

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE APPLICATION OF VOLO)
COMMUNICATIONS OF DELAWARE, INC., FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY TO PROVIDE LOCAL EXCHANGE AND)
COMPETITIVE INTRASTATE TELECOMMUNICATIONS)
SERVICES WITHIN THE STATE OF DELAWARE, AND) PSC DOCKET No. 03-531
FOR REVIEW OF A PLAN FOR PROVIDING INTRA-)
LATA TOLL DIALING PARITY IN ACCORDANCE WITH)
FEDERAL COMMUNICATIONS COMMISSION REQUIRE-)
MENTS (FILED DECEMBER 11, 2003 AND AMENDED)
JUNE 29, 2004))

FINDINGS AND ORDER NO. 6453

AND NOW, to-wit, this 6th day of July, 2004, the Public Service Commission ("PSC" or the "Commission") makes the following findings, determination, and Order:

1. On December 11, 2003, Volo Communications of Delaware, Inc. ("Volo"), filed with the Commission an application for a Certificate of Public Convenience and Necessity ("CPCN") to allow it to provide local exchange and competitive intrastate telecommunications services within Delaware. On June 29, 2004, Volo amended its application. Volo has also filed an illustrative tariff setting forth the terms and conditions for its proposed services and its proposed dialing parity plan; and

2. Public notice of the application, including a period for filing objections, was published in The News Journal newspaper on May 4, 2004 and the Delaware State News newspaper on January 14, 2004. No comments nor objections to the application have been received. The Commission Staff reports that Volo has shown that it has the financial, technical, and managerial capabilities as required for a certificate as set forth in the Commission's "Rules for the Provision of

Telecommunications Services."¹ On June 14, 2004, Volo filed a performance bond in the amount of Ten Thousand Dollars (\$10,000), with corporate surety licensed to do business in Delaware; and

3. The Commission determines that a conditional CPCN should be granted to Volo authorizing it, as a public utility, to offer local exchange telecommunications services under the provisions of the Commission's "Rules for the Provision of Telecommunications Services;"

4. The Commission determines that a CPCN should be granted to Volo authorizing it, as a public utility, to offer competitive intrastate telecommunications services under the provisions of the Commission's "Rules for the Provision of Telecommunications Services;"

Now, therefore, **IT IS ORDERED:**

1. That, pursuant to 26 Del. C. §§ 203A and 703(3) and the Commission's "Rules for the Provision of Telecommunications Services," a conditional Certificate of Public Convenience and Necessity is granted to Volo Communications of Delaware, Inc., to operate as a public utility and provide local exchange telecommunications services as described in the application filed on December 11, 2003 and amended on June 29, 2004.

2. That, pursuant to 26 Del. C. §§ 203A and 703(3) and the Commission's "Rules for the Provision of Telecommunications Services," a Certificate of Public Convenience and Necessity is granted to Volo Communications of Delaware, Inc., to operate as a public utility and provide competitive intrastate telecommunications services as described in the application filed on December 11, 2003 and amended on June 29, 2004.

¹Adopted in PSC Order No. 5833 (eff. Dec. 10, 2001).

3. That Volo Communications of Delaware, Inc., shall provide local exchange and competitive intrastate telecommunications services in the manner required by the Commission's "Rules for the Provision of Telecommunications Services," and shall, at all times, comply with all applicable provisions of such Rules. Volo Communications of Delaware, Inc., shall also file all returns and pay all assessments and fees as may be required by the provisions of 26 Del. C. §§ 114 and 115.

4. That the Certificate for local exchange telecommunications services is awarded upon, and subject to, the following conditions:

- (a) That ten (10) days prior to the date Volo Communications of Delaware, Inc., intends to offer and implement local exchange telecommunications services, Volo Communications of Delaware, Inc., shall file a tariff or price list with rules, regulations, terms, and conditions of service specifically adopted for Delaware; and
- (b) That Volo Communications of Delaware, Inc., has a Commission approved interconnection agreement or a filed "opt-in" agreement between Volo Communications of Delaware, Inc., and Verizon Delaware Inc., or another certificated local exchange carrier.

5. That the intraLATA toll dialing parity plan filed by Volo Communications of Delaware, Inc., is approved with the modification expressed in Staff's recommendation in their June 30, 2004 memorandum. The Commission reserves the right to revisit the approval granted here if changed circumstances or complaints (from either consumers or competitors) raise concerns that "real world" implementation of the

intraLATA toll dialing parity plan of Volo Communications of Delaware, Inc., does not allow for customers to exercise informed choice in the selection of an intraLATA toll carrier.

6. That the provisions of *26 Del. C. § 208(b)* are waived, and Volo Communications of Delaware, Inc., is authorized to maintain its books and records relating to its Delaware operations outside of the State of Delaware provided, however, and upon the condition that, all such books and records relating to Delaware operations as the Commission may deem it reasonably necessary from time to time, to review and copy, shall be provided to the Commission at the Commission's Office within the State of Delaware in a timely manner upon written request by the Commission's Chief of Technical Services or Executive Director. The conduct of such a review at a location other than Delaware shall be at the Applicant's expense.

7. That Volo Communications of Delaware, Inc., shall comply with all state and federal statutes and rules relating to a customer's selection of a preferred carrier of telecommunications services. Volo Communications of Delaware, Inc., agrees to pay all fees, assessments, penalties, and allowed damages arising from a violation of such state and federal statutes or rules pertaining to the selection of a preferred carrier.

8. That a violation of the "Rules for the Provision of Telecommunications Services" may result in suspension or revocation of this Certificate.

9. That the Commission reserves the jurisdiction and authority to enter such further Orders in this proceeding as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

Vice Chair

/s/ Donald J. Puglisi
Commissioner

/s/ Joann T. Conaway
Commissioner

Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary