

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2016-321-C - ORDER NO. 2016-792

NOVEMBER 17, 2016

IN RE:	Application of Atlantic Broadband)	ORDER GRANTING
	Enterprise, LLC for a Certificate of Public)	CERTIFICATE AND
	Convenience and Necessity to Provide)	APPROVING FLEXIBLE
	Facilities-Based Local Exchange and Resold)	AND MODIFIED
	Long Distance Telecommunications Services)	ALTERNATIVE
	and for Flexible Regulation of Local)	REGULATION
	Exchange Services and Alternative)	
	Regulation of Long Distance Service)	
	Offerings)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Application of Atlantic Broadband Enterprise, LLC (“Atlantic Broadband” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide facilities-based and resold local exchange and interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. § 58-9-280 and the general regulatory authority of the Commission. By its Application, Atlantic Broadband also requests flexible regulation of its local exchange services offerings pursuant to Order No. 98-165 in Docket No. 1997-467-C, modified alternative regulation consistent with Commission orders of its long distance business service, consumer card, and operator service offerings, and waiver of certain Commission regulations.

The Commission’s Clerk’s Office instructed Atlantic Broadband to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state

affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Atlantic Broadband and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Atlantic Broadband complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed by the South Carolina Telephone Coalition (“SCTC”). Subsequent to the intervention, Atlantic Broadband and SCTC reached a Stipulation, attached as Order Exhibit 1.

On October 12, 2016, counsel for the South Carolina Office of Regulatory Staff (“ORS”) filed a letter with the Commission setting out that it had reviewed the Application and did not oppose the Commission granting the Application. The ORS also sought to be permitted to be excused from the hearing in the Docket. The Applicant did not object to the ORS request. The Hearing Examiner granted the ORS request to be excused from the hearing by Order No. 2016-109-H, dated October 24, 2016.

A hearing was convened on October 27, 2016, at 10:30 a.m. in the offices of the Commission in Columbia, South Carolina, before Randall Dong, Hearing Examiner. Atlantic Broadband was represented by Bonnie D. Shealy, Esquire. The South Carolina Telephone Coalition did not appear at the hearing.

Thomas J. Gunerman, Assistant General Counsel for the Company, appeared by video conferencing and testified in support of the Application. The record reveals that Atlantic Broadband is a Limited Liability Company organized under the laws of the State of Delaware and has registered to transact business in South Carolina as a foreign limited liability company. According to Mr. Gunerman, the Company seeks authority to provide

facilities-based and resold local exchange and interexchange services. Mr. Gunerman explained that the Company will provide businesses and institutions with various dedicated solutions including Ethernet Private Line, Ethernet Virtual Private Line, Ethernet LAN, and EDedicated Internet Access, as well as FlexTrunk service using Primary Rate Interface or Session Initiation Protocol. The record further reveals the Company's services, operations, and marketing procedures. The Company seeks statewide authority and initially intends to offer services only in the area where its affiliated cable company Atlantic Broadband (SC) operates which includes Aiken and surrounding communities. Mr. Gunerman also discussed Atlantic Broadband's technical, financial and managerial resources to provide the services for which it seeks authority. Mr. Gunerman offered that Atlantic Broadband is financially able to support its operations in South Carolina. With regard to management and technical capabilities, the Company's Application and Mr. Gunerman's testimony both evidence that Atlantic Broadband's management team has extensive experience in the telecommunications industry that will allow it to be a successful telecommunications carrier within the State of South Carolina. Mr. Gunerman also testified that Atlantic Broadband will operate in accordance with Commission rules, regulations, guidelines, and Commission orders. Mr. Gunerman offered that approval of Atlantic Broadband's Application would serve the public interest by increasing the level of competition in South Carolina.

The Company requests a waiver of S.C. Code Ann. Regs. 103-610 since the Company's books are maintained at its Quincy, Massachusetts headquarters. Further, the Company requests an exemption from record keeping policies that require maintenance of

financial records in conformance with the Uniform System of Accounts (“USOA”). Atlantic Broadband maintains its books in accordance with Generally Accepted Accounting Principles (“GAAP”). In addition, the Company requests that it not be required to publish local exchange directories, and therefore requests waiver of S.C. Code Ann. Regs. 103-631. Atlantic Broadband also requested a waiver of S.C. Code Ann. Regs. 103-612.3’s requirement that it file a map since it seeks statewide authority. Finally, the Company requests a waiver of S.C. Code Ann. Regs. 103-607, that it post a bond since Atlantic Broadband does not intend to provide residential local exchange services at the present time.

After full consideration of the applicable law, the Company’s Application, and the evidence represented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Atlantic Broadband is incorporated under the laws of the State of Delaware and is authorized to do business as a foreign limited liability company in South Carolina by the Secretary of State.
2. Atlantic Broadband desires to operate as a provider of facilities-based and resold local and interexchange telecommunications services in South Carolina.
3. The Company may use state-of-the-art technology to provide its local exchange and interexchange telecommunications services in South Carolina.

4. We find that Atlantic Broadband possesses the managerial experience and capability to operate as a provider, on a facilities-basis or through resale, of both local and interexchange services in South Carolina.

