

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 ) PSC DOCKET NO. 12-178  
PROVIDE LOCAL EXCHANGE TELECOMMUNICATIONS) )  
SERVICES WITHIN THE STATE OF DELAWARE ) )  
(FILED APRIL 5, 2012) ) )

IN THE MATTER OF THE PETITION FOR A )  
WAIVER OF CHESAPEAKE FIBER, LLC )  
REGARDING THE APPLICATION FOR A )  
CERTIFICATE OF PUBLIC CONVENIENCE AND ) PSC DOCKET NO. 13-86  
NECESSITY TO PROVIDE COMPETITIVE LOCAL ) )  
EXCHANGE TELECOMMUNICATIONS SERVICES ) )  
WITHIN THE STATE OF DELAWARE ) )  
(FILED JANUARY 16, 2013) ) )

**ORDER NO. 8312**

**AND NOW**, this 5<sup>th</sup> day of March, 2013, the Commission determines and orders the following:

**WHEREAS**, on April 5, 2013, Chesapeake Fiber, LLC ("Chesapeake") 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; and

**WHEREAS**, pursuant to 26 Del. C. §203A and the Commission's "Rules for the Provision of Telecommunications Services," 26 Del. Admin. C. §4001 et seq., the Commission granted to Chesapeake in Order No. 8190 (August 21, 2012) a conditional CPCN to operate as a public utility and to provide competitive local telecommunications exchange as described in its Application; and

**WHEREAS**, Paragraph 3(b) of Order No. 8190 requires that before Chesapeake files a tariff with the Commission, Chesapeake must either (i) have in place a Commission-approved interconnection agreement or (ii) file an "opt-in" agreement between Chesapeake and Verizon Delaware LLC or another certificated local exchange carrier; and

**WHEREAS**, on January 16, 2013, Chesapeake filed a petition ("Petition") that requested a waiver of the Commissioner's interconnection requirement as set forth in Paragraph 3(b) of Order No. 8190; and

**WHEREAS**, in support of such Petition, Chesapeake stated that it is a facilities-based fiber network and will not need a wholesale agreement because it is not reselling services. In addition, Chesapeake 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, Chesapeake 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 Chesapeake to provide its services to Delaware customers and would not be used in connection with its proposed operations, Chesapeake respectfully submits that no useful purpose would be served by requiring it to enter into an interconnection agreement; and

**WHEREAS**, a waiver of the interconnection agreement will not adversely impact the ability of Chesapeake to offer services in Delaware, so there should be no negative impact to Delaware customers or to the public if Chesapeake's Petition is granted; and

**WHEREAS**, Chesapeake argues that requiring it to enter into an interconnection agreement would unnecessarily delay the offering of Chesapeake's telecommunications services to customers in the State of Delaware; and

**WHEREAS**, Chesapeake pledges that it 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;

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

1. That the Commission hereby grants the Petition of Chesapeake Fiber, LLC ("Chesapeake") and allows a waiver of the interconnection agreement requirement as set forth in Paragraph 3(b) of Order No. 8190 (August 21, 2012). This grant of the Petition is expressly conditioned on the pledge of Chesapeake that it 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

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with an incumbent and submitting such agreement to the Commission.

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

3. 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/ Jaymes B. Lester  
Commissioner

/s/ Jeffrey J. Clark  
Commissioner

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Commissioner

ATTEST:

/s/ Alisa Carrow Bentley  
Secretary