

<b>SERVICE DATE</b> <b>Jun 12, 2024</b>
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**PUBLIC SERVICE COMMISSION OF WISCONSIN**

Application of 8th Fire Communications, LLC for Certification as a  
Competitive Local Exchange Carrier and Alternative  
Telecommunications Utility

11276-NC-100

**FINAL DECISION GRANTING CERTIFICATION  
AS A COMPETITIVE LOCAL EXCHANGE CARRIER****Introduction**

On June 4, 2024, 8th Fire Communications, LLC (8th Fire) filed an application to be certified as a competitive local exchange carrier (CLEC) ([PSC REF#: 504339](#)) 8th Fire, pursuant to Wis. Stat. § 196.203, seeks certification as an alternative telecommunications utility under the “other” category (ATU-other), defined in Wis. Stat. § 196.01(1d)(f), to provide intrastate IntraLATA and InterLATA toll and local exchange services. A list of parties in this docket may be found in Appendix A.

**Background**

2011 Wisconsin Act 22 (Act 22), also known as the Telecommunications Modernization Act, became effective on June 9, 2011. Act 22 significantly modified Wis. Stat. ch. 196 relating to the regulation of telecommunications utilities and telecommunications services in Wisconsin. Act 22 implements a clear intention to level the regulatory playing field among competitors by imposing similar regulations on competing entities.

In a Final Decision<sup>1</sup> issued July 12, 2011, the Commission granted a recertification to Wisconsin Bell, Inc., d/b/a AT&T Wisconsin that addressed many issues related to the new recertification process arising from Act 22. Since the AT&T Wisconsin recertification in docket 6720-NC-100 was also as an ATU, the Final Decision in that case addressed the application of the “parity provision” in Wis. Stat. § 196.203(3) (“If the commission imposes a provision of this chapter specified in sub. (4m)(a) on an [ATU] under this subsection, the commission shall impose the same provision at the same level of regulation on all other alternative telecommunications utilities.”). Following on its determinations in docket 6720-NC-100, the Commission also recertified numerous entities, specifically affiliates of CenturyTel, Frontier, and TDS Telecom.<sup>2</sup> Due to the enactment of Act 22 and the above-cited decisions, the Commission will grant this application with a reduced level of regulation subject to the parity provision.

The Commission delegated the issuance of this