

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
MOMENTUM TELECOM, INC., FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY TO)
PROVIDE LOCAL EXCHANGE AND COMPETITIVE) PSC DOCKET NO. 08-146
INTRASTATE TELECOMMUNICATIONS SERVICES)
WITHIN THE STATE OF DELAWARE)
(FILED JUNE 12, 2008))

FINDINGS AND ORDER NO. 7455

This 23rd day of October, 2008, the Public Service Commission ("PSC" or the "Commission") makes the following findings, determination, and Order:

1. On June 12, 2008, Momentum Telecom, Inc. ("Momentum" 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. Momentum also filed an illustrative tariff setting forth the terms and conditions for its proposed services.

2. Public notices of the application, including a period for filing objections, were published in the Delaware State News and The News Journal newspapers on August 8, 2008. No comments nor objections to the application have been received. The Commission Staff reports that Momentum 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 On October 2, 2008, Momentum also filed an irrevocable letter of credit in the amount of Ten Thousand Dollars (\$10,000) to act as the necessary security

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

required under the "Rules for the Provision of Telecommunications Services."

3. The Commission determines that a conditional CPCN should be granted to Momentum 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" until the Company completes the conditions described in Ordering paragraph 4; and

4. Momentum has requested a waiver of the requirement to file an intraLATA toll dialing parity plan at this time because Momentum will provide only transport and access services and will not provide dial-tone, switched access, or switched services of any type, and will not require the exchange of calls through any local exchange carrier.

5. The Commission determines that a CPCN should be granted to Momentum 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 Momentum Telecom, Inc. to operate as a public utility and provide local exchange telecommunications services as described in the application filed on June 12, 2008.

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 Momentum

Telecom, Inc. to operate as public utility and provide competitive intrastate telecommunications services as described in the application filed on June 12, 2008.

3. That Momentum Telecom, 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. Momentum Telecom, 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:²

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

5. That the Commission grants the request of Momentum Telecom, Inc. to waive the requirement that it file and the Commission approve an

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

intraLATA toll dialing parity plan at this time. If, in the future, Momentum Telecom, Inc. proposes to offer end-use customers access to local and long distance telecommunications services, it shall so notify the Commission and submit any required intraLATA toll dialing parity plan.

6. That the provisions of 26 Del. C. § 208(b) are waived, and Momentum Telecom, 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 Executive Director. The conduct of such a review at a location other than Delaware shall be at the Applicant's expense.

7. That Momentum Telecom, Inc. shall comply with all state and federal statutes and rules relating to a customer's selection of a preferred carrier of telecommunications services. Momentum Telecom, 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

/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