

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

APPLICATION OF METRODUCT SYSTEMS) CAUSE NO. 46000
VA LLC FOR A CERTIFICATE OF)
TERRITORIAL AUTHORITY FOR) APPROVED: MAR 27 2024
COMMUNICATIONS SERVICE PROVIDERS)

Commissioner	Yes	No	Not Participating
Huston	✓		
Bennett	✓		
Freeman	✓		
Veleta			✓
Ziegner	✓		

ORDER OF THE COMMISSION

Presiding Officer:

Kristin E. Kresge, Administrative Law Judge

On January 10, 2024 MetroDuct Systems VA LLC (“Applicant”) filed with the Indiana Utility Regulatory Commission (“Commission”) its Application for a Certificate of Territorial Authority (“CTA”) to provide communications services, specifically telecommunications services as defined in 47 U.S.C. § 153 and described in the Application, within Indiana. The Commission published notice that Applicant filed an application for a CTA to provide communications services within the state of Indiana. Absent a timely request, the Application may be granted without a hearing.

Based upon information contained in the Application and applicable law, the Commission makes the following findings:

1. Commission Notice and Jurisdiction. Due, legal, and timely notice of the Application was given and published by the Commission in accordance with General Administrative Order (“GAO”) 2019-6 and Ind. Code § 8-1-32.5-9. Applicant requests the issuance of a CTA pursuant to Ind. Code ch. 8-1-32.5 and, therefore, the Commission has jurisdiction over Applicant and the subject of this Cause.

2. Commission Discussion and Findings. On January 10, 2024, Applicant filed an application for a CTA to offer telecommunications service in the form of “dedicated telecommunications services” and information describing its legal authority to do so. Applicant also provided information indicating the type, means, and location of service that Applicant proposes to provide.

Notice of the Application was posted to the Commission’s website. The application did not include the documentation necessary to prove MetroDuct’s financial, managerial, and technical qualifications, as required by Ind. Code § 8-1-32.5-6(b)(2). On January 29, 2024, Applicant filed an Amended Application to correct this omission. Also on January 29, 2024, counsel for MetroDuct filed a Motion for the Commission to Find Certain Information to Be Filed in this Cause as Confidential, as well as a supporting affidavit of Mr. Joseph Blake II, counsel for MetroDuct’s parent, the Fishel Company. On February 16, 2024 a docket entry was issued in which confidential information was approved on a preliminary basis. No timely written request for intervention or a hearing was made by any entity during the 30-day posting period, and the

Commission has not, on its own motion, determined a need for a hearing in this Cause. Accordingly, no hearing is required in this Cause.

Therefore, based upon the information provided by Applicant in its Application as amended, the Commission finds that a Certificate of Territorial Authority for the telecommunications services proposed to be offered within the service areas identified in the Application should be issued to Applicant, consistent with and subject to the following findings.

Applicant shall comply with all applicable legal requirements pertaining to the provision of the communications services authorized by this CTA, including, but not limited to, the following:

a. **Indiana Universal Service Fund.** Applicant shall pay all required assessments into the Indiana Universal Service Fund (“IUSF”), based on the “net billed intrastate retail telecommunications revenue,” pursuant to the Order in Cause No. 42144 and the “Implementation Guidelines” attached to the July 25, 2007 Docket Entry issued in Cause No. 42144, and pursuant to any subsequently issued IUSF-related requirements, rules, or procedures.

b. **Notice of Initiation of Service.** Pursuant to Ind. Code §§ 8-1-32.5-6(b)(3)(D) and 8-1-32.5-6(a)(9)(A), Applicant shall file under this Cause a notice with the Secretary of the Commission of Applicant’s “in service” dates (i.e., the dates on which Applicant commences offering communications service in each service area identified in the Application in accordance with Ind. Code § 8-1-32.5-6(a)(4)) within 90 days of each “in service” date.

c. **Additional Filing Requirements.** Applicant shall file any other data, information, or reports required or requested by the Commission, including but not limited to information concerning the types of service offered, the areas in which the services are offered, and any information needed by the Commission.

d. **Indiana Underground Plant Protection Service.** To the extent Applicant owns, maintains, or otherwise has control over underground facilities, Applicant shall establish and maintain contact with, and provide appropriate notice to, the Indiana Underground Plant Protection Service, the designated administrator of the 811 dialing code in Indiana, and comply with Ind. Code ch. 8-1-26.

e. **Notice of Changes.** Applicant shall notify the Commission, pursuant to Ind. Code § 8-1-32.5-12, of any change involving either Applicant or the CTA occurring after the issuance of this CTA. Such notice shall be provided using a Verified Notice of Change form in accordance with GAO 2019-6. If the change involves the provision of other types of services than those approved in this Order or the reclassification of a communications service approved in this CTA, additional obligations and fees may apply.

f. **Other Customer Notifications.** Applicant shall provide appropriate notice to customers when Applicant offers new communications services, discontinues communications services, and/or increases rates and charges for communications services in any of Applicant’s

service areas in Indiana pursuant to Ind. Code § 8-1-32.5-11(b) and any regulations adopted by the Commission.

3. Confidential Information. On January 29, 2024, Applicant filed a motion for the commission to find certain information to be filed in this cause as confidential, supported by an Affidavit showing certain information Applicant intended to submit in this cause contains confidential, proprietary, competitively sensitive, and/or trade secret information. The information contains detailed descriptions of Applicant's financial position, including asset liabilities, shareholders' equity, revenue, expenses, and financial statement notes related to the Fishel Company and its subsidiaries. In a docket entry issued February 16, 2024, the information was found to be preliminarily confidential, after which the information was submitted under seal. Based on our review, the Commission finds the information is trade secret information as defined by Ind. Code § 24-2-3-2, is exempt from public access and disclosure pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29 and will continue to be held as confidential and protected from public access and disclosure by the Commission.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. Subject to the Findings set forth in this Order, Applicant MetroDuct Systems VA LLC is hereby issued a Certificate of Territorial Authority as a Communications Service Provider to offer telecommunications services as requested in the Application that is the subject of this Order.

2. The confidential information filed in this Cause is trade secret as defined by Ind. Code § 24-2-3-2 and exempt from public access and disclosure pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29.

3. This Order shall be effective on and after the date of its approval.

HUSTON, BENNETT, FREEMAN, AND ZIEGNER CONCUR; VELETA ABSENT:

APPROVED: MAR 27 2024

**I hereby certify that the above is a true
and correct copy of the Order as approved.**

**Dana Kosco
Secretary of the Commission**