

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

IN THE MATTER OF THE SALE, RESALE,)
AND OTHER PROVISIONS OF INTRASTATE)
TELECOMMUNICATIONS SERVICES) PSC REGULATION DOCKET NO. 10
(OPENED MAY 1, 1984; REOPENED)
NOVEMBER 17, 1998; REOPENED JULY 24,)
2001; REOPENED AUGUST 9, 2005;)
REOPENED AUGUST 19, 2014))

IN THE MATTER OF THE DEVELOPMENT OF)
REGULATIONS FOR THE FACILITATION OF)
COMPETITIVE ENTRY INTO THE TELECOM-) PSC REGULATION DOCKET NO. 45
MUNICATIONS LOCAL EXCHANGE SERVICE)
MARKET (OPENED NOVEMBER 21, 1995;)
REOPENED NOVEMBER 17, 1998; REOPENED)
JULY 24, 2001, REOPENED AUGUST 9,)
2005; REOPENED AUGUST 19, 2014))

IN THE MATTER OF THE PROPOSED ADOPTION))
OF REGULATIONS GOVERNING THE MINIMUM)
SERVICE REQUIREMENTS FOR THE PROVISION) PSC REGULATION DOCKET NO. 20
OF TELEPHONE SERVICE FOR PUBLIC USE)
WITHIN THE STATE OF DELAWARE)
(OPENED DECEMBER 13, 1988; REOPENED)
AUGUST 19, 2014))

ORDER NO. 8695

AND NOW, this 6th day of January, 2015:

WHEREAS, on August 19, 2014, the Commission reopened PSC Regulation Docket Nos. 10, 45 and 20 to update the telecommunications rules in light of the passage of Delaware House Bill No. 96 which took effect on July 15, 2013;

AND WHEREAS, the proposed revisions to the Regulation Docket Nos. 10 & 45, "Rules For the Provision of Telecommunications Services", include deleting obsolete definitions and delete rules the Commission no longer has authority to enforce, and limits the

PSC Regulations 10, 45 and 20, Order No. 8695 Cont'd

certification requirements of new carriers, who want to provide telecommunications services in Delaware;

AND WHEREAS, the rules for Regulation Docket No. 20, "Regulation Governing the Minimum Service Requirements For the Provision of Telephone Service for Public Use Within the State of Delaware", are being withdrawn;

AND WHEREAS, notice of these revisions have been published in the Delaware Registrar on October 1, 2014, the News Journal on August 26, 2014 and the Delaware State News on August 27, 2014;

AND WHEREAS, Verizon Delaware LLC. submitted written comments supporting Staff's proposed revisions and The Surety & Fidelity Association of America filed written comments recommending that the bonding requirement should remain in the rules pertaining to telecommunications service providers seeking Certificates of Public Convenience and Necessity to provide telecommunications services within the State of Delaware for the collection of customer deposits and advances;

AND WHEREAS, Hearing Examiner R. Campbell Hay held a public comment session on November 19, 2014 in the Carvel State Office Building located in Wilmington, Delaware and Verizon Delaware LLC was the only interested party besides Staff that attended and stated on the record that it supported the proposed rules;

AND WHEREAS, Staff filed a report with the Hearing Examiner on December 1, 2014 recommending that the Commission adopt the proposed rules attached as Exhibit A in PSC Order No. 8618 dated August 19, 2014 and that the Commission consider this matter directly and hold an evidentiary hearing on January 6, 2015 to consider this matter;

AND WHEREAS, on December 4, 2014, Hearing Examiner Hay sent a letter to Robert Howatt, Executive Director, recommending that this matter should be considered by the Commission on January 6, 2015. A public notice of the evidentiary hearing was published in the Delaware State News and the News Journal on December 9, 2014;

AND WHEREAS, an evidentiary hearing on this matter was held on January 6, 2015 before members of the Commission at the Commission's regularly scheduled meeting;

NOW, THEREFORE, THE COMMISSION HAS CONSIDERED THE RECORD OF EVIDENCE AND IT IS ORDERED:

1. That the Commission hereby adopts and approves in its entirety the Rules attached as **Exhibit "A"**.
2. That the Acting Secretary shall transmit this Order, together with the attached **Exhibit "A"** to the Registrar of Regulations for publication in the February 2015 Registrar.
3. That the effective date of this Order shall be the later of February 11, 2015 or ten days after the publication in the Register of Regulations.
4. The Commission reserves the jurisdiction and authority to enter such Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

/s/ Harold B. Gray
Commissioner

ATTEST:

/s/ Donna Nickerson
Acting Secretary

E X H I B I T "A"

Public Service Commission

4001 Rules for the Provision of Telecommunications Services (Dockets 10 and 45)

Docket 10	The Sale, Resale and Other Provisions of Intrastate Telecommunications Services
Docket 45	Regulations For The Facilitation of Competitive Entry into the Telecommunications Local Exchange Service Market

Effective: December 10, 2001

PART A
CERTIFICATION AND REGULATION OF CARRIERS

1.0 Definitions

"Carrier" shall mean any person or entity offering to the public Telecommunications service that originates or terminates with the State of Delaware. The term "Carrier" does not include:

- Any political subdivision, public or private institution of higher education or municipal corporation of this State or operated by their lessees or operating agents that provides telephone service for the sole use of such political subdivision, public or private institution of higher learning or municipal corporation;
- A company that provides telecommunications services solely to itself and its affiliates or members or between points in the same building, or between closely located buildings which are affiliated through substantial common ownership and does not offer such services to the available general public;
- Providers of domestic public land mobile radio services provided by cellular technology excluded from the Commission's jurisdiction under 26 *Del.C.* §202(c);
- Payphone service providers regulated by this Commission under Rules promulgated in Regulation Docket No. 12; and
- Providers of Voice over Internet Protocol or other IP-enabled service as defined in 26 *Del. C.* § 202(i)...

"CPCN" shall mean a Certificate of Public Convenience and Necessity issued by the Commission.

"Commission" shall mean the Public Service Commission of Delaware.

"Local Telecommunications Exchange Service" shall mean non-toll, intrastate Telecommunications Services provided over a Local Exchange Carrier's network, including, but not limited to, exchange access services and basic local services.

"Rules" shall mean these Rules, including PARTS A and B, governing the provision of telecommunications services in Delaware.

"Telecommunications" shall mean the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form and content of the information as sent and received.

"Telecommunications Service" shall mean the offering of telecommunications for a fee directly to the public within the State of Delaware (originating or terminating within the State, without regard to how the Carrier decides to route the traffic), or to such classes of users as to be effectively available to the public, regardless of the facilities used. "Telecommunications Service" does not include:

- The rent, sale, lease or exchange for other value received, of customer premises equipment, except for specialized terminal equipment as defined in 48 U.S.C. §610(g);

- Telephone or telecommunications answering services, paging services, and physical pickup and delivery incidental to the provision of information transmitted through electronic or electromagnetic media, including light transmission;
- The one-way distribution of entertainment services or informational services with no more than incidental customer interaction required for selection of such entertainment or information services; and
- Telecommunications service provided by either primary cellular technology or by domestic public land mobile radio service, even in the event that such transmission originates or terminates in a wireline telephone.

2.0 Applicability

These Rules shall apply to all new Carriers, as defined by these Rules, and shall be construed consistently with Rule 3 of these Rules.

3.0 Application With Other Rules or Regulations

3.1 Rules of Practice and Procedure.

The practice and procedure governing any proceedings required or authorized by these Rules shall be as set forth by the Commission's Rules of Practice and Procedure adopted in PSC Docket No. 99-9, by Order No. 5057 (April 6, 1999) as the same may be hereafter from time to time amended. See 1001 General Regulations.

4.0 Certification

4.1 Certification Requirement.

No person or entity shall offer public intrastate or local exchange telecommunications service within the State of Delaware without first obtaining from the Commission a Certificate of Public Convenience and Necessity authorizing such service. A Carrier offering telecommunications service within the State of Delaware without a CPCN duly issued by this Commission is acting unlawfully and shall immediately cease offering such service until a CPVN is granted.

4.2 Application.

An applicant for a CPCN shall file with the Commission in the format described in 26 Del. Admin. C. § 1001-1.6.3, together with the statutory filing fee set forth in 26 *Del. C.* §114, as the same may from time to time be amended. Such application shall contain all the information and exhibits hereinafter required and may contain such additional information as the applicant deems appropriate to demonstrate to the Commission that it possesses the technical, financial and operational ability to adequately serve the public and that the public convenience and necessity requires or will require the operation of such business. If the applicant fails to provide the required information and exhibits within six months of the application, the Commission may take action to close this docket and the applicant will forfeit its application fee.

4.3 Notice.

The applicant shall serve a notice of the filing of such application upon the Public Advocate, and to such other entities as may be required by the Commission. The applicant shall provide public notice of the filing of the application in one (12) newspaper having general circulation throughout the county or counties where service is to be offered in a form to be prescribed by the Commission.

4.4 Business License and Registered Agent.

An applicant shall demonstrate that it is legally authorized and qualified to do business in the State of Delaware, including that it has received authorization to do business issued by the Secretary of State. An applicant shall provide the name, address, and telephone number of its Delaware Resident Agent. Following certification, all Carriers shall promptly notify the Commission in writing of changes of Resident Agent or the name, address, or telephone number thereof.

4.5 Initial Tariffs or Price Lists.

An applicant shall file proposed initial rates, prices, rules, regulations, terms and conditions of service for switched access services . Any revisions to this tariff must be filed with the Commission. An applicant may file tariffs or price lists for other services or provide a website link to its tariff or price list which the Commission will post on its website.

4.6 Demonstration of Fitness.

4.6.1 An applicant shall be required to demonstrate to the Commission its financial, operational, and technical ability to render service within the State of Delaware. Such demonstration shall include, but is not limited to, the following:

4.6.1.1 The applicant's certified financial statements current with twelve (12) months of the filing, and, where applicable, the most recent annual report to shareholders and SEC Form 10-K;

4.6.1.2 A brief narrative description of the applicant's proposed operations in Delaware, any present operations in all other states, and states for which service applications are pending;

4.6.1.3 A description of the relevant operations experience of applicant's personnel principally responsible for the proposed Delaware operations;

5.0 Abandonment or Discontinuation of Service

A Carrier may abandon or discontinue service, in whole or in part, in accordance with the terms of 26 *Del. C.* § 706(d) for carriers electing to be governed under subchapter VIIA of Title 26 or § 203(A)(c), for non-electing carriers. .

6.0 Services to be provided by Carriers providing local telecommunications exchange service

6.1 Any Carrier providing local telecommunications exchange service shall provide to its customers:

6.11 Access to 911 enhanced emergency system;

6.12 Access to telecommunications relay service.

4003 Regulations Governing the Minimum Service Requirements for the Provision of Telephone Service for Public Use within the State of Delaware

THESE RULES ARE BEING DELETED.