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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** | | |  |
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|  | | Public Meeting held April 5, 2018 | | |
| Commissioners Present: | |  | | |
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| Gladys M. Brown, Chairman | | | | |
| Andrew G. Place, Vice Chairman  Norman J. Kennard  David W. Sweet  John F. Coleman, Jr. | | | | |
| Application of Time Clock Solutions, LLC for Approval to Offer, Render, Furnish or Supply Telecommunications Services to the Public as a Competitive Local Exchange Carrier in the Commonwealth of Pennsylvania in the Service Territories of Verizon Pennsylvania LLC and Verizon North LLC | | | A-2017-2632820 | |
| Application of Time Clock Solutions, LLC for Approval to Offer, Render, Furnish or Supply Telecommunications Services to the Public as a Detariffed Interexchange Carrier Reseller in the Commonwealth of Pennsylvania | | | A-2017-2632817 | |
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**ORDER**

**BY THE COMMISSION:**

On November 2, 2017, Time Clock Solutions, LLC (Applicant or Time Clock) 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]](#footnote-1) and to Chapter 11 of the 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 Verizon Pennsylvania LLC and Verizon North LLC within the Commonwealth of Pennsylvania, and
2. As a detariffed Interexchange Carrier Reseller (IXC Reseller)[[2]](#footnote-2) throughout the Commonwealth of Pennsylvania.

The Applicant was granted provisional authority pursuant to our Secretarial Letter of December 11, 2017, to provide the proposed services pursuant to its proposed tariff during the pendency of the application process. 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. The assigned utility code is 3120378.

Information concerning the Applicant is as follows:

* The Applicant is a Florida Corporation with its principal place of business at 8725 Southwest 52nd Avenue, Miami, Florida, telephone (855) 753-0941.
* The Applicant complied with Pennsylvania law relating to a foreign corporation.
* The Applicant’s registered office provider within Pennsylvania is InCorp Services, Inc., 7208 Red Top Road, Hummelstown, PA 17036.
* The Applicant’s Pennsylvania Emergency Management Agency contact is Vance Witt, 8725 Southwest 52nd Avenue, Miami, Florida, phone (855) 753-0941.
* Correspondence to resolve complaints may be directed to Vance Witt, 8725 Southwest 52nd Avenue, Miami, Florida, phone (855) 753-0941.
* 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 affiliates or 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 request authority from the Commission for permission prior to ceasing such operations.

The Applicant proposes to provide resold local exchange services offered by Verizon Pennsylvania LLC and Verizon North LLC, including but not limited to: local dial tone, calling features such as call waiting, voice-mail, directory and operating services, xDSL and Centrex. The Applicant states that it intends to provide services to business customers via resale and by purchasing unbundled network elements utilizing ILEC facilities. The Applicant has no current plans to install facilities or to construct new or extend outside plant in Pennsylvania for the provision of telecommunications services.

Issues affecting CLECs have been addressed in a number of Commission proceedings.[[3]](#footnote-3) 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.[[4]](#footnote-4) Also, per federal rules, CLECs are required to ensure the efficient usage of their numbering resources and are required semi-annually to 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 their numbering resources as well as fines pursuant to the Code at 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 response, we articulated explicit concerns relative to an applicant’s financial fitness, tariff compliance, and rates.[[5]](#footnote-5) 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 and as an IXC Reseller.

The Commission 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 (item #22 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.

We conclude that the Applicant has met the requirements for certification as a CLEC and an IXC Reseller consistent with this Order. 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, 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.[[6]](#footnote-6) The Applicant shall thereafter file its Initial Tariff 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.[[7]](#footnote-7) Copies of the Initial Tariff shall also be served upon the same entities receiving service of the original Application, including the ILECs. 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 Tariffs 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 contains rates, the Initial Tariff may become effective on one day’s notice from the date upon which it is filed and served.

In addition, we note that no switched access tariff accompanied the instant Application. Therefore, the Applicant is not permitted to apply access charges, e.g., originating and terminating access billed to interexchange carriers.

