STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on December 15, 2022

COMMISSIONERS PRESENT:

Rory M. Christian, Chair
Diane X. Burman
James S. Alesi
Tracey A. Edwards
John B. Howard
David J. Valesky
John B. Maggiore

CASE 22-C-0540 - Proceeding to Establish Adequate Customer Notice of Copper to Fiber Transitions.

ORDER APPROVING FILINGS OF CUSTOMER NOTIFICATION FORMS FOR COPPER TO FIBER TELEPHONE NETWORK TRANSITIONS

(Issued and Effective December 16, 2022)

BY THE COMMISSION:

INTRODUCTION

Effective February 13, 2023, a new Public Service Law (PSL) §104-a requires telephone corporations that provide local exchange service in New York to give notice to their respective customers at least 45 days prior to any transition from copper-based telephone service to fiber optic-based telephone service. Under this law, the customer notification must include certain information relevant to the fiber-based service. The new law also requires that prior to providing such notice, telephone corporations that intend to transition from copper to fiber must obtain the approval of the Public Service Commission (Commission) as to the notice's form and content.

Through this Order, the Commission finds that the draft customer notifications filed by the seventeen Local Exchange Carriers (LECs) listed in Attachment 2 comply with the content and format requirements pursuant to PSL §104-a and are, therefore, approved.

BACKGOUND

Many LECs operating in New York currently offer fiber-based telephone service and have been migrating customers from legacy copper lines to fiber lines for many years. On August 17, 2022, the Governor signed into law PSL §104-a,[1] which directs the Commission to, among other things, require telephone corporations providing local exchange service in New York to give notice to their customers prior to any transition from copper-based telephone service to fiber optic-based telephone service, and states that such notice shall be provided to the customer at least 45 days before such telephone corporation initiates a change to such customer's telephone service from copper to fiber.

The new law also sets forth requirements of the notice's form and content, including, but not limited to: a) a description of the differences between copper-based telephone lines and fiber optic-based telephone lines; b) the effects of a power outage on such service; c) the availability of battery back-up options; d) whether the service will be regulated by the Commission; and, e) contact information to obtain additional information or file a complaint with the Commission.

On October 4, 2022, the Commission issued a Notice Regarding Mandatory Filings of Customer Notification Forms For

[1] L.2022, C.503.

Copper To Fiber Telephone Network Transitions (Notice)[2] for all LECs subject to PSL §104-a. The Commission directed those LECs to file a "Customer Notification of Copper to Fiber Transition" (Customer Notification Form) or similarly titled notification specific to its operations and receive Commission approval of such before undergoing copper to fiber transitions. The Notice also included a draft Customer Notification Form[3] prepared by Staff of the Department of Public Service (Department Staff) based on the law's requirements, to assist companies in their compliance with the new law. For LECs currently undergoing copper to fiber transitions, the Notice encouraged the filing of a draft Customer Notification Form on or before October 12, 2022, to avoid any potential delay in copper to fiber transitions after the effective date of the new law. In response to the Notice, seventeen LECs filed draft Customer Notification Forms with the Commission.[4]

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[2] Case 22-C-0540, Proceeding to Establish Adequate Customer Notice of Copper to Fiber Transitions, Notice Regarding Mandatory Filings of Customer Notification Forms For Copper To Fiber Telephone Network Transitions (issued October 4, 2022).

[3] See Attachment 1.

[4] As of November 9, 2022, the following LECs filed Customer Notification Forms pursuant to the Notice: Verizon New York Inc., Delhi Telephone Company, Germantown Telephone Company Inc d/b/a Gtel Teleconnections, Pattersonville Telephone Company, DFT Communications, Chazy and Westport Telephone Corporation, Westelcom Communications, Inc., Newport Telephone Company, Inc., Middleburgh Telephone Company, Oneida County Rural Telephone Company, Margaretville Telephone Company, Inc., Nicholville Telco LLC d/b/a Nicholville Telephone Company, Ontario Telephone Company, Inc., Trumansburg Telephone Company, Inc., InterGlobe Communications, Airespring, Inc., and Champlain Telephone Company.

