

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held March 16, 2023

Commissioners Present:

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

Cancellation of Certificates of Public Convenience for
Telecommunication Utilities; Failure to Operate or
Report Any Intrastate Operating Revenue

M-2022-3037353

TENTATIVE ORDER

BY THE COMMISSION:

The Public Utility Code (Code) requires that by March 31st of each year, every public utility must file a report detailing its total gross intrastate operating revenue for the preceding calendar year. 66 Pa.C.S. § 510(b). This report is essential for the Commission to fund its operations and to properly allocate assessment costs among the regulated utility community. *Id.* Commission regulations authorize the cancellation of a telecommunication utility's Certificate of Public Convenience (CPC) for failure to comply with applicable reporting requirements such as the filing of annual financial reports. *See* 52 Pa. Code § 63.36.

The Commission has undertaken a review of its records which has revealed that a significant number of telecommunication utilities have repeatedly failed to file the required annual assessment report or have continually reported zero intrastate operating revenue in their filed annual assessment report. Specifically, each telecommunication utility listed in Appendix A, attached hereto, has failed to report any intrastate operating revenue to the Commission since calendar year 2019. The telecommunication utilities

listed in Appendix B have either reported zero intrastate revenue since 2019 or reported zero intrastate revenue in any year since 2019 in combination with not reporting intrastate operating revenue.

The Commission's Bureau of Administration sent a final warning letter to each individual telecommunication utility listed in Appendix A and Appendix B, requesting that they either file an assessment report detailing their annual intrastate operating revenue for the applicable period or notify the Commission of their desire to abandon their CPCs. The telecommunication utilities were provided twenty (20) days to comply. The letter further warned the telecommunication utilities that their failure to comply with the filing directive would result in the Commission taking appropriate action to cancel their CPCs. None of the telecommunication utilities listed in Appendix A or Appendix B responded to the warning letter.

The Public Utility Code requires each telecommunications public utility to operate continuously and without unreasonable interruptions of service. 66 Pa.C.S. § 1501, 52 Pa. Code §§ 63.24. Section 510(b) of the Code requires these public utilities to file a report detailing their total gross intrastate operating revenue for the preceding calendar year based on the intrastate revenues it generates from the jurisdictional telecommunications services it offers within the Commonwealth of Pennsylvania. 66 Pa.C.S. § 510(b). Under the present circumstances, the failure of the telecommunication utilities listed in Appendix A to file an annual assessment report for various years has created a rebuttable presumption that they are not operating in the Commonwealth of Pennsylvania. Additionally, the continual filing of zero intrastate operating revenue in their annual assessment form by the telecommunication utilities listed in Appendix B has created a rebuttable presumption that they are not providing jurisdictional telecommunications services in the Commonwealth of Pennsylvania.

As such, we determine that the actions of failing to file an annual assessment report with the Commission or reporting zero intrastate operating revenue in each successive calendar year since 2019 indicates that there is no need for these non-reporting or zero reporting telecommunications utilities to possess a CPC in Pennsylvania. These carriers are not in compliance with the reporting requirements of 66 Pa.C.S. § 510(b) nor are they in compliance with the operational requirements of 66 Pa.C.S. § 1501, 52 Pa. Code §§ 63.24. Based on their failure to cure these deficiencies in a timely manner, we tentatively conclude that it is in the public interest to initiate the process for canceling the telecommunication utilities' CPCs listed in Appendix A and Appendix B; **THEREFORE,**

IT IS ORDERED:

1. That cancelation of the Certificates of Public Convenience of each telecommunication utility listed in Appendix A and Appendix B is hereby *tentatively* approved as being in the public interest.
2. That all parties listed in Appendices A and B, to the extent they challenge the rebuttable presumption created by their actions and inactions which led to the conclusion that cancelation of their CPC remains appropriate and in the public interest, must file comments in support of their challenge no later than 20 days after publication of this Tentative Order in the *Pennsylvania Bulletin*. The comments shall be sent to the Pennsylvania Public Utility Commission, Attn: Secretary Rosemary Chiavetta, Commonwealth Keystone Building, 400 North Street, 2nd Floor, Harrisburg, PA 17120.
3. Alternatively, the telecommunication utilities listed in Appendices A and B may file an Assessment Report with the Commission's Fiscal Office reflecting their total gross intrastate operating revenues for calendar years 2019, 2020 and 2021, no later than 20 days after publication of this Tentative Order in the *Pennsylvania Bulletin*.

