



A-2018-3005309
A-2018-3005312
P-2018-3005127

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December 5, 2019

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA HAND DELIVERY

**RE: PETITION OF TRI-CO CONNECTIONS, LLC, TO EXTEND THE TIME BY WHICH
SERVICE MUST BE OFFERED IN THE COMMONWEALTH OF PENNSYLVANIA;
DOCKET NO. P-2019-_____**


Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Tri-Co Connections, LLC's ("Tri-Co"), Petition to Extend the Time by Which Service Must Be Offered in the Commonwealth of Pennsylvania.

As evidenced by the attached Certificate of Service, all parties to this proceeding are being served with a copy of this document. Please date-stamp the enclosed additional copies of this transmittal letter and the filing, and kindly return them to our messenger for our filing purposes. If you have any questions concerning this matter, please contact the undersigned. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By 
Kenneth R. Stark

Counsel to Tri-Co Connections LLC

Enclosures

c: Certificate of Service
Erin Laudenslager, Bureau of Technical Utility Services (via E-mail and First-Class Mail)
David Screven, Law Bureau (via E-mail and First-Class Mail)

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF TRI-CO CONNECTIONS,
LLC TO EXTEND THE TIME BY WHICH
SERVICE MUST BE OFFERED**

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:
: **DOCKET NO. P-2019-_____**
:
: **Refer to:**
: **Docket No. A-2018-3005309**
: **Docket No. A-2018-3005312**
: **Docket No. P-2018-3005127**

**PETITION OF TRI-CO CONNECTIONS, LLC
TO EXTEND THE TIME BY WHICH SERVICE MUST BE OFFERED**

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Counsel to Tri-Co Connections, LLC

Dated: December 5, 2019

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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: **Docket No. P-2018-3005127**

**PETITION OF TRI-CO CONNECTIONS, LLC
TO EXTEND THE TIME BY WHICH SERVICE MUST BE OFFERED**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Tri-Co Connections, LLC (“Tri-Co”), by its attorneys and pursuant to Section 703(g) of the Pennsylvania Public Utility Code,¹ Sections 1.15(a), 5.41, and 5.572(d) of the Rules of the Pennsylvania Public Utility Commission (“PUC” or “Commission”),² and the Commission’s Final Order entered on July 19, 2012 in Docket No. M-2011-2273119 (“July 2012 Final Order”),³ hereby submits this Petition to extend the time by which Tri-Co must begin offering service as a competitive local exchange carrier (“CLEC”) per the Commission’s order entered on December 6, 2018 in Docket No. A-2018-3005309. Due to delays associated with its designation as an Eligible Telecommunications Carrier and the receipt of funding to construct of its fiber optic network, Tri-Co seeks a six-month extension of time by which it must offer service as a CLEC.

¹ 66 Pa. C.S. § 703(g)

² 52 Pa. Code §§ 1.15, 5.41, 5.572.

³ See *Final Order Regarding the Commission’s Plan to Implement a One-Year Timeframe for Inactive Telecommunication Carriers to Provide Service on an Annual Basis within the Commonwealth of Pennsylvania*, Docket No. M-2011-2273119 (Order entered July 19, 2012).

I. INTRODUCTION

1. Tri-Co is a PUC-licensed CLEC and holds a certificate of public convenience (“CPC”) to provide services as a CLEC in the service area of Verizon Pennsylvania LLC (“Verizon Pa”); Verizon North LLC (“Verizon North”); Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company (“Frontier”); Frontier Communications of Canton, LLC (“Frontier of Canton”); Frontier Communications of Oswayo River, LLC (“Frontier of Oswayo River”); North Penn Telephone Company (“North Penn”); and Windstream Pennsylvania, LLC (“Windstream”). Tri-Co also holds a PUC CPC to provide de-tariffed Facilities-based Interexchange Carrier (“IXC”) services in the Commonwealth of Pennsylvania.

2. Tri-Co has principal place of business at 22 North Main Street, Mansfield, Pennsylvania 16933, telephone (570) 662-2175, facsimile (570) 662-2142.

3. Tri-Co has affiliates or predecessors within Pennsylvania: Tri-County Rural Electric Cooperative (“TCREC”), C&T Enterprises, Inc., Wellsboro Electric Company, Valley Energy, Inc., and Citizens’ Electric Company of Lewisburg PA.

4. Tri-Co’s Pennsylvania Emergency Management Agency contact is Craig Eccher at 22 North Main Street, Mansfield, Pennsylvania 16933, telephone (570) 662-2175, facsimile (570) 662-2142.

