

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

IN THE MATTER OF THE APPLICATION OF)
BANDWIDTH.COM CLEC, LLC, D/B/A)
BANDWIDTH.COM, FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO PROVIDE LOCAL)
EXCHANGE AND COMPETITIVE INTRASTATE)
TELECOMMUNICATIONS SERVICES WITHIN THE) PSC DOCKET NO. 07-291
STATE OF DELAWARE, AND FOR REVIEW OF A)
PLAN FOR PROVIDING TOLL DIALING PARITY IN)
ACCORDANCE WITH FEDERAL COMMUNICATIONS)
COMMISSION REQUIREMENTS)
(FILED OCTOBER 25, 2007))

FINDINGS AND ORDER NO. 7367

This 21st day of February, 2008, the Public Service Commission ("PSC" or the "Commission") makes the following findings, determination, and Order:

1. On October 25, 2007, Bandwidth.com CLEC, LLC, d/b/a Bandwidth.com ("Bandwidth.com" or "the Company"), filed with the Commission an application for a Certificate of Public Convenience and Necessity ("CPCN") that would allow it to provide local exchange and competitive intrastate telecommunications services within Delaware. Bandwidth.com also filed an illustrative tariff setting forth the terms and conditions for its proposed services and its proposed dialing parity plan.

2. Bandwidth.com, as part of its application for CPCNs, expressly sought a waiver of the provisions of Rule No. 4(f)(ii) of the Commission's "Rules for the Provision of Telecommunications Services" regarding the filing of a Bond and Surety and, on February 11, 2008, Bandwidth.com filed an irrevocable letter of credit in the amount of Ten Thousand Dollars (\$10,000) to act as the necessary security required under the "Rules for the Provision of Telecommunications Services."

3. Public notices of the application, including a period for filing objections, were published in the Delaware State News and The News Journal newspapers on January 18, 2008. No comments nor objections to the application have been received. The Commission Staff reports that Bandwidth.com has shown that it has the financial, technical, and managerial capabilities required for a certificate as set forth in the Commission's "Rules for the Provision of Telecommunications Services."¹

4. The Commission determines that a conditional CPCN should be granted to Bandwidth.com authorizing it, as a public utility, to offer local exchange and competitive intrastate telecommunications services under the provisions of the Commission's "Rules for the Provision of Telecommunications Services," until the Company completes the conditions described in Ordering Paragraph 4.

5. The Commission determines that a CPCN should be granted to Bandwidth.com 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 Bandwidth.com CLEC, LLC, d/b/a Bandwidth.com, to operate as a public utility and provide local exchange telecommunications services as described in the application filed on October 25, 2007.

¹Adopted in PSC Findings, Opinion, and Order No. 5833 (Nov. 6, 2001) and as amended in PSC Order No. 6839 (Feb. 7, 2006).

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 Bandwidth.com CLEC, LLC, d/b/a Bandwidth.com, to operate as a public utility and provide competitive intrastate telecommunications services as described in the application filed on October 25, 2007.

3. That Bandwidth.com CLEC, LLC, d/b/a Bandwidth.com, 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. Bandwidth.com CLEC, LLC, d/b/a Bandwidth.com, 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:²

- (a) That ten (10) days prior to the date Bandwidth.com CLEC, LLC, d/b/a Bandwidth.com, intends to offer and implement local exchange telecommunications services, Bandwidth.com CLEC, LLC, d/b/a Bandwidth.com shall file a tariff or price list with rules, regulations, terms, and conditions of service specifically adopted for Delaware; and
- (b) That Bandwidth.com CLEC, LLC, d/b/a Bandwidth.com, has a Commission approved interconnection agreement

²These conditions must be completed within 6 months of the date of this Order.

or a filed "opt-in" agreement between Bandwidth.com CLEC, LLC, d/b/a Bandwidth.com, and Verizon Delaware LLC, or another certificated local exchange carrier.

5. That the intraLATA toll dialing parity plan filed by Bandwidth.com CLEC, LLC, d/b/a Bandwidth.com, is approved with the modification expressed in Staff's recommendation in their February 13, 2008 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 Bandwidth.com CLEC, LLC, d/b/a Bandwidth.com, 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 Bandwidth.com CLEC, LLC, d/b/a Bandwidth.com, 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 Deputy Director or Executive Director. The conduct of such a review at a location other than Delaware shall be at the Applicant's expense.

7. Bandwidth.com CLEC, LLC, d/b/a Bandwidth.com, shall comply with all state and federal statutes and rules relating to a customer's selection of a preferred carrier of telecommunications services. Bandwidth.com CLEC, LLC, d/b/a Bandwidth.com, 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 the Commission hereby waives the application of Rule 4(f)(ii) because the Applicant has filed with the Commission an irrevocable letter of credit in the amount of Ten Thousand Dollars (\$10,000) to act as the necessary security required under the "Rules for the Provision of Telecommunications Services."

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

10. 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

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary