

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

IN THE MATTER OF THE APPLICATION OF ATC)
OUTDOOR DAS, LLC FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY TO)
PROVIDE LOCAL EXCHANGE AND COMPETITIVE)
INTRASTATE TELECOMMUNICATIONS SERVICES) PSC DOCKET NO. 09-562
WITHIN THE STATE OF DELAWARE, AND FOR)
REVIEW OF A PLAN FOR PROVIDING INTRALATA)
TOLL DIALING PARITY IN ACCORDANCE WITH)
FEDERAL COMMUNICATIONS COMMISSION)
REQUIREMENTS (FILED DECEMBER 30, 2009))

ORDER NO. 7757

AND NOW, this 20th day of April 2010:

WHEREAS, on December 30, 2009, ATC Outdoor DAS, LLC ("ATC" or "the Company"), 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. ATC has also filed an illustrative tariff setting forth the terms and conditions for its proposed services; and

WHEREAS, public notice of the application, including a period for filing objections, was published in the Delaware State News newspaper on February 1, 2009 and in The News Journal newspaper on January 21, 2009. No comments or objections to the application have been received. The Commission Staff reports that ATC has shown that it has the financial, technical, and managerial capabilities as required for a CPCN as set forth in the Commission's "Rules for the Provision of Telecommunications Services." (the "Rules"). See 26 Del. Admin. C §4001, et. seq. On March 26, 2010, ATC filed a Surety Bond in the amount of Fifty Thousand Dollars (\$50,000); and

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

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

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 ATC Outdoor DAS, LLC, to operate as a public utility and provide local exchange telecommunications services as described in the application filed on December 30, 2009.

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 ATC Outdoor DAS, LLC, to operate as a public utility and provide competitive intrastate telecommunications services as described in the application filed on December 30, 2009.

3. That ATC Outdoor DAS, LLC 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. ATC Outdoor DAS, LLC 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:¹

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

5. That the provisions of 26 Del. C. §208(b) are waived, and ATC Outdoor DAS, 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 Deputy Director or Executive Director. The conduct of such a review at a location other than Delaware shall be at the Company's expense.

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

¹These conditions must be completed within 6 months of the date of this Order.

7. 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/ Alisa Carrow Bentley
Secretary