

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

IN THE MATTER OF THE ABANDONMENT OF THE)
AUTHORITY TO CONDUCT INTEREXCHANGE)
INTRASTATE PAYPHONE SERVICES WITHIN) PSC DOCKET NO. 12-445
THE STATE OF DELAWARE BY ONYX)
COMMUNICATIONS, INC.)
(FILED SEPTEMBER 18, 2012))

ORDER NO. 8386

AND NOW, to-wit, this 4th day of June, 2013;

WHEREAS, on June 25, 1999, ONYX Communications, Inc. ("ONYX" or the "Company") applied with the Public Service Commission ("Commission") for a Certificate of Public Convenience and Necessity ("CPCN") to conduct interexchange intrastate payphone services within the State of Delaware; and

WHEREAS, 26 *Del. Admin. C.* §4002-2.3.6 requires each applicant seeking a CPCN to supply to the Commission a written statement affirming that the applicant agrees to comply with all of the provisions of the Commission Regulations, and the Company submitted to the Commission such written statement; and

WHEREAS, on June 28, 1999, the Commission granted ONYX a CPCN effective June 25, 1999; and

WHEREAS, the Commission Staff ("Staff") had reason to believe that the Company had either moved or had abandoned its interexchange intrastate payphone services within the State of Delaware; and

WHEREAS, on or about September 18, 2012, the Commission Staff ("Staff") mailed a letter via first-class mail, postage

prepaid, to the Company's address as set forth in the records of the Commission which requested that an official of ONYX complete an Affidavit of General Compliance ("Affidavit") and confirm that ONYX had abandoned its CPCN to provide payphone services in the State of Delaware; and

WHEREAS, ONYX has not responded to Staff's September 18, 2012 letter; and

WHEREAS, 26 *Del. Admin. C.* §4002-2.6 requires that each certificated payphone service provider must notify the Commission in writing within ten days following the change of any information required by 26 *Del. C.* §§4002-2.3.1 through 2.3.8; and

WHEREAS, 26 *Del. C.* §203A(c)(1) provides that no public utility shall abandon or discontinue, in whole or in part, any business, operations, or services provided under a CPCN or otherwise, which are subject to jurisdiction of the Commission without first having received Commission approval for such abandonment or discontinuance; and

WHEREAS, 26 *Del. Admin. C.* §4002-2.7 requires that each certificated payphone service provider must provide written notice to the Commission at least ten days prior to the cession of all operations as a payphone provider in the State of Delaware; and

WHEREAS, ONYX either has failed to provide the Commission with written notice as required by 26 *Del. Admin. C.* §4002-2.6 that it has changed its business address or has failed to provide

the Commission with written notice as required by 26 *Del. C.* §203A(c)(1) and 26 *Del. Admin. C.* §4002-2.7 that it has ceased all operations as a payphone provider in the State of Delaware; and

WHEREAS, ONYX has therefore violated the terms of its CPCN to provide payphone services in the State of Delaware in that it has failed to comply with the provisions of the Commission's Regulations and/or Delaware law; and

WHEREAS, the Staff posted a public notice on the Commission's website on April 29, 2013, which stated that if ONYX failed to comply with the Commission's Regulations and/or Delaware law on or before May 13, 2013, the Commission would revoke the Company's CPCN for interexchange intrastate payphone services within the State of Delaware; and

WHEREAS, ONYX failed to respond by such deadline;

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

1. That the Certificate of Public Convenience and Necessity of ONYX Communications, Inc. to conduct interexchange intrastate payphone services within the State of Delaware, which the Commission granted effective June 25, 1999, is hereby revoked effective with the date of this Order.

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

