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September 20, 2024

Via eFiling

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

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

Application of PEG Bandwidth PA, LLC for approval to offer, render, furnish or supply telecommunication services as a Competitive Access Provider to the Public in the Commonwealth of Pennsylvania

Docket Nos. M-2024-3049348 and A-2012-2301870

Dear Secretary Chiavetta:

Enclosed for electronic filing please find PEG Bandwidth PA, LLC's comments in opposition to the Pennsylvania Public Utility Commission's Tentative Order in the above captioned matters.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Sarah C. Stoner

Sarah C. Stoner
Enclosure

cc: Marc Hoffer (mhoffer@pa.gov)

**Before the
Pennsylvania Public Utilities Commission
Harrisburg, PA 17120**

In the Matters of)	
Cancellation of Certificates of Public Convenience for Telecommunications Public Utilities; Reporting Zero Intrastate Operating Revenue)	M-2024-3049348
Application of PEG Bandwidth PA, LLC for approval to offer, render, furnish or supply telecommunication services as a Competitive Access Provider to the Public in the Commonwealth of Pennsylvania)	A-2012-2301870

**Opposition of PEG Bandwidth PA, LLC
to Cancellation of Certificates of Public Convenience
for Telecommunications Public Utilities**

PEG Bandwidth PA, LLC (“PEG PA”) respectfully submits this opposition to the Pennsylvania Public Utilities Commission’s (“Commission”) Tentative Order (“2024 Tentative Order”) proposing to find that public utilities reporting no intrastate revenue “in each successive calendar year since 2020 indicates that there is no need for these non-reporting or zero reporting telecommunications utilities to possess a [Certificate of Public Convenience (“CPC”)] in Pennsylvania.”¹ The 2024 Tentative Order concluded that CPC cancelation is tentatively approved as being in the public interest for each telecommunications utility that has The telecommunication “either reported zero intrastate revenue since 2020 or reported zero intrastate revenue in any year since 2020 in combination with not reporting intrastate operating revenue.”

PEG PA submitted reports reflecting zero total gross intrastate operating revenues for the

¹ See Tentative Order Finding Cancellation of Certificates of Public Convenience for Telecommunications Public Utilities; Reporting Zero Intrastate Operating Revenue, Docket No. M-2024-304934819 (Order entered July 11, 2024) (“2024 Tentative Order”).

assessment years of 2020, 2021, and 2022. The 2024 Tentative Order established a deadline for the submission of comments to challenge the tentative approval of CPC cancellations within 20 days of the date of publication of the Tentative Order in the Pennsylvania Bulletin. Publication occurred on August 31, 2024, resulting a comment deadline of on or before September 20, 2024. As such, these opposition comments are timely filed.

PEG PA calls attention to the Commission’s referral of PEG PA to the Bureau of Investigation and Enforcement (“Bureau”) on May 18, 2020.² The Commission’s referral to the Bureau concerned the same issue raised here by the 2024 Tentative Order. Specifically, on July 11, 2019, the Commission issued a Tentative Order (“2019 Tentative Order”) alleging a violation of the same Pennsylvania code section by numerous carriers including PEG PA.³ PEG PA filed timely opposition comments in response to the 2019 Tentative Order.⁴ Subsequently, the Commission referred the matter to the Bureau. After responding to the Bureau⁵ and fully cooperating in the investigation,⁶ the Bureau terminated its investigation of PEG PA on February 18, 2022, where the Bureau found that it was “unable to substantiate allegations of wrongdoing on

² Docket Nos. M-2019-3010251; A-2012-2301870.

³ *See* Cancellation of Certificates of Public Convenience for Telecommunications Public Utilities; Reporting Zero Intrastate Operating Revenue, Docket No. M-2019-3010251 (dated July 11, 2019) (alleging violation of 66 Pa. C.S. § 510(b) which is the same code section identified in the 2024 Tentative Order).

⁴ *See* Opposition of PEG Bandwidth PA, LLC to Cancellation of Certificates of Public Convenience for Telecommunications Public Utilities, Docket No. M-2019-3010251 (Oct. 4, 2019).

⁵ The Bureau requested certain information from PEG PA. *See* Letter from Kayla L. Rost, Prosecutor, Bureau of Investigation and Enforcement to Ronald W. Del Sesto, Jr., Esq. Morgan, Lewis & Bockius LLP, Docket No, M-2019-3010251; A-2012-2301870 (Oct. 5, 2021).

⁶ *See* PEG Bandwidth PA, LLC Responses to I&E Data Requests – Set I, Docket Nos. M-2019-3010251; A-2012-2301870 (Oct. 25, 2021).

the part of [PEG PA] which would require the cancellation of its Certificate.”⁷ The Bureau’s letter continues that “I&E has elected to terminate the instant investigation, without prejudice, pursuant to 52 Pa. Code § 3.113(b)(1).”⁸

PEG PA is unaware of any change in relevant law since February 18, 2022, that would materially affect the outcome of another investigation of the company by the Bureau. In fact, PEG PA received a letter from the Commission’s Finance and Assessment Division Bureau of Administration on September 27, 2022, raising the same allegations of violations of relevant law as those identified in the 2024 Tentative Order.⁹ By letter dated October 14, 2022,¹⁰ PEG PA informed the Finance and Assessment Division Bureau of Administration of the procedural history of PEG PA’s interaction with the Commission on this issue, as summarized in these opposition comments, and called attention to the Bureau’s closing of its investigation of PEG PA on this same matter a little over six months before PEG PA received the letter from the Finance and Assessment Division Bureau of Administration, *i.e.*, the Bureau’s letter notifying PEG PA that it was terminating its investigation of the company dated February 18, 2022.

In the alternative, and if the Commission elects to either initiate an action to cancel PEG PA’s CPC, or to open another investigation, PEG PA maintains that it is not in violation of relevant

⁷ Letter from Kayla L. Rost, Prosecutor, Bureau of Investigation and Enforcement to Ronald W. Del Sesto, Jr., Esq. Morgan, Lewis & Bockius LLP, Counsel for PEG Bandwidth PA, LLC, Docket No. M-2019-3010251; A-2012-2301870 (Feb. 18, 2022).

⁸ *Id.*

⁹ *See* Letter from Amy R. Zuvich, Pennsylvania Public Utilities Commission, Finance and Assessment Division Bureau of Administration to PEG Bandwidth PA LLC, File No. 3114607 (Sept. 27, 2022) (“*PUC September 2022 Letter*”).

¹⁰ *See* Letter from Catherine Vasudevan and Ronald W. Del Sesto, Morgan, Lewis & Bockius, Counsel for PEG Bandwidth PA, LLC to Amy R. Zuvich, Pennsylvania Public Utilities Commission, Finance and Assessment Division Bureau of Administration to PEG Bandwidth PA LLC, File No. 3114607 (Oct. 14, 2022).

law nor is there any basis for the Commission to pursue an investigation of the company regarding this issue. This is primarily due to the Bureau's concluded investigation of PEG PA's service offerings in 2022 where it found no basis upon which to cancel its CPC.¹¹ The 2024 Tentative Order raises no new material issues of fact or law with respect to PEG PA's service offerings in the Commonwealth that would allow for a contrary finding by the Bureau. PEG PA incorporates by reference the many filings it has made concerning this issue opposing cancellation of its CPC and all remain relevant to the 2024 Tentative Order.¹² Accordingly, PEG PA respectfully emphasizes that since the 2024 Tentative Order raises no new material issues of fact or law concerning PEG PA's operations in Pennsylvania that were not already addressed by the company in its filings cited to in these opposition comments, there is no basis for the Commission to cancel its CPC or to investigate the company.

Respectfully submitted,

Kelly McGriff

Kelly McGriff

Vice President, Deputy General Counsel

Uniti Group Inc.

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¹¹ Letter from Kayla L. Rost, Prosecutor, Bureau of Investigation and Enforcement to Ronald W. Del Sesto, Jr., Esq. Morgan, Lewis & Bockius LLP, Counsel for PEG Bandwidth PA, LLC, Docket No, M-2019-3010251; A-2012-2301870 (Feb. 18, 2022).

¹² See Opposition of PEG Bandwidth PA, LLC to Cancellation of Certificates of Public Convenience for Telecommunications Public Utilities, Docket No. M-2024-3049348 (May 12, 2023); Letter from Catherine Vasudevan and Ronald W. Del Sesto, Morgan, Lewis & Bockius, Counsel for PEG Bandwidth PA, LLC to Amy R. Zuvich, Pennsylvania Public Utilities Commission, Finance and Assessment Division Bureau of Administration to PEG Bandwidth PA LLC, File No. 3114607 (Oct. 14, 2022); PEG Bandwidth PA, LLC Responses to I&E Data Requests – Set I, Docket Nos. M-2019-3010251; A-2012-2301870 (Oct. 25, 2021); Opposition of PEG Bandwidth PA, LLC to Cancellation of Certificates of Public Convenience for Telecommunications Public Utilities, Docket No. M-2019-3010251 (Oct. 4, 2019).

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Counsel to PEG Bandwidth PA, LLC

Dated: September 20, 2024

VERIFICATION

I, Kelly McGriff, state that I am the Vice President and Deputy General Counsel of Uniti Group Inc. (“Uniti Group”); that I am authorized to make this Verification on behalf of Uniti Group and its subsidiary PEG Bandwidth PA, LLC (collectively, the “Company”); that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to the Company are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).



Kelly McGriff
Vice President, Deputy General Counsel
Uniti Group Inc.

Dated: September 18, 2024