

**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

PSC Docket Nos. 12-178 and 13-86, Order No. 8312 Cont'd

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

**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:<sup>1</sup>

- (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

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<sup>1</sup> 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



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Commissioner

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Commissioner

ATTEST:

/s/ Alisa Carrow Bentley  
Secretary