Carriers are required to provide telecommunications service to customers in Pennsylvania within one year of certification.[[8]](#footnote-8)

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,[[9]](#footnote-9) when siting facilities/equipment 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 Certificate 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 gross intrastate revenues for fiscal assessment purposes, as received from operations conducted pursuant to the authority granted by the Commission’s certification order.[[10]](#footnote-10) 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, we shall grant the Application and issue a Certificate of Public Convenience to provide detariffed IXC Reseller 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 Verizon Pennsylvania LLC and Verizon North LLC, consistent with this Order, our decisions cited herein,and such other proceedings; **THEREFORE,**

**IT IS ORDERED:**

1. That the Application of Time Clock Solutions, LLC at Docket No. A‑2017‑2632817, 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.
2. That the Application of Time Clock Solutions, LLC at Docket No. A‑2017-2632820, for authority to operate as a Competitive Local Exchange Carrier within the service territories of Verizon Pennsylvania LLC and Verizon North LLC is granted, consistent with this Order.
3. That Time Clock Solutions, 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. Time Clock Solutions, LLC **is directed to identify any changes made to the proposed Initial Tariff in addition to the changes noted in Appendix A.** Time Clock Solutions, 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 it is filed and served.
4. That an Initial Tariff shall be labeled on its face according to the respective authority: “Competitive Local Exchange Carrier Tariff.”
5. That Time Clock Solutions, 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.
6. That if Time Clock Solutions, LLC expands its local service into new counties in its currently authorized area of Verizon Pennsylvania LLC and Verizon North LLC, Time Clock Solutions, LLC shall contact the appropriate 911 coordinators, complete appropriate documents for 911 service for each, and provide the service list to said 911 coordinators with its tariff revisions as verification that arrangements are underway for the provisioning of Emergency 911 service in the additional exchanges.
7. That if Time Clock Solutions, LLC should desire to expand its service territory to that of additional incumbent local exchange carriers, Time Clock Solutions, LLC shall file an Application to amend its Certificate of Public Convenience and comply with all the requirements of the Application, including the completion of the affidavit and requirements thereto concerning Emergency 911 service.
8. That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to Time Clock Solutions, LLC, shall not be construed as conferring more than one operating right to Time Clock Solutions, LLC.
9. That Time Clock Solutions, LLC shall maintain accurate accounting records that properly classify and segment its Interexchange Carrier Reseller revenues and Competitive Local Exchange 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 revenues for fiscal assessment purposes.
10. That Time Clock Solutions, 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.
11. 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, Time Clock Solutions, LLC shall follow the reporting requirements outlined at the following website: [www.puc.pa.gov/telecom/docs/Reporting\_Requirements.docx](http://www.puc.pa.gov/telecom/docs/Reporting_Requirements.docx).
12. That Time Clock Solutions, 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.
13. That Time Clock Solutions, LLC shall make 711 abbreviated dialing available to access Telecommunications Relay Service and 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.
14. That in the event that Time Clock Solutions, 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 Applications at Docket Nos. A‑2017-2632820 and A-2017-2632817 shall be dismissed and the authority granted herein revoked without further Commission 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 Time Clock Solutions, LLC shall add its Pennsylvania tariff to its website within thirty (30) days of the filing of its Initial Tariff and mark it “Pending.” Within thirty (30) days of receipt of its Certificate of Public Convenience, Time Clock Solutions, LLC shall make any required modifications to the tariff on its website and remove the “Pending” notation. Thereafter, Time Clock Solutions, 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 Certificate of Public Convenience, Time Clock Solutions, 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 Time Clock Solutions, LLC’s website.
18. That if Time Clock Solutions, 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 Pennsylvania Department of Revenue, Bureau of Corporation Tax and the Pennsylvania Emergency Management Agency Bureau of 9-1-1 Programs.

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**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: April 5, 2018

ORDER ENTERED: April 5, 2018

**Time Clock Solutions, LLC**

Docket No. A-2017-263820

Proposed Tariff for Competitive Local Exchange Carrier Service

The proposed tariff contains certain deficiencies that must be addressed by the Applicant before the tariff can be approved and the Certificates of Public Convenience issued.

