:
- | | |
|---|---|
| a. <input type="checkbox"/> Defense Industrial Base | i. <input type="checkbox"/> Information Technology |
| b. <input type="checkbox"/> U.S. Intelligence Community | j. <input type="checkbox"/> Chemical |
| c. <input type="checkbox"/> Emergency Services
(i.e., Federal, state, local law enforcement, fire, police) | k. <input type="checkbox"/> Commercial Facilities |
| d. <input type="checkbox"/> Government Facilities
(i.e., Federal, state, local entities) | l. <input type="checkbox"/> Agriculture and Food Supply |
| e. <input type="checkbox"/> Banking and Finance | m. <input type="checkbox"/> Health Care |
| f. <input type="checkbox"/> Nuclear Reactors, Materials, or Waste | n. <input type="checkbox"/> National Monuments |
| g. <input type="checkbox"/> Drinking Water and Water Supply | o. <input type="checkbox"/> Transportation |
| h. <input type="checkbox"/> Energy | p. <input type="checkbox"/> Postal Shipping |
| | q. <input type="checkbox"/> Dams |
| | r. <input type="checkbox"/> Other (Please explain) |
- 2) If the submarine cable system provides or will provide services to any sectors of U.S. critical infrastructure, answer the below as it relates to each type of service provided:
- a) Does the submarine cable system have any service contracts with entities in these sectors?
 - b) In what manner are/will the service(s) be delivered to its customers?
 - c) What kind of network infrastructure is/will be utilized to deliver the service(s)?
 - d) What equipment (manufacturer, make, and model) and software version is/will be utilized to provide the service(s)?

WARNING

If an Applicant knowingly and willfully (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, the Applicant may be subject to prosecution under Title 18, United States Code, Section 1001 and any authorization or license issued by the FCC may be revoked.

Applicant Certification⁶

Pursuant to Title 28, United States Code, Section 1746, I, an authorized representative of the Applicant _____, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this _____ day of _____, year of _____.

Representative Name: _____

Representative Title: _____

Representative Signature: _____

⁶ Each applicant should certify.