5. Pleadings, orders, notices, and other papers filed or served in this matter and the referenced dockets in the caption to this matter should be served on Tri-Co’s attorneys:

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II. BACKGROUND

6. Tri-Co has been awarded federal and state funding to assist in constructing a fiber optic network to serve residential, business, and institutional customers. This funding includes support awarded to Tri-Co in the recent Connect America Fund Phase II (“CAF II”) auction conducted by the Federal Communications Commission (“FCC”). TCREC has received Pennsylvania Redevelopment Capital Assistance Funds⁴ and state funding from the Broadband Initiatives Program. TCREC also received funding from the Appalachian Regional Commission. Tri-Co and TCREC’s dedicated federal and state funding entails certain conditions and obligations associated with the deployment of Tri-Co’s planned network and provision of broadband access services.

7. There are 84,551 eligible census block locations in Pennsylvania in the CAF II for rural broadband needs, including 7,015 locations in Bradford, Lycoming, Potter, and Tioga Counties where Tri-Co’s affiliate, TCREC, received an award in August 2018 to provide service. Tri-Co has been assigned the CAF II grants and will receive financial backing from TCREC. Tri-Co plans to lease fiber from TCREC and own service drops, in-home equipment, and server systems. Tri-Co’s service territory corresponds with TCREC territory plus additional census block awarded in the CAF II that are outside TCREC’s territory. TCREC has over 19,000 members that will all have access to Tri-Co’s services.

8. As part of its Fiber to Home Project, Tri-Co will provide delivery of voice and data services and use various Fiber to the Premises (“FTTP”) technologies consistent with industry

⁴ See <http://tri-countyrec.com/content/tri-county-rec-secures-federal-support-regional-high-speed-internet-project> (last accessed Nov. 16, 2019).

standards. Tri-Co anticipates peak data speeds to individual users in increments of 1 Megabits per second (“Mbps”) or less, up to 1 Gigabits per second (“Gbps”).

9. Tri-Co anticipates constructing approximately 2,800 miles of fiber for approximately 9,500 customers.

10. On September 27, 2018, Tri-Co filed an application with the PUC seeking to provide service as a CLEC. On that same day, Tri-Co filed an application seeking to provide IXC services.

11. On September 27, 2018, Tri-Co filed a petition with the Commission seeking to be designated as an Eligible Telecommunications Carrier (“ETC”) in the Commonwealth of Pennsylvania.⁵ An ETC designation enables the carrier to receive federal funds and support to provide Lifeline services to qualifying low-income consumers.⁶ In the ETC Petition, Tri-Co sought expedited treatment and requested a Commission decision by February 25, 2019 to ensure that Tri-Co would timely receive the ETC designation and not incur any delays in receipt of its dedicated federal funds from the FCC.⁷

12. On December 6, 2018, the Commission entered an Order (“December 2018 Order”) approving Tri-Co’s authority to operate and provide IXC and CLEC services in the Commonwealth of Pennsylvania.⁸ The Commission concluded that Tri-Co was technically and financially fit to offer telecommunications services as a CLEC and as an IXC.⁹ The Commission

⁵ *Petition of Tri-Co Connections, LLC, For Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania*, Docket No. P-2018-3005127 (filed Sep. 27, 2019) (hereinafter “ETC Petition”).

⁶ See 47 CFR § 54.201.

⁷ ETC Petition at 1, 24-25.

⁸ *Application of Tri-Co Connections, LLC for Approval to Offer, Render, Furnish or Supply Telecommunications Services to the Public in the Commonwealth of Pennsylvania as a Competitive Local Exchange Carrier et al.*, Docket Nos. A-2018-3005309 and A-2018-3005312 (Order entered Dec. 6, 2018) (hereinafter “December 2018 Order”).

⁹ December 2018 Order at p. 5-6.

approved Tri-Co's authority to operate as a CLEC, subject to Tri-Co's filing of an updated Tariff consistent with the PUC's guidance in the December 2018 Order.

13. Also on December 6, 2018, the Commission issued a CPC to Tri-Co in Docket No. A-2018-3005312 to provide IXC services in the Commonwealth of Pennsylvania.

14. On February 4, 2019, Tri-Co filed updated CLEC Tariff documents with the Commission in compliance with the Commission's December 6, 2018 Order at Docket No. A-2018-3005309.

15. On February 11, 2019, the Commission issued a CPC to Tri-Co to provide services as a CLEC in the service area of Verizon; Verizon North; Frontier; Frontier of Canton; Frontier of Oswayo River; North Penn; and Windstream.

16. Throughout early 2019, Tri-Co worked with PUC Staff to resolve the PUC's concerns regarding Tri-Co's ETC petition. The FCC informed Tri-Co that it would not begin the process of releasing dedicated federal funds to Tri-Co until after the PUC granted Tri-Co's designation as an ETC in Pennsylvania.

17. On April 11, 2019, the Commission issued an Order granting Tri-Co's petition for designation as an ETC in the Commonwealth of Pennsylvania.¹⁰ The Commission also granted Tri-Co a designation as a federal high-cost ETC¹¹ in all of the CAF-eligible areas of the specific local exchanges located in the service territories of Verizon; Verizon North; Frontier; Frontier of Canton; Frontier of Oswayo River; North Penn; and Windstream.

¹⁰ See Petition of Tri-Co Connections, LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania, Docket No. P-2018-3005127 (Order entered Apr. 11, 2019).

¹¹ Such designation enables Tri-Co to be eligible to receive high-cost support from the Federal Universal Service Fund ("USF") in any area where it seeks such support.

18. On June 28, 2019, Tri-Co filed a letter with the Commission advising that, because Tri-Co recently became a licensed telecommunications provider, Tri-Co was still designing and planning its network and not yet offering service.

19. On August 12, 2019, the FCC issued a public notice authorizing Tri-Co to receive dedicated federal funding. On August 29, 2019, Tri-Co received the first portion of funding from the FCC in the amount of \$269,385.23.¹² This delayed receipt of funding pushed back the construction timeline for the fiber optic network.

20. Tri-Co hired an engineering consultant. Engineering for Year 1 of the Project has been completed. Engineering for Year 2 of the Project is substantially underway and is nearly completed.

21. Construction for the first 100 miles of Tri-Co's fiber optic network commenced on November 18, 2019.

22. Tri-Co is in the final stage of negotiations with a vendor that will provide switching, interconnection, and other services on Tri-Co's network.

23. Presently, Tri-Co plans to conduct limited tests of its services in early 2020. Tri-Co anticipates that retail customers will be offered service by the end of March 2020. At the latest, Tri-Co anticipates that it will be offering customers retail service through the initial network phase by the end of April 2020. To that end, Tri-Co requests a six-month extension until May 6, 2019 by which it must provide CLEC services to customers.¹³

¹² See Attachment A (FCC Funding Authorization).

¹³ Tri-Co will not offer services to retail customers until the initial network tests are successful. In addition, this timeline could change if the construction process encounters unexpected delays. As a result, Tri-Co reserves the right to request an additional six-month extension, if necessary.

24. Tri-Co's engineer is designing its network and system with the FCC Buildout Schedule in mind to ensure that Tri-Co meets the FCC's service milestone deadlines. Tri-Co anticipates complete construction and commercial offering of service to 40% of its Pennsylvania locations by the August 11, 2022 deadline (Year 3 of the Project), 60% of its Pennsylvania locations by the August 11, 2023 deadline (Year 4 of the Project), 80% of its Pennsylvania locations by the August 11, 2024 deadline (Year 5 of the Project), and 100% of its Pennsylvania locations by the August 11, 2025 deadline (Year 6 of the Project).

III. DISCUSSION

A. Legal Authority to Seek A Six-Month Extension of Time By Which Tri-Co Must Begin Offering CLEC Services.

25. On December 6, 2018, the Commission entered the December 2018 Order approving Tri-Co's authority to operate as a CLEC.¹⁴ In the December 2018 Order, the Commission stated that carriers are required to provide telecommunications service to customers in Pennsylvania within one year of certification¹⁵ per the July 2012 Final Order.¹⁶

26. The July 2012 Final Order recognized that unexpected circumstances, such as litigation and commercial arrangements, can lead to lengthy delays in the offering telecommunications services.¹⁷ Therefore, the Commission determined that, for good cause shown, a new entrant may request a six-month extension of the one-year timeframe to initiate service to customers.¹⁸ In response to comments of stakeholders concerned about the one-year

¹⁴ December 2018 Order, at 9, Ordering Para. 2.

¹⁵ December 2018 Order, at p. 8.

¹⁶ See *Final Order Regarding the Commission's Plan to Implement a One-Year Timeframe for Inactive Telecommunication Carriers to Provide Service on an Annual Basis within the Commonwealth of Pennsylvania*, Docket No. M-2011-2273119 (Order entered July 19, 2012) (hereinafter "July 2012 Final Order").

¹⁷ See July 2012 Final Order, at p. 3-4.

