

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
CHESAPEAKE FIBER, LLC FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND NECESSITY TO)
PROVIDE COMPETITIVE LOCAL EXCHANGE) PSC Docket No. 12-178
TELECOMMUNICATIONS SERVICES WITHIN THE)
STATE OF DELAWARE (FILED APRIL 5, 2012))

ORDER NO. 8190

AND NOW, this 21st day of August 2012, the Commission determines and orders the following:

WHEREAS, on April 5, 2012, Chesapeake Fiber, LLC("CF") filed an application (the "Application") with the Delaware Public Service Commission (the "Commission") seeking a Certificate of Public Convenience and Necessity ("CPCN") to allow it to provide competitive local exchange telecommunications services within the State of Delaware. With its Application, CF also filed an illustrative tariff setting forth the terms and conditions of its proposed services; and

WHEREAS, public notice of the Application, including a period for filing objections, was published in The News Journal and the Delaware State News newspapers on April 30, 2012. The Commission Staff ("Staff") reports that it received no formal comments or objections on the Application but did receive an e-mail from the Delaware Department of Transportation ("DelDOT"), which expressed concern over CF's use of the state's rights-of-way. According to Staff, PSC rules do not require commitments from CPCN applicants regarding their use of the state's rights-of-way but that DelDOT has consent authority over

access to the state's right-of-ways and may place reasonable conditions on that consent; and

WHEREAS, Staff also reports that CF, a Maryland corporation, represents that it recently has received authorization to provide telecommunications services in Maryland and the District of Columbia and is also seeking authorization in Virginia. Staff also reports that CF has shown that it has the financial, technical, and managerial capabilities required for a CPCN as set forth in the Commission's "Rules for the Provision of Telecommunications Services." See 26 *Del. Admin. C.* §4001 (the "Rules"); and

WHEREAS, the Commission determines that a CPCN should be granted to CF to authorize it, as a public utility, to offer local exchange and other competitive intrastate telecommunications services under the provisions of the Commission's Rules subject to the condition that CF completes the conditions described in the Ordering Paragraphs;

**NOW THEREFORE, IT IS 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" (26 *Del. Admin. C.* §4001) (the "Rules"), a Certificate of Public Convenience and Necessity ("CPCN") is hereby granted to Chesapeake Fiber, LLC to operate as a public utility and provide competitive local telecommunications exchange as described in the Application filed on April 5, 2012. Such CPCN is effective on the date of this Order.

2. That Chesapeake Fiber, LLC shall provide intrastate telecommunications services in the manner required by the Commission's Rules and at all times shall comply with all applicable provisions of such Rules. Chesapeake Fiber, 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. Chesapeake Fiber, LLC shall also obtain consent from the Delaware Department of Transportation before entering into the state's rights-of-way, in accordance with 26 *Del. C.* §901, *et. seq.* and 2 *Del. Admin. C.* §2401.

3. That the CPCN for local exchange telecommunications services is awarded upon, and subject to, the following conditions:¹

- (a) That ten (10) days prior to the date Chesapeake Fiber, LLC intends to offer and implement local exchange telecommunications services, Chesapeake Fiber, LLC shall file with the Commission an initial tariff, with rules, regulations, terms, and conditions of service specifically adopted for Delaware; and
- (b) That, before filing an initial tariff, Chesapeake Fiber, LLC either (i) shall have in place a Commission-approved interconnection agreement or (ii) shall file an "opt-in" agreement between Chesapeake Fiber, LLC and Verizon Delaware LLC or another certificated local exchange carrier.

4. That the provisions of 26 *Del. C.* § 208(b) are waived, and Chesapeake Fiber, LLC is authorized to maintain outside of the State

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

of Delaware its books and records relating to its Delaware operations; provided, however, and upon the condition that, Chesapeake Fiber, 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 Chesapeake Fiber, 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 Chesapeake Fiber, LLC at a location other than at the Commission's Dover, Delaware office, Chesapeake Fiber, LLC shall pay for the expenses of such review.

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

6. 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:

/s/ Dallas Winslow
Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jeffrey J. Clark
Commissioner

Commissioner

Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary