

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Public Meeting held June 15, 2023

Commissioners Present:

Gladys Brown Dutrieuille, Chairman
Stephen M. DeFrank, Vice Chairman
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Application of Archtop Fiber LLC for Approval to Offer, Render, Furnish or Supply Telecommunications Services to the Public as a Competitive Local Exchange Carrier in the Service Territories of Citizens Telecommunications of New York, Inc. d/b/a Frontier Communications of New York, Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company, Frontier Communications of Canton, LLC, The North-Eastern PA Telephone Company, Palmerton Telephone Company, South Canaan Telephone Company, TDS Telecom/Deposit Telephone Company, Verizon Pennsylvania LLC, and Verizon North LLC within the Commonwealth of Pennsylvania A-2022-3037044

Application of Archtop Fiber LLC for Approval to Offer, Render, Furnish or Supply Telecommunications Services to the Public as a Detariffed Facilities-based Interexchange Carrier throughout the Commonwealth of Pennsylvania A-2022-3037043

Application of Archtop Fiber LLC for Approval to Offer, Render, Furnish or Supply Telecommunications Services to the Public as a Detariffed Interexchange Carrier Reseller throughout the Commonwealth of Pennsylvania A-2022-3037041

ORDER

BY THE COMMISSION:

On November 29, 2022, Archtop Fiber LLC (Applicant or Archtop Fiber) filed an Application seeking Certificates of Public Convenience under our orders issued pursuant to the Telecommunications Act of 1996, 47 U.S.C. §§ 201 *et seq.*, (TA-96)¹ and to Chapter 11 of the

¹ In light of the policy objectives of TA-96, market entry requirements for telecommunication service providers are set out in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Order entered June 3, 1996; Order on Reconsideration entered September 9, 1996) (*TA-96 Implementation Orders*).

Public Utility Code (Code) (66 Pa.C.S. §§ 1101 *et seq.*) evidencing authority to provide the following telecommunications services to the public:

- (1) As a Competitive Local Exchange Carrier (CLEC) in the Service Territories of Citizens Telecommunications of New York, Inc. d/b/a Frontier Communications of New York, Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company, Frontier Communications of Canton, LLC, The North-Eastern PA Telephone Company, Palmerton Telephone Company, South Canaan Telephone Company, TDS Telecom/Deposit Telephone Company, Verizon Pennsylvania LLC and Verizon North LLC territories within the Commonwealth of Pennsylvania, and
- (2) As a Detariffed Facilities-based Interexchange Carrier (IXC)² throughout the Commonwealth of Pennsylvania; and
- (3) As a Detariffed Interexchange Carrier Reseller (IXC Reseller)³ throughout the Commonwealth of Pennsylvania.

The Applicant was granted provisional authority pursuant to our Secretarial Letter of January 31, 2023, to provide the proposed IXC, IXC Reseller, and CLEC services in the service territories of Verizon Pennsylvania LLC and Verizon North LLC pursuant to its proposed tariff during the pendency of the application process. As required by 52 Pa. Code § 5.14, the Application also was published in the *Pennsylvania Bulletin*.⁴ The Applicant was granted a waiver concerning publishing notice of its Application in newspapers of general circulation. The protest period for this Application expired February 27, 2023. The assigned utility code is 3125773.

The Applicant complied with notice requirements set forth in our *TA-96 Implementation Orders* by serving a copy of its Application upon the aforementioned Incumbent Local Exchange Carriers (ILECs), the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Attorney General. No protests were filed. No hearings were held.

Information concerning the Applicant is as follows:

² Section 3018(b)(2) of the Public Utility Code, 66 Pa.C.S. § 3018(b)(2) gives IXCs the option to: (1) file and maintain tariffs with the Commission; (2) file and maintain price lists with the Commission; or (3) detariff. Further, our regulation at 52 Pa. Code § 63.104 outlines the disclosure requirements for filing and maintaining tariffs or operating as a detariffed IXC. The Applicant has elected to operate as a detariffed IXC, subject to Pennsylvania state contract and consumer protection laws.

³ *Id.*

⁴ See 51 Pa.B. 2249 (April 17, 2021).

- The Applicant is a Delaware limited liability company with its principal place of business at 300 Enterprise Dr, Kingston, New York 12401, telephone (845) 802-0330 fax (845) 802-0336.
- The Applicant complied with Pennsylvania law relating to a foreign limited liability company.
- The Applicant's registered office provider within Pennsylvania is National Registered Agents, Inc. 600 North Second Street Ste 401, Harrisburg, PA 17101.
- The Applicant's Pennsylvania Emergency Management Agency contact is Diane Quennoz, Chief Customer Officer, Archtop Fiber LLC, 300 Enterprise Dr, Kingston, NY 12401 telephone (914) 450-0876.
- Correspondence to resolve complaints may be directed to is Diane Quennoz, Chief Customer Officer, Archtop Fiber LLC, 300 Enterprise Dr, Kingston, NY 12401 telephone (914) 450-0876.
- The Applicant will not be using a fictitious name.
- The Applicant is not operating as a public utility in other states.
- The Applicant has no affiliates or predecessors within Pennsylvania.
- The Applicant has no predecessors rendering public utility service outside Pennsylvania.

The Applicant understands that if it plans to cease doing business within the Commonwealth of Pennsylvania, it is under a duty to first file an application with the Commission requesting authority to abandon or cease providing the services it offers to its customers.⁵

According to its Application, Archtop seeks authority to provide facilities-based and resold local exchange and interexchange non-prepaid telecommunications services including Dial Tone, Internet, Dedicated Private Lines, Local & Long Distance Service, and Toll Free Services and all origination and termination of voice telephone calls, to and from all points in the

⁵ 66 Pa.C.S. § 1102(a)(2).

Commonwealth of Pennsylvania; Archtop has its own switching equipment and will be building a fiber network to serve customers.

Section 1103 of the Public Utility Code states that a Certificate of Public Convenience shall be granted by order of the Commission, only if the Commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public. 66 Pa.C.S. § 1103(a). Additionally, issues affecting CLECs and other certificated carriers have been addressed in a number of Commission proceedings.⁶

A CLEC applicant is expected to adhere to the requirements relative to universal service programs, as initially set forth or as subsequently enlarged or modified.⁷ Also, per federal rules, CLECs are required to ensure the efficient usage of their numbering resources and are required to semi-annually report their utilization and forecast data to the North American Numbering Plan Administrator. *See* 47 C.F.R. §§ 52.5 *et seq.* Any CLEC failing to comply with state and/or federal orders related to numbering may be subject to the reclamation of its numbering resources as well as fines pursuant to Section 3301 of the Code, 66 Pa.C.S. § 3301. *See Implementation of Numbering Conservation Measures Granted to Pennsylvania by the Federal Communications Commission in its Order released March 31, 2000 – NXX Code Reclamation*, Docket No. M-00001373 (Order entered August 22, 2000), 30 *Pa.B.* 4701 (Commission established process for reclaiming NXX codes from carriers that have failed to activate them within six months of their availability for assignment to customers).

Further, Section 253(b) of TA-96 permits a state Commission to impose on a competitively-neutral basis and consistent with universal service provisions, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. In

⁶ *See, e.g.*, Policy Statement adopted July 11, 2019, Docket No. M-2018-3004578, 49 *Pa.B.* 5003 (Aug. 31, 2019), 52 Pa. Code § 69.3701 (requiring the reporting and assessment of *all* gross intrastate operating revenues including all actual or *de facto* wholesale revenues), *petition for allowance of appeal dismissed Broadband Cable Assoc. of Pa. v. Pa. PUC* (Pa. Cmwlth., 1085 CD 2019, Jan. 24, 2020) (*Zero Revenue Reporters Policy Statement*); *MFS Intelenet et al.*, Docket Nos. A-310203F0002 *et al.* (Orders entered October 4, 1995; July 31, 1996; and August 7, 1997); *Pa. PUC v. Bell*, Docket No. R-00963578 (Order entered February 6, 1997); *Pa. PUC v. GTE*, Docket No. R-00963666 (Order entered May 9, 2002); *Joint Petition of Nextlink Pennsylvania, Inc. et al.*, Docket Nos. P-00991648 and P-00991649 (Order entered September 30, 1999), *aff'd sub nom. Bell Atlantic-Pennsylvania, Inc. v. Pa. PUC*, 763 A.2d 440 (Pa. Cmwlth 2000), *vacated in part sub nom. MCI Worldcom Inc. v. Pa. PUC*, 844 A.2d 1239 (Pa. 2004) (state court lacked jurisdiction to review unbundled network elements) (*Global Order*); as well as other proceedings.

⁷ *See Universal Service Investigation*, Docket No. I-00940035 (Order entered January 28, 1997).

response, we articulated explicit concerns relative to an applicant's financial fitness, tariff compliance, and rates.⁸ In this case, the Applicant has provided financial information to support its Application. We conclude that the Applicant has demonstrated that it is financially capable of providing telecommunications services as a CLEC, a Facilities-based IXC and an IXC Reseller.

The Commission also requires that applicants seeking to provide local telecommunications services in Pennsylvania take steps to protect the public safety of consumers. One means of ensuring the public safety of consumers in the increasingly competitive telecommunications marketplace is to ensure that new entrants provide their consumers with access to a seamless communications infrastructure for emergency services, such as 911. Therefore, in accordance with the notarized affidavit in the Application, the Applicant avers that it has contacted by certified letter each county or municipal authority where it intends to provide CLEC telecommunications services and made the necessary arrangements for the provisioning of emergency 911 service.

In the notarized affidavit in the Application, Archtop Fiber asserts that it possesses the requisite managerial and technical fitness to render CLEC, IXC, and IXC Reseller services in Pennsylvania and that it has made the necessary arrangements for the provisioning of emergency 911 service. Thus, based on these attestations and attachments to its Application, and absent any information to the contrary, the Applicant has demonstrated to the Commission that it is technically and managerially fit to offer the proposed services. Accordingly, we conclude that the Applicant has met the requirements for certification as a CLEC, an IXC Reseller, and as a Facilities-based IXC, consistent with this Order. Moreover, premised upon our review of the Application and the proposed tariff, and consistent with our Orders, the Code, our regulations and TA-96, we conclude that the Applicant's proposed services do not raise concerns at this time regarding safety, adequacy, reliability, or privacy. We note, however, there are deficiencies in the proposed tariff.

We shall direct the Applicant to revise the proposed tariff in accordance with the changes noted in Appendix A of this Order.⁹ The Applicant shall thereafter file its Initial Tariff reflecting

⁸ See *Application of Blue Ribbon Rentals II, Inc., d/b/a Talk One America, for Authority to Begin to Offer, Render, Furnish, or Supply Competitive Local Exchange Telecommunication Services to the Public in the Commonwealth of Pennsylvania*, Docket No. A-310442 (Orders entered April 25 and August 4, 1997).

⁹ Regardless of the review process, any tariff provision(s) inconsistent with the provisions of the Code, TA-96, our regulations, or Orders will be deemed inoperative and superseded.

the requested changes on or before sixty days from the date of entry of this Order. The Applicant may file its Initial Tariff electronically, consistent with Commission rules.¹⁰ Copies of the Initial Tariff shall also be served upon the same entities receiving service of the original Application, including the incumbent local exchange carriers. If the time required for such resolution and filing exceeds sixty days, the Applicant may request an extension of an additional sixty days with the Commission's Secretary. Thus, if the Initial Tariff is not filed within sixty days (120 days including the extension) of the entry of this Order, the Application will be dismissed and the authority granted herein will be revoked without further Commission Order.

We note that the Commission will only approve tariff provisions regarding limitation of liability consistent with law. Any tariff provisions contained in the Initial Tariff regarding limitation of liability inconsistent with any applicable laws, rules and regulations will be deemed inoperative and superseded.

To the extent that the proposed tariff contain rates, the Initial Tariff may become effective on one day's notice from the date upon which it is filed and served.

Carriers are required to provide telecommunications service to customers in Pennsylvania within one year of certification.¹¹

In accordance with the affidavit that accompanied the application for a Certificate of Public Convenience, the Applicant has agreed to abide by all applicable federal and state laws and regulations and by the decisions of the Commission. We remind the Applicant that, in accordance with our *TA-96 Implementation Orders*, a public utility that seeks Commission certification or that is certificated in Pennsylvania to provide telecommunications service, as defined by state and federal law, must provide the service in full compliance with all applicable provisions of Pennsylvania and federal law. This includes compliance with Section 1511 of Pennsylvania's Business Corporation Law, 15 Pa.C.S. § 1511,¹² when siting facilities/equipment

¹⁰ See *Final Rulemaking to Permit Electronic Filing*, Docket No. L-00070187 (Order entered May 23, 2008).

¹¹ For complete details regarding this requirement, including consequences for non-compliance, 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).

¹² 15 Pa.C.S. § 1511(e) provides as follows: "A public utility corporation shall have the right to enter upon and occupy streets, highways, waters and other public ways and places for one or more of the principal purposes specified in subsection (a) and ancillary purposes reasonably necessary or appropriate for the accomplishment of the principal purposes, including the placement, maintenance and removal of aerial, surface and subsurface public utility

in public rights-of-way. Failure to comply with applicable law may result in fines being imposed against a public utility or in the suspension or revocation of the utility's Certificates of Public Convenience, consistent with due process.

We remind the Applicant that certificated public utilities in Pennsylvania are required to file with the Commission an accurate annual financial report and an accurate separate statement of all gross intrastate (wholesale and retail) revenues for fiscal assessment purposes, as received from operations conducted pursuant to the authority granted by the Commission's certification order.¹³ Additional reporting of intrastate retail revenues is also required for the purpose of Pennsylvania Universal Service Fund contribution assessments. Failure to comply with applicable reporting requirements may result in billing for back payments due and the imposition of fines and/or other lawful remedies, including revocation of certification, consistent with due process.

Conclusion

Accordingly, pursuant to 66 Pa.C.S. §§ 1101 and 1103, we shall grant the Application and issue Certificates of Public Convenience to provide detariffed IXC Reseller and detariffed facilities-based IXC services in the Commonwealth of Pennsylvania. Upon the approval of the Initial Tariff, a Certificate of Public Convenience shall be issued evidencing the Applicant's authority to provide services as a CLEC in the service territories of Citizens Telecommunications of New York, Inc. d/b/a Frontier Communications of New York, Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company, Frontier Communications of Canton, LLC, The North-Eastern PA Telephone Company, Palmerton Telephone Company, South Canaan Telephone Company, TDS Telecom/Deposit Telephone Company, Verizon Pennsylvania LLC and Verizon North LLC in the Commonwealth of Pennsylvania, as described in the Application and as consistent with this Order, our decisions cited herein, and such other proceedings; **THEREFORE,**

IT IS ORDERED:

facilities thereon or therein. Before entering upon any street, highway or other public way, the public utility corporation shall obtain such permits as may be required by law and shall comply with the lawful and reasonable regulations of the governmental authority having responsibility for the maintenance thereof."

¹³ See 66 Pa.C.S. § 510(b); *see also* 52 Pa. Code §§ 63.31 *et seq.* We note that flexibility for the Applicant's system of accounts is provided by our own annual reporting regulations for CLECs that the Applicant may also utilize. *See generally* 52 Pa. Code §§ 63.31(3) and 63.32(c).

1. That the Application of Archtop Fiber LLC at Docket No. A-2022-3037044, for authority to operate as a Competitive Local Exchange Carrier in the service territories of Citizens Telecommunications of New York, Inc. d/b/a Frontier Communications of New York, Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company, Frontier Communications of Canton, LLC, The North-Eastern PA Telephone Company, Palmerton Telephone Company, South Canaan Telephone Company, TDS Telecom/Deposit Telephone Company, Verizon Pennsylvania LLC and Verizon North LLC within the Commonwealth of Pennsylvania is granted, consistent with this Order.

2. That the Application of Archtop Fiber LLC at Docket No. A-2022-3037043, for authority to operate as a detariffed Facilities-based Interexchange Carrier throughout the Commonwealth of Pennsylvania is granted, consistent with this Order, and that a Certificate of Public Convenience be issued evidencing such approval.

3. That the Application of Archtop Fiber LLC at Docket No. A-2021-3030141, for authority to operate as a detariffed Interexchange Carrier Reseller throughout the Commonwealth of Pennsylvania is granted, consistent with this Order, and that a Certificate of Public Convenience be issued evidencing such approval.

4. That Archtop Fiber LLC shall either eFile or submit an original copy of its Initial Tariff consistent with the requisite changes noted in Appendix A of this Order within sixty (60) days (120 days including an approved extension) after the date of entry of this Order. **Archtop Fiber LLC is directed to identify any changes made to the proposed Initial Tariff that are in addition to the changes noted in Appendix A.** Archtop Fiber LLC shall serve copies of its Initial Tariff on each entity receiving a copy of the original Application. The Initial Tariff may become effective on or after one (1) day's notice from the date upon which they are filed and served.

5. That the Initial Tariff shall be labeled on its face according to its authority: and "Competitive Local Exchange Carrier Tariff."

6. That Archtop Fiber LLC shall comply with all the provisions of the Public Utility Code, as now exist or as may be hereafter amended, and with all pertinent rules, regulations, and Orders of this Commission, now in effect or as may be prescribed by this Commission, including those identified in this Order.

7. That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to Archtop Fiber LLC shall not be construed as conferring more than one operating right to Archtop Fiber LLC.

8. That Archtop Fiber LLC shall maintain accurate accounting records that properly classify and segment its Interexchange Carrier Reseller, Competitive Local Exchange Carrier, and Facilities-based Interexchange Carrier revenues from its operations within the Commonwealth and file with the Commission an accurate annual financial report and an accurate separate statement of gross intrastate (wholesale and retail) revenues for fiscal assessment purposes.

9. That Archtop Fiber LLC shall maintain accurate accounting records that properly classify and segment its gross retail intrastate revenues for purposes of the Pennsylvania Universal Service Fund contribution assessment report.

10. That in accordance with Commission Orders entered on October 5, 2005, at Docket No. M-00041857 and on August 21, 2006, at Docket No. L-00050176, Archtop Fiber LLC shall follow the reporting requirements outlined at the following website:
www.puc.pa.gov/telecom/docs/Reporting_Requirements.docx.

11. That Archtop Fiber LLC shall file such affiliated interest agreements as may be necessary relative to any transactions with affiliates within thirty (30) days of entry of this Order.

12. That Archtop Fiber LLC shall make 711 abbreviated dialing available to access Telecommunications Relay Service and to arrange its switching equipment to translate these calls to the assigned toll-free number, (888) 895-1197, in order to route calls to the Telecommunications Relay Service Provider, in accordance with the Commission's Order entered on February 4, 2000, at Docket No. M-00900239.

13. That in the event that Archtop Fiber LLC has not, on or before sixty (60) days (120 days including an approved extension) from the date of entry of this Order, complied with the requirements set forth herein, the Application at Docket Nos. A-2022-3037041, A-2022-3037043, and A-2022-3037044 shall be dismissed and the authority granted herein revoked without further Commission Order.