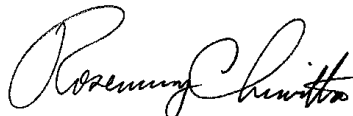
4. That absent the timely filing of any comment challenging cancelation of the CPC, or the timely reporting of a telecommunication utility's gross intrastate operating revenues from calendar years 2019, 2020 and 2021, the Law Bureau shall prepare a Final Order for entry by the Secretary canceling the telecommunication utility's CPC.

5. That upon entry of the Final Order described in Ordering Paragraph No. 4 above, the CPC of each non-compliant carrier shall be canceled, and each non-compliant carrier listed in Appendix A and Appendix B will be stricken from all active utility lists maintained by the Commission's Bureau of Technical Utility Services and the Fiscal & Assessments Section of the Bureau of Administration.

6. That upon entry of the Final Order described in Ordering Paragraph No. 4 above canceling the CPC of each non-compliant carrier listed in Appendix A and Appendix B, all rights and privileges existing under the CPC subject to cancelation, including but not limited to all rights and privileges with eminent domain authority, zoning exemptions, and public right-of-way occupancy, shall be revoked.

7. That the Law Bureau shall publish a copy of this Tentative Order in the *Pennsylvania Bulletin*.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: March 16, 2023

ORDER ENTERED: March 16, 2023

Appendix A

Carriers Not Reporting Revenue Since 2019

Utility Code	Utility Name	Application Number
310507	AMERICAN TELECOMMUNICATIONS SYST	A-310507
3110196	MOMENTUM TELECOM, INC.	A-2008-2045159, A-2008-2046169
3110551	TOTAL HOLDINGS INC	A-2008-2069549

Appendix B

**Carriers Reporting Zero Revenue Since 2019 or Reporting Zero Revenue in
Combination With Not Reporting Revenue In Any Year Since 2019**

<u>Utility Code</u>	<u>Utility Name</u>	<u>Application Number</u>
310197	NOSVA LIMITED PARTNERSHIP	A-310197
3111047	BROADVOX-CLEC LLC	A-2009-2104391, A-2009-2104393
3111706	AIRUS INC	A-2010-2152263, A-2010-2152282, A-2010-2152284, A-2010-2152286
3111908	WORLDWIDE MARKETING SOLUTIONS INC	A-2010-2165627
3114607	PEG BANDWIDTH PA LLC	A-2012-2301870
3116309	RCLEC INC	A-2014-2403435
3119113	CORRECT SOLUTIONS LLC	A-2016-2562526
3119947	ITC GLOBAL NETWORKS LLC	A-2017-2607469
3119952	PENNSYLVANIA MSA LLC	A-2017-2607866, A-2017-2607867
3119957	CONSOLIDATED TELECOM INC	A-2017-2608094
3120378	TIME CLOCK SOLUTIONS LLC	A-2017-2632817, A-2017-2632820
3121484	DELTA TELECOM OF PA INC	A-2018-3005390
3122100	NGA 911, LLC	A-2019-3009273, A-2019-3009292
311391	EURO CONNECT, INC	A-311391
3115091	LOCAL ACCESS LLC	A-2012-2322682, A-2012-2322693, A-2012-2322696
3120524	IRU NETWORKS, LLC	A-2017-2638921, A-2017-2638923, A-2017-2638926