5. We find, based on the financial statements submitted by the Company and the testimony at the hearing, that Atlantic Broadband possesses sufficient financial resources to provide the services as described in its Application and testimony.

6. We find that the issuance of a Certificate of Public Convenience and Necessity to Atlantic Broadband to operate as an interexchange and local exchange telecommunications service provider, regardless of technology employed, in South Carolina would be in the best interest of the citizens of South Carolina by increasing the level of competition in South Carolina, by providing an alternative source for telecommunications services, and by creating incentives for lower prices, and more innovative services.

7. Atlantic Broadband currently maintains its books and records in Massachusetts and requests a waiver of 10 S.C. Code Ann. Regs 103-610. The Commission finds Atlantic Broadband's requested waiver reasonable and understands the difficulty presented to Atlantic Broadband should the waiver not be granted. Further, we find that a waiver of 10 S.C. Code Ann. Regs. 103-610 to be in the public interest. We also believe that exemption from the policies that would require the Company to keep its records under the Uniform System of Accounts is reasonable. Additionally, we find that a waiver of the requirement to publish a local exchange directory pursuant to 10 S.C. Code Ann. Regs. 103-631 is reasonable and in the public interest. We also find that a waiver of

the requirement to file a map pursuant to S.C. Code Ann. Regs. 103-612.3 is reasonable since the Company seeks statewide authority. Finally, since Atlantic Broadband does not intend to provide retail residential local exchange services, we find that it is appropriate and reasonable to waive S.C. Code Ann. Regs. 103-607. Should the Company offer residential local exchange services in the future in South Carolina, we find that it should comply with the bond requirement of S.C. Code Ann. Regs. 103-607.

8. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280(B)(1).

9. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280(B)(3).

10. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280(B)(4).

11. The Commission finds that services to be provided by the Company, regardless of the technology used to provide those services, will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2).

12. The Commission finds that the provision of local exchange service by the Company "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280(B)(5).

13. Following execution of a Stipulation with intervenor South Carolina Telephone Coalition ("SCTC"), the SCTC withdrew its opposition to the Application.

14. The ORS was permitted to be excused from the hearing and the fact that it did not oppose the granting the Application herein is duly noted.

CONCLUSIONS OF LAW

1. The Commission concludes that Atlantic Broadband possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that Atlantic Broadband will participate in the support of universally available telephone service at affordable rates to the extent that Atlantic Broadband may be required to do so by the Commission.

3. The Commission concludes that Atlantic Broadband will provide services which will meet the service standards of the Commission.

4. The Commission concludes that approval of Atlantic Broadband's Application to provide intrastate telecommunications services within South Carolina will serve the public interest by enhancing competition in the State of South Carolina, by offering additional service offerings to South Carolina's consumers, and by providing for efficient use of existing telecommunications resources.

5. The Commission concludes that the provision of telecommunications service by Atlantic Broadband will not adversely impact the public interest.

6. The Commission concludes that the issuance of the authority to provide intrastate local exchange and interexchange telecommunications services as requested by Atlantic Broadband and as set forth in its Application and Mr. Gunerman's testimony is in the best interests of the citizens of the State of South Carolina.

7. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Atlantic Broadband to provide facilities-based and resold local exchange and interexchange telecommunications services within South Carolina.

8. Should Atlantic Broadband offer residential interexchange services in the future, the Commission adopts a rate design for Atlantic Broadband for its residential interexchange services which includes maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

9. Should Atlantic Broadband offer residential interexchange services in the future, Atlantic Broadband shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. Atlantic Broadband shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated

in accordance with the notice and hearing provisions of S.C. Code § 58-9-540 (Supp. 2015).

10. The Commission concludes that Atlantic Broadband's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carriers calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$.035 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the

Commission institutes an investigation of a particular tariff filing within the seven (7) days, the tariff filing will then be suspended until further order of the Commission.

11. The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels approved by the Commission. Further, the company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

12. We conclude that Atlantic Broadband's request for waiver of S.C. Code Ann. Regs. 103-610 should be granted as strict compliance with the regulation would cause undue hardship on Atlantic Broadband. We also grant exemption from the policies requiring the use of USOA. In addition, we grant waiver of S.C. Code Ann. Regs. 103-631, 103-612.3 and 103-607.

13. The Stipulation between Atlantic Broadband and the SCTC should be approved.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to Atlantic Broadband to provide intrastate local exchange services and interexchange telecommunications services regardless of the technology employed within the State of South Carolina.

2. The regulatory treatment adopted for the Company's products shall conform to those plans described in Conclusions of Law above.

3. If it has not already done so by the date of issuance of this Order, Atlantic Broadband shall file its revised tariff and an accompanying price list for any applicable rates within thirty (30) days of receipt of this Order. The revised tariff should be electronically filed in a text searchable PDF format using the commission's DMS system (<http://dms.psc.sc.gov>). An additional copy should be sent via email to etariff@psc.sc.gov to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariff should be made using the ETariff System. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

4. Atlantic Broadband is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. Atlantic Broadband shall resell the services of only those interexchange carriers or local exchange carriers authorized to do business in South Carolina by this Commission.

7. With regard to the origination and termination of toll calls within the same LATA, Atlantic Broadband shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, Atlantic Broadband shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4, of the Stipulation an Appendix B approved by Order No. 93-462.

8. Atlantic Broadband shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Atlantic Broadband shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the ORS's website at www.regulatorystaff.sc.gov. The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than April 1st.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than August 31st of each year. The proper form for filing gross receipts information can be found at the ORS website at www.regulatorystaff.sc.gov, and the appropriate form is entitled “Gross Receipts Form.”

Each telephone utility certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund (“USF”) worksheet, which may be found on the ORS’s website at www.regulatorystaff.sc.gov. This worksheet provides ORS information required to determine each telecommunications company’s liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than August 1st with the Commission and ORS.

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Atlantic Broadband shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at <http://www.regulatorystaff.sc.gov/telecommunications/Pages/FormsandResources.aspx>. This form shall be utilized for the provision of this information to the Commission and

ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

10. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

11. Atlantic Broadband requested a waiver of S.C. Code Ann. Regs. 103-631. In lieu of publishing local directories, Atlantic Broadband informs the Commission that it will contract with the incumbent LECs to provide its customers with directory listings and distribution. The Commission finds this request reasonable and grants the requested waiver. Further, Atlantic Broadband is granted a waiver of S.C. Code Ann. Regs. 103-610, which requires the Company to maintain its financial books and records within the State of South Carolina. Atlantic Broadband is granted permission to maintain its financial books and records at its principal headquarters provided that Atlantic Broadband makes its books and records available for examination upon request by the Office of Regulatory Staff. Further, the Commission acknowledges that Atlantic Broadband shall maintain its financial records in conformance with GAAP. Atlantic Broadband is directed to comply with all Rules and Regulations of the Commission unless a regulation is specifically waived by the Commission. Atlantic Broadband is also granted a waiver of the requirement to file a map pursuant to S.C. Code Ann. Regs. 103-612.3. Finally, we waive the requirement that Atlantic Broadband shall file a bond pursuant to S.C. Code Ann. Regs. 103-607 until such time as Atlantic Broadband provides retail residential local exchange service in South Carolina.

12. Atlantic Broadband is required to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911” system or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the commission hereby instructs Atlantic Broadband to contact the appropriate authorities regarding 911 services in the counties and cities where the Company will be operating, should the Company become interconnected to the public switched telephone network. Contact with the appropriate 911 service authorities is to be made before beginning local telephone service in South Carolina. Contact information for local 911 providers is available on the Commission’s website under “E-911 Information”. By this Order and prior to providing local telephone services in South Carolina, Atlantic Broadband shall contact the 911 coordinator in each county (and city where the city has its own 911 system) and shall provide information regarding the Company’s operations as required by the 911 system.

13. The Stipulation between the SCTC and Atlantic Broadband is hereby approved.

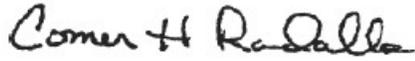
14. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



Swain E. Whitfield, Chairman

ATTEST:



Comer H. Randall, Vice Chairman

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

Docket No. 2016-321-C

Re: Application of Atlantic Broadband)
Enterprises, LLC for a Certificate of)
Public Service Convenience and)
Necessity to Provide Facilities-Based)
Local Exchange and Resold Long)
Distance Telecommunications)
Services within the State of South)
Carolina)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Atlantic Broadband Enterprises, LLC ("Applicant") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Applicant's Application. SCTC and Applicant stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Applicant, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Applicant stipulates and agrees that any Certificate which may be granted will authorize Applicant to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Applicant stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Applicant stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Applicant provides such rural incumbent LEC and the Commission with written notice of its

intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Applicant acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Applicant stipulates and agrees that, if Applicant gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Applicant will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Applicant acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Applicant, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Applicant agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

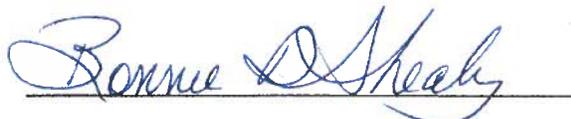
9. Applicant hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 29th day of September,

2016.

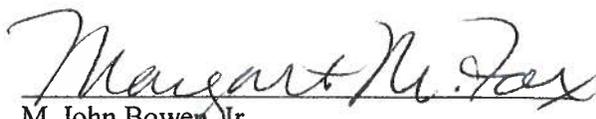
Atlantic Broadband Enterprises, LLC

South Carolina Telephone Coalition



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ATTACHMENT A

South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

Chesnee Telephone Company
Chester Telephone Company, d/b/a TruVista
Comporium, Inc. (f/k/a Rock Hill Telephone Company)
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company, d/b/a Comporium
Home Telephone ILEC, LLC d/b/a Home Telecom
Lancaster Telephone Company, d/b/a Comporium
Lockhart Telephone Company, d/b/a TruVista
McClellanville Telephone Company (TDS)
Norway Telephone Company (TDS)
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
PBT Telecom, d/b/a Comporium
Ridgeway Telephone Company, d/b/a TruVista
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company (TDS)
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company (TDS)