14. That upon the approval of the Initial Tariff, a Certificate of Public Convenience shall be issued authorizing Archtop Fiber LLC furnish services as a Competitive Local Exchange Carrier in the service territories of Citizens Telecommunications of New York, Inc. d/b/a Frontier Communications of New York, Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company, Frontier Communications of Canton, LLC, The North-Eastern PA Telephone Company, Palmerton Telephone Company, South Canaan Telephone Company, TDS Telecom/Deposit Telephone Company, Verizon Pennsylvania LLC and Verizon North LLC within the Commonwealth of Pennsylvania, consistent with this Order.

15. That changes and/or additions made to an approved, filed tariff shall be made in the form of supplements, consecutively numbered in the order of their filing dates, and the tariff designation shall be in the following manner: Supplement No. ___ to Tariff Telephone Pa. P.U.C. No. ____.

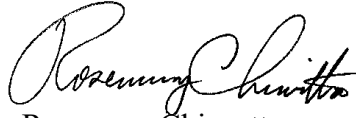
16. That Archtop Fiber LLC shall add its Pennsylvania tariff to its website within thirty (30) days of the filing of its Initial Tariff and mark them “Pending.” Within thirty (30) days of receipt of its Certificates of Public Convenience, Archtop Fiber LLC shall make any required modifications to the tariff on its website and remove the “Pending” notation. Thereafter, Archtop Fiber LLC will continually update the website whenever any supplemental revisions to the tariff are approved by the Commission such that the website tariff is a true and accurate representation of its tariff on file with the Commission.

17. That within thirty (30) days of receipt of its Certificates of Public Convenience, Archtop Fiber LLC shall contact Cyndi Page ((717) 787-5722; cypage@pa.gov) of the Commission’s Office of Communications to create a link from the Commission’s website to Vero Fiber Network LLC’s website.

18. That if Archtop Fiber LLC plans to cease doing business within the Commonwealth of Pennsylvania, it shall request authority from the Commission for permission prior to ceasing.

19. That a copy of this Order be served on the Bureau of Registration and Taxpayer Management in the Pennsylvania Department of Revenue and the Pennsylvania Emergency Management Agency Bureau of 9-1-1 Programs.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is fluid and cursive, with the first letter of each word being significantly larger and more prominent.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: June 15, 2023

ORDER ENTERED: June 15, 2023

Archtop Fiber LLC
Docket No. A-2022-3037044
Proposed Competitive Local Exchange Carrier Tariff

The proposed tariff contains certain deficiencies that must be addressed by the Applicant before the tariff can be approved and the Certificate of Public Convenience issued. **The Applicant must submit a copy of this Appendix with its revised compliance tariff. On that copy, please note the page/sheet of the compliance tariff where the required revision is located for each item below.**

Tariff deficiencies noted – CLEC Tariff (A-2022-3037044), Tariff No. 1

1. All Pages: Enter issued and effective dates as per ordering paragraph.
2. Explanation of Symbols. Please change the symbol C definition to: To signify Change
3. Liability: The limitations of liability tariff provisions should be generally consistent with the Commission's relevant Policy Statement at 52 Pa. Code § 69.87 and the Commission Order at Docket No. M-00981209.
4. Section 2.1.11: Modify TRS section to reflect current tariffed rate of \$0.00.
5. Section 2.1.71: Modify 911 language to reflect Act 12 of 2015.
6. Section 2.1.72: Modify 911 language to reflect Act 12 of 2015.
7. Section 2.5.2: Per 52 Pa. Code § 64.16 A LEC is prohibited from levying or assessing a late payment charge on an overdue bill in an amount which exceeds 1.25% per month on the full unpaid and overdue balance of the bill.
8. Section 2.11.1: Correct PUC address to 400 North St. Harrisburg, 17120.