**The Applicant must submit a copy of this Appendix with its revised compliance tariffs. On that copy, please note the page/sheet of the compliance tariffs where the required revision is located for each item below.**

**Tariff deficiencies noted – CLEC Local Tariff (A-2017-263820), Tariff No. 1**

1. Correct the Title to read:

COMPANY NAME

COMPETITIVE LOCAL EXCHANGE CARRIER

Regulations and Schedule of Charges

1. Title Page: Insert a space between “LLC” and “(Company).”
2. All Pages: Enter issued and effective dates as per ordering paragraph.
3. Various Pages: Revise all references to both Verizon companies to reflect Verizon Pennsylvania LLC and Verizon North LLC, respectively.
4. Page 2, Check Sheet: Revise the total page numbers to correctly state that this tariff has only 123 pages.
5. Page 7, Section 1.0: Remove “Dial Pulse” as this term is not used in this tariff.
6. Page 8, Section 1.0: Remove “generally” from Off-Peak and Peak definitions and clearly define both terms.
7. Page 16, Section 2.1.6: Revise by explicitly stating the Company’s business hours.
8. Page 19, Section 2.5.1: Define “Seasonal Service” and “Temporary Service” and note where these terms are found in this tariff.
9. Page 22, Section 2.6.2: Revise the Commission’s address to 400 North Street, Harrisburg, Pennsylvania 17120.
10. Page 34, Section 4.1.3: Revise all references to PSAP to correctly state “Public Safety Answering Point,” *see* last paragraph and sentence on this page.
11. Page 35, Section 4.1.3: Revise language to accurately reflect Act 12 of 2015. Revise the monthly contribution rate to $1.65 for all lines. Counties and County classes are no longer relevant.
12. Page 35, Section 4.1.4 (C): Revise to correctly state that Liability and Insurance provisions are located within Section 2.1.3, as opposed to Section 2.1.4.
13. Page 38, Section 4.3.1: Remove or revise as Sections 6.1.4, 6.1.5 and 6.1.7 do not exist.
14. Page 38, Section 4.3: Remove or revise option (C) from the various packages as it contradicts option (B).
15. Page 42, Section 4.0: Move Section 4.0 header from the bottom of page 42 to its correct position at the top of page 43.
16. Page 52, Section 6.2.1: Define “Time Clock Service” charge.
17. Page 52, Section 6.2.1: Remove or revise the “N/A” in the Local Area Unlimited column for Rate Groups 1 – 3, Individual and Multiline, within the Philadelphia and Pittsburgh exchanges as this column contradicts Section 4.3.3.
18. Page 53, Section 6.2.2 (C): Remove references as there should be zero allowance afforded to unlimited plans.
19. Page 58, Section 6.8: Remove or revise reference to “Multiple feature packages.” Alternatively, add these packages with descriptions, rates and reference as to where they were placed in this tariff.
20. Pages 63, 64, and 66, Section 10.1: Move Section header to top of the next page and revise to Section 10.1.
21. Page 103, Section 10.2.2: Remove or revise “Usage Sensitive Service Unavailable” as this conflicts with Section 4.4.
22. Page 119, Section 11.2: Revise PSAP from “Service” to “Safety.”

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*). [↑](#footnote-ref-1)
2. Section 3018(b)(2) of the 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. [↑](#footnote-ref-2)
3. *See, e.g., 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. [↑](#footnote-ref-3)
4. *See Universal Service Investigation,* Docket No. I-00940035 (Order entered January 28, 1997). [↑](#footnote-ref-4)
5. *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). [↑](#footnote-ref-5)
6. 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. [↑](#footnote-ref-6)
7. *See Final Rulemaking to Permit Electronic Filing*, Docket No. L-00070187 (Order entered May 23, 2008). [↑](#footnote-ref-7)
8. 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). [↑](#footnote-ref-8)
9. 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 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." [↑](#footnote-ref-9)
10. *See* 66 Pa. C.S. § 510(b); s*ee 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 competitive local exchange carriers that the Applicant may also utilize. *See generally* 52 Pa. Code §§ 63.31(3) and 63.32(c). [↑](#footnote-ref-10)