¹⁸ July 2012 Final Order, at p. 4.

and six months rule, the Commission in the July 2012 Final Order also permitted a newly certificated carrier to request an additional six-month extension after the initial six month extension expires.¹⁹

27. The Commission reviews requests for six-month extensions to provide telecommunications service on a case-by-case basis and will allow an extension so long as the carrier submits proof of good faith interconnection negotiations or other commercial arrangements evincing actual plans to provide service to the public.²⁰

28. Beyond the December 2018 Order and July 2012 Final Order, Section 703(g) of the Public Utility Code provides that “[t]he commission may, at any time, after notice and opportunity to be heard as provided in this chapter, rescind or amend any order made by it.”²¹ Pursuant to Section 703(g), a petitioner under Section 703(g) may raise any matter designed to convince the PUC that it should exercise its discretion to amend a prior order.²² While new facts are not required in a petition to amend, the Commission may consider them as a practical matter.²³

B. Good Cause Supports Tri-Co’s Six-Month Extension Request.

29. Pursuant to the December 6, 2018 Order, the July 2012 Final Order, and 66 P. C.S. § 703(g), Tri-Co requests one six-month extension by which it must provide CLEC services in its service territory area of area of Verizon; Verizon North; Frontier; Frontier of Canton; Frontier of Oswayo River; North Penn; and Windstream in Bradford, Lycoming, Potter, and Tioga Counties in Pennsylvania.

¹⁹ July 2012 Final Order, at p. 4.

²⁰ July 2012 Final Order, at p. 4, 6.

²¹ 66 Pa. C.S. § 703(g).

²² See *Philip Duick v. Pa. Gas and Water Co.*, 56 Pa. PUC 553, 51 P.U.R. 4th 284 (1982).

²³ *AT&T Communications of Pa. v. Pa. PUC*, 568 A.2d 1362, 1364-1365 (1990); see also *Application of Pa. Elec. Co.*, 2013 Pa. PUC LEXIS 418, at *4-*5 (Pa. P.U.C. July 16, 2013).

30. While Tri-Co did not receive its CPC to provide CLEC services until February 11, 2019,²⁴ Tri-Co understands that it received certification to serve as a CLEC on December 6, 2018 per the December 2018 Order.²⁵ While the July 2012 Final Order did not specify the timing of one-year by which a carrier must provide service, the tentative order in that proceeding (“March 2012 Tentative Order”) specified that the one-year time frame “begins on the date of entry of the order granting operational authority and certification.”²⁶ The July 2012 Final Order did not otherwise clarify or amend the timing of the one-year requirement described in the March 2012 Tentative Order. Therefore, Tri-Co will assume that the clock on its one-year requirement started on December 6, 2018 (when the PUC approved Tri-Co’s CLEC application) and not on February 11, 2019 (when the PUC issued Tri-Co the CLEC CPC). Under that reasoning, the one-year requirement ends on December 6, 2019. Accordingly, Tri-Co requests a six-month extension from December 6, 2019 so that it would not need to begin providing service until May 6, 2020. However, as described below, Tri-Co expects to provide service in March 2020 and no later than the end of April 2020.

31. Tri-Co’s petition for a six-month extension is supported by good cause because Tri-Co did not receive the first portion of dedicated funding from the FCC until August 29, 2019.²⁷ The FCC did not issue the public notice authorizing Tri-Co to receive that funding until August 19, 2019. The Commission in the July 2012 Final Order recognized that there are circumstances, such as litigation and commercial arrangements, that are beyond the control of the

²⁴ See Tri-Co Certificate of Public Convenience, Docket No. A-2018-3005312 (issued on Feb. 11, 2019).

²⁵ See December 2018 Order at 9, Ordering Para. 2.

²⁶ *Tentative Order Regarding the Commission’s Plan to Implement a One-Year Timeframe for Inactive Telecommunication Carriers to Provide Service on an Annual Basis within the Commonwealth of Pennsylvania*, Docket No. M-2011-2273119, at p. 5 (Order entered March 1, 2012).

²⁷ See Attachment A (FCC Funding Authorization).

telecommunications carrier and thus provide a carrier with good cause to request a six-month extension to offer service.²⁸ The delayed receipt in funding is an example of such a circumstance, as it would have been imprudent for Tri-Co to move forward with further financing of its network and construction before Tri-Co received sufficient dedicated federal funding.

32. While this delayed receipt of funding pushed back Tri-Co's engineering efforts and plans to build out its fiber optic network, Tri-Co has been working diligently and continuously to ensure that it will be a position to offer broadband and other services to customers as soon as possible. Tri-Co anticipates that customers will have service by the end of March 2020 or at the latest by the end of April 2020.

33. As evidence of those plans to start offering service to customers in the first quarter of 2020, Tri-Co can confirm that engineering for Year 1 of the project has been completed, and that engineering for Year 2 of the project is substantially underway and is nearly completed. Additionally, on November 18, 2019, Tri-Co began construction on the first 100 miles of its fiber optic network in and around the town of Coudersport, Pennsylvania.

34. Tri-Co's engineer is designing its network and system with the FCC Buildout Schedule in mind to ensure that Tri-Co meets the FCC's service milestone deadlines. Tri-Co anticipates complete construction and commercial offering of service to 40% of its Pennsylvania locations by August 11, 2022, 60% of its Pennsylvania locations by August 11, 2023, 80% of its Pennsylvania locations by the August 11, 2024, and 100% of its Pennsylvania locations by the August 11, 2025 deadline.

35. Tri-Co is also in the final stage of negotiations with a vendor that will provide switching, interconnection, and other services on Tri-Co's network.

²⁸ See July 2012 Final Order, at p. 3-4, 6.

36. In summary, Tri-Co's initial offering of service was postponed due to a delayed receipt in its designation as an ETC and a delayed receipt in dedicated federal funds from the FCC. Despite those delays, Tri-Co has been working continuously and diligently to design and plan its network. Construction of the network has commenced. Tri-Co will be in a position to offer service to customers by March 2020 or April 2020 at the latest. Tri-Co will continue to design its network to ensure Tri-Co meets the FCC Buildout schedule and completes construction by 2024. Accordingly, Tri-Co has demonstrated its intent to offer service and good cause supports Tri-Co's request for a six-month extension by which it must offer service as a CLEC.

IV. CONCLUSION

WHEREFORE, for the forgoing reasons, Tri-Co Connections, LLC respectfully requests that the Pennsylvania Public Utility Commission grant Tri-Co Connections, LLC a six-month extension of time until May 6, 2020 by which it must offer service as a licensed Competitive Local Exchange Carrier.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

Pamela C. Polacek (Pa. I.D. No. 78276)

Kenneth R. Stark (Pa. I.D. No. 312945)

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Counsel to Tri-Co Connections, LLC

Dated: December 5, 2019

Attachment A
(FCC Funding Authorization)

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Attachment A (FCC Funding Authorization)

From: CustomerSupport@usac.org <CustomerSupport@usac.org>
 Sent: Wednesday, August 28, 2019 8:40:46 AM
 To: Aimee Hobwood <ahobwood@ctenterprises.org>
 Subject: HIGH COST PROGRAM REMITTANCE STATEMENT: 143051603



HIGH COST PROGRAM REMITTANCE STATEMENT
AS OF AUGUST 28, 2019

Attn: Aimee Hobwood
Tri-Co Connections, LLC

RE: FCC Form 498 ID 143051603

This notice provides an explanation of your company's High Cost Support for the following period.

SAC	ST	IAS	HCL	SNA	ICLS	FHCS	HCM	LSS	SVS	IS	CAF ICC	CACM	RBE	ACAM	CAF BLS	AK PLAN	CAFI Auction	PR Fund	VI Fund	ACAM II
Disbursements for July, 2019																				
179033	PA	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$269,385.23	\$0.00	\$0.00	\$0.00
Total		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$269,385.23	\$0.00	\$0.00	\$0.00
Total Authorized Disbursement																				<u>\$269,385.23</u>
ADJUSTMENT																				AMOUNT
Total Adjustments																				<u>\$0.00</u>
Total Actual Disbursement:																				<u>\$269,385.23</u>

If you have any questions, please contact USAC Customer Operations at (888) 641-9722 or CustomerSupport@usac.org. You may also visit us at www.usac.org.

VERIFICATION

I, Craig Eccher, President of Tri-Co Connections, LLC, hereby state that the facts above set forth in the foregoing documents are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

12/4/2019

Date


Signature

CERTIFICATE OF SERVICE

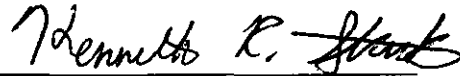
I hereby certify that I have this day served a true copy of the foregoing document upon the participants, listed below, in accordance with the requirements of Section 1.54 (relating to service by a participant).

VIA FIRST-CLASS MAIL

Tanya McCloskey, Esq.
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
2nd Floor, F West
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Kenneth R. Stark

Counsel to Tri-Co Connections, LLC

Dated this 5th day of December, 2019, in Harrisburg, Pennsylvania.

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Pennsylvania Public Utility Commission
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