

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

IN THE MATTER OF THE APPLICATION)
OF BAY COUNTRY COMMUNICATIONS,)
INC. D/B/A BCCIT, LLC FOR)
A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY)
TO PROVIDE TELECOMMUNICATION) PSC DOCKET NO. 15-1606
SERVICES WITHIN THE STATE)
OF DELAWARE (SUBMITTED)
DECEMBER 1, 2015; FILED)
MARCH 2, 2016))

ORDER NO. 8859

AND NOW, this 22nd day of March, 2016, the Delaware Public Service Commission (the "Commission") determines and orders the following:

WHEREAS, on March 2, 2016, Bay Country Communications, Inc. d/b/a BCCiT, LLC ("BCCiT, LLC" or the "Company") filed a completed application (the "Application") with the Commission seeking a Certificate of Public Convenience and Necessity ("CPCN") to allow it to provide telecommunications services within the State of Delaware. BCCiT, LLC also requested a waiver of the requirements of 26 *Del. C.* §208(b); and

WHEREAS, BCCiT, LLC provided the appropriate affidavit of publication of notice of the Application in Coastal Point and The Sussex County Post. The Commission Staff ("Staff") reports that it received no formal comments or objections regarding the Application within the required 20-day notice period; and

WHEREAS, on February 9, 2016, BCCiT, LLC filed a request that the Company not be required to secure an interconnection agreement with an incumbent carrier. In support of such request, BCCiT, LLC stated that it

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is a facilities-based fiber network and will not need a wholesale agreement because it is not reselling services. In addition, BCCiT, LLC asserted that, at least at the outset, it will not offer switched voice services and has no current plans to exchange traffic with any incumbent provider in the traditional way. Thus, BCCiT, LLC argues that entering into an interconnection agreement with any provider is unnecessary at this time and will delay the ability of Delaware customers to purchase services from it; and

WHEREAS, because traditional interconnection is unnecessary for BCCiT, LLC to provide its services to Delaware customers and would not be used in connection with its proposed operations, BCCiT, LLC respectfully submits that no useful purpose would be served by requiring it to enter into an interconnection agreement; and

WHEREAS, because BCCiT, LLC is only seeking the CPCN in order to gain access to the right-of-way to install dark fiber connectivity to commercial institutions in Sussex County, and the Company will not be providing switched access services, a tariff is not required and has not been provided with the Application; and

WHEREAS, Staff reports that BCCiT, LLC has provided sufficient information evidencing that it has the financial, technical, and operational capabilities required for a CPCN as set forth in the

Section 203A of Title 26 of the Delaware Code and the Commission's "Rules for the Provision of Telecommunications Services," 26 *Del. Admin. C.* §4001 (the "Rules"); and

WHEREAS, the Commission determines that a CPCN should be granted to BCCiT, LLC to authorize it, as a public utility, to offer

telecommunications services under the provisions of 26 Del. C. §203A and the Rules subject to the conditions set forth below;

**NOW THEREFORE, IT IS ORDERED BY THE AFFIRMATIVE VOTE
OF NOT FEWER THAN THREE COMMISSIONERS:**

1. That pursuant to 26 Del. C. §203A and Subchapter VII-A, Chapter 1 of Title 26 of the Delaware Code and the Rules, the Commission grants to Bay Country Communications, Inc. d/b/a BCCiT, LLC a CPCN to operate as a public utility and provide telecommunications services in Sussex county, Delaware as described in the Application. This grant of the Application is expressly conditioned on the pledge that BCCiT, LLC will not initiate any traditional switched services or any service that requires the incumbent carrier to assist in terminating or exchanging traditional analog traffic prior to entering into an interconnection agreement or similar agreement with an incumbent and submitting such agreement to the Commission.

2. That if BCCiT, LLC changes its business plans in the future and decides to offer voice-grade telecommunications services, or expand its services into other counties in Delaware, it shall notify the Commission of its decision to offer such services and first obtain a Commission-approved interconnection agreement or the equivalent Commission approval before offering such voice-grade services.

3. That if BCCiT, LLC changes its business plan and decides to expand its any of its service offerings into other counties in Delaware, it shall notify the Commission of its decision and amend its Application and first obtain Commission approval to expand its CPCN.

4. That BCCiT, LLC shall provide telecommunications services in the manner required by the Rules and at all times shall comply

with all applicable provisions of the Delaware Code, the Commission's Rules and Regulations, and all other applicable laws, rules, regulations, and orders.

5. That the provisions of 26 *Del. C.* §208(b) are waived, and BCCiT, LLC 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, BCCiT, LLC shall provide to the Commission at its Dover, Delaware office, in a timely manner and upon the written request of the Commission's Executive Director, all such books and records relating to BCCiT, LLC's Delaware operations as the Commission may deem reasonably necessary from time to time for review and copying. If the Commission must review the Delaware-related books and records of BCCiT, LLC at a location other than at the Commission's Dover, Delaware office, BCCiT, LLC shall pay for the expenses of such review.

6. That a violation of this Order, the Commission's Rules and Regulations, or other applicable law, rule, regulation, or order may result in suspension or revocation of the CPCN.

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

BY ORDER OF THE COMMISSION:

Chair

Commissioner

Commissioner

Commissioner

Commissioner

ATTEST:

Secretary