

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

Public Meeting held June 13, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Application of Cincinnati Bell Extended Territories
LLC d/b/a altafiber connected services for Approval to
Offer, Render, Furnish or Supply Telecommunications
Services to the Public as a Competitive Local
Exchange Carrier in the Service Territories of Verizon
Pennsylvania LLC, and Verizon North LLC territories
within the Commonwealth of Pennsylvania

A-2023-3040955

Application of Cincinnati Bell Extended Territories
LLC d/b/a altafiber connected services 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-2023-3040962

ORDER

BY THE COMMISSION:

On May 30, 2023, Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services (Applicant or Cincinnati Bell) filed an Application seeking Certificates of Public Convenience under our orders issued pursuant to the Telecommunications Act of 1996, 47 U.S.C. §§ 251-252 *et seq.*, (TA-96)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 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*).

- (1) As a Competitive Local Exchange Carrier (CLEC) in the Service territories of Verizon Pennsylvania LLC; Verizon North LLC; and
- (2) As a detariffed Interexchange Carrier Reseller (IXC Reseller)² throughout the Commonwealth of Pennsylvania.

The Applicant was granted provisional authority pursuant to our Secretarial Letter of November 17, 2023, to provide the proposed IXC Reseller and CLEC in the service territories of Verizon Pennsylvania LLC and Verizon North LLC pursuant to its proposed tariff during the pendency of the application process. The Applicant was granted a waiver concerning publishing notice of its Application in newspapers of general circulation. The assigned utility code is 3126268.

The Applicant complied with notice requirements set forth in our *TA-96 Implementation Orders* by serving a copy of its Application upon the aforementioned 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:

- The Applicant is an Ohio Limited Liability company with its principal place of business at 221 E 4th Street Cincinnati Ohio 45202 Phone (513) 608-7624 fax (513) 397-7395.
- The Applicant complied with Pennsylvania law relating to a foreign limited liability company.
- The Applicant's registered office provider within Pennsylvania is Corporation Service Company, 2595 Interstate Drive, Ste 103, Harrisburg, PA 17110.

² 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, 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.

- The Applicant’s Pennsylvania Emergency Management Agency contact is Eric Brunner, 221 E 4th Street, Cincinnati, OH 45202 telephone (513) 566-6278, fax 513-397-7395.
- Correspondence to resolve complaints may be directed to Julie Riess (859) 653-0220 or Kevin Mann (859) 757-5116, 221 E 4th Street, Cincinnati, OH 45202.
- The Applicant will be using a fictitious name, as shown in Exhibit A, and will be using the name “altafiber connected services”.
- The Applicant is not operating as a public utility in other states.
- The Applicant has an affiliate in Pennsylvania: CBTS Technology Solutions LLC (Docket Nos. A-2009-2125861, A-311306).
- The Applicant’s Parent Company is Cincinnati Bell Telephone Company LLC, which is a wholly owned subsidiary of Cincinnati Bell Inc, an Ohio Corporation. Other subsidiaries include CBTS Technology Solutions LLC, Hawaiian Telco, Hawaiian Telcom Services Company and Wavecom Solutions Corporation.

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.³

According to its Application, Cincinnati Bell seeks authority to provide resold local exchange and interexchange services to business and enterprise customers in the Commonwealth of Pennsylvania by entering into resale agreements with Verizon and/or other facilities-based carriers. Applicant may also offer dedicated private line services on a resale basis in the Verizon Pennsylvania and Verizon North territories.

³ 66 Pa.C.S. § 1102(a)(2).

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.⁴

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.⁵ 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

⁴ *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.

⁵ *See Universal Service Investigation*, Docket No. I-00940035 (Order entered January 28, 1997).

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.⁶ 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 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, Cincinnati Bell asserts that it possesses the requisite managerial and technical fitness to render CLEC, 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, and an IXC Reseller 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,

⁶ 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).

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.⁷ The Applicant shall thereafter file its Initial Tariff reflecting 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.⁸ 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.⁹

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

⁷ 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.

⁸ See *Final Rulemaking to Permit Electronic Filing*, Docket No. L-00070187 (Order entered May 23, 2008).

⁹ 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).

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. § 1511,¹⁰ 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 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.¹¹ 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 services in the Commonwealth of Pennsylvania. Upon the approval of the Initial

¹⁰ 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."

¹¹ 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).

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 North LLC and Verizon Pennsylvania LLC, as described in the Application and as consistent with this Order, our decisions cited herein, and such other proceedings; **THEREFORE,**

IT IS ORDERED:

1. That the Application of Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services at Docket No. A-2023-3040955, for authority to operate as a Competitive Local Exchange Carrier in the service territories of Verizon Pennsylvania LLC and Verizon North LLC within the Commonwealth of Pennsylvania is granted, consistent with this Order.

2. That the Application of Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services at Docket No. A-2023-3040962, 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.

3. That Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services 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. **Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services is directed to identify any changes made to the proposed Initial Tariff that are in addition to the changes noted in Appendix A.** Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services 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.

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

5. That Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services 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 Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services expands its local service into new counties in its currently authorized area of Verizon Pennsylvania LLC; and Verizon North LLC, Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services 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 Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services should desire to expand its service territory to that of additional incumbent local exchange carriers, Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services 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 Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services shall not be construed as conferring more than one operating right to Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services.

9. That Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services shall maintain accurate accounting records that properly classify and segment its Interexchange Carrier Reseller 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 (wholesale and retail) revenues for fiscal assessment purposes.

10. That Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services 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, Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services shall follow the reporting requirements outlined at the following website:

www.puc.pa.gov/telecom/docs/Reporting_Requirements.docx.

12. That Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services 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 Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services 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.

14. That in the event that Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services 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-2023-3040962, and A-2023-3040955 shall be dismissed and the authority granted herein revoked without further Commission Order.

15. That upon the approval of the Initial Tariff, a Certificate of Public Convenience shall be issued authorizing Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services furnish services as a Competitive Local Exchange Carrier in the service territories of Verizon Pennsylvania LLC, and Verizon North LLC within the Commonwealth of Pennsylvania, consistent with this Order.

16. 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. ____.

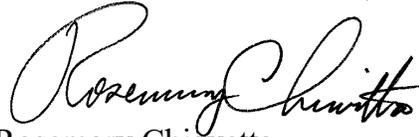
17. That Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services shall add its Pennsylvania tariff to its website within thirty (30) days of the filing of its Initial Tariff and mark them “Pending.” Within thirty (30) days of receipt of its Certificates of Public Convenience, Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services shall make any required modifications to the tariff on its website and remove the “Pending” notation. Thereafter, Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services 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.

18. That within thirty (30) days of receipt of its Certificates of Public Convenience, Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services 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 Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services’s website.

19. That if Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services plans to cease doing business within the Commonwealth of Pennsylvania, it shall request authority from the Commission for permission prior to ceasing.

20. 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 written in a cursive, flowing style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: June 13, 2024

ORDER ENTERED: June 13, 2024

Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services
Docket No. A-2023-3040955
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-2023-3040955), Tariff No. 1

1. All Pages: Enter issued and effective dates as per ordering paragraph.
2. 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.
3. Section 2.1.7: Modify 911 language to reflect Act 12 of 2015.
4. 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.
5. Section 5.3.1: No Section 7.1.4 exists.