LEGAL AUTHORITY

Public Service Law §104-a requires that every LEC undergoing a transition from copper-based service to fiber optic-based service file with the Commission a customer notice established pursuant to the statute and obtain approval as to the form and content thereof prior to providing such notice to impacted customers. The law requires, with certain exceptions, that notice be provided to customers at least 45 days prior to the transition from copper to fiber. Pursuant to PSL §104-a, any notice filed with the Commission shall be deemed to be approved 90 days after such telephone corporation applies to the Commission for approval, unless the Commission, or its designee, rejects the notice and requires specific changes within such 90-day period. The Commission may, however, approve such notice at any time prior to the 90-day period for approval by operation of law.

The law also grants the Commission the authority to establish rules and regulations for such notice and may from time to time modify the same. Additionally, the law requires that, upon a material change to the form and content of an approved notice, a telephone corporation shall again file with the Commission such notice and obtain subsequent approval.

DISCUSSION

Public Service Law §104-a requires that every LEC undergoing a transition from copper-based to fiber optic-based service obtain approval of the form and content of notices to be provided to impacted customers at least 45 days prior to such transition. To assist LECs in fulfilling their obligations under the new law with regard to the form and content of the Customer Notification Forms, the Commission issued a draft Customer Notification Form prepared by Department Staff based on the law's required form and content.

The Commission finds that the draft Customer Notification Form provided in the Notice, and included herein as Attachment 1, meets all the requirements for the form and content of the new law, including: a description of the differences between copper-based telephone lines and fiber optic-based telephone lines; the effects of a power outage on such service; availability of battery back-up options; whether the service will be regulated by the Commission; and, contact information to obtain additional information or file a complaint with the Commission. Therefore, the Commission approves its use as a template for future filings with the Commission by LECs undergoing copper to fiber transitions and seeking approval of their respective notifications.

The Commission's review of the seventeen LEC draft Customer Notification Forms filed in response to the Notice similarly indicates that each LEC draft Customer Notification Form is in compliance with the form and content of customer notice requirements under PSL §104-a. Thus, the seventeen LEC Customer Notification Forms filed with the Commission as of November 9, 2022, are hereby approved as well.

Going forward, the Commission will consider approval of future filings either through operation of law pursuant to the statute or by the Commission's written approval if expedited treatment is warranted. As indicated, PSL §104-a establishes that any filed notice shall be deemed to be approved 90 days after such corporation applies to the Commission for approval, unless the Commission, or its designee, rejects the notice and requires specific changes to be filed within such 90-day period. Like in this instance, when necessary to benefit the public interest, the Commission may approve Customer Notice Form applications prior to the expiration of the 90-day review

period, and may also consider, on a case-by-case basis, requests for expedited review and approval for good cause.

As required by the law, notice shall be provided to the customer at least 45 days before such telephone corporation initiates a change in such customer's copper-based telephone service, except for the exceptions allowed in the statute: (a) in cases of an emergency, including but not limited to restoration or repair of service, or (b) upon the request of the customer. In such cases, a Customer Notice Form approved by the Commission should be provided as soon as practicable, or, if required, expedited approval of a Customer Notification Form by the Commission should be requested by the LEC. Regardless of the actual timing of the customer notice, all customers that undergo a transition from copper to fiber should be provided with a Customer Notification Form required by the new law.

Finally, the Commission notes that the statute sets forth that the approved Customer Notification Form be provided to customers at least 45 days prior to a transition from copper-based telephone service to fiber optic-based telephone service, but does not specify the earliest date by which customers should be notified of such a transition. The purpose of the statute is to give customers impacted by a transition to fiber optic-based telephone service important and timely information about the transition and provide customers with realistic expectations of the service upcoming service change. Therefore, following Commission approval of a Customer Notification Form, a LEC should only serve such notice on customers actually targeted for a transition. This will avoid customer confusion in the event the transition is not scheduled within a reasonable amount of time. The Commission expects that LECs will not serve customers with an approved Customer Notification Form unless that customer’s line is reasonably expected to undergo a transition

to fiber optic-based service within the next 180 days following service of the Customer Notification Form.

CONCLUSION

Based on the foregoing, the draft Customer Notification of Copper to Fiber Transition attached to the October 4, 2022 Notice, and included hereto as Attachment 1, is approved for use as a template for future filings by LECs undergoing copper to fiber transitions and seeking Commission approval of the form and content of the customer notification required by PSL §104-a. Further, the Commission finds that the Customer Notification Form filings made by the seventeen LECs identified in this Order, and listed in Attachment 2, comply with PSL §104-a and are, therefore, approved.

The Commission orders:

1. The draft Customer Notification of Copper to Fiber Transition form attached to the Notice Regarding Mandatory Filings of Customer Notification Forms For Copper To Fiber Telephone Network Transitions, issued October 4, 2022, is approved for use as a template for future Local Exchange Carrier filings with the Commission consistent with the discussion in the body of this Order.

2. The Customer Notification Forms of the seventeen Local Exchange Carriers identified in this Order, and listed in Attachment 2 herein, are approved consistent with the discussion in the body of this Order.

3. Following Commission approval of a Customer Notification Form, a Local Exchange Carrier should only serve the Customer Notification Form on customers actually targeted for a copper to fiber transition within a reasonable time consistent with the discussion in the body of this Order.

4. This proceeding is continued.

By the Commission,

(SIGNED) MICHELLE L. PHILLIPS
Secretary

ATTACHMENT 1

Customer Notification of Copper to Fiber Transition

[COMPANY] IS SENDING YOU THIS NOTICE SO THAT YOU WILL BE AWARE OF THE DIFFERENCES BETWEEN COPPER-BASED TELEPHONE LINES AND FIBEROPTIC-BASED TELEPHONE LINES, BECAUSE WE HAVE IDENTIFIED YOUR TELEPHONE LINE AND SERVICE MAY BE CONVERTED FROM COPPER TO FIBER IN THE NEAR FUTURE.

For some of our customers, **[Company]**s telephone service is currently provided using copper cables to connect you to our network and provide power to some older telephone sets. In your area, we intend to switch from copper cables to fiber-optic cables, which use light pulses carried over glass fibers. There will be no change to your voice telephone service when we do this. The same prices, terms, and conditions will apply. However, fiber is more resilient to weather conditions and other environmental factors, resulting in increased reliability. Fiber-optic cable may also enable us to offer you additional advanced services, although *you do not need to purchase those services when we switch you to fiber.*

EFFECT OF POWER OUTAGES

In most cases, power for copper-based telephone service is provided by **[Company]**. (However, cordless telephone sets, alarm equipment, or other devices that require their own separate source of electricity at the customer home or business will not work during a power outage.) Fiber-based voice service requires customer-supplied power and will not work during a power outage without some form of backup power. **[Company]** offers battery-powered backup power options for fiber-based service in compliance with rules of the Federal Communications Commission. The details of the options that we offer may differ depending upon the equipment installed at your location, so please contact us for further information.

REGULATION OF FIBER-BASED TELEPHONE SERVICE

Your voice services will not change when we switch you to fiber. If the service you purchase now is regulated by the Public Service Commission, the regulatory status of the service will not be affected by the fact that the service will be provided over fiber. If you choose to purchase other services that are available over fiber, those services may not be regulated in the same way as your current service.

GETTING FURTHER INFORMATION OR FILING COMPLAINTS

If you have questions or concerns related to your service with **[Company]**, you can call **[Company service telephone number]**. If you wish to file a complaint with the Public Service Commission, you can do so by calling 1.800 342.3377.

ATTACHMENT 2

LECs That Filed Customer Notification Forms For Approval

Verizon New York Inc.
Delhi Telephone Company
Germantown Telephone Company Inc d/b/a Gtel Teleconnections
Pattersonville Telephone Company
DFT Communications
Chazy and Westport Telephone Corporation
Westelcom Communications, Inc.
Newport Telephone Company, Inc.
Middleburgh Telephone Company
Oneida County Rural Telephone Company
Margaretville Telephone Company, Inc.
Nicholville Telco LLC d/b/a Nicholville Telephone Company
Ontario Telephone Company, Inc.
Trumansburg Telephone Company, Inc.
InterGlobe Communications
Airespring, Inc.
Champlain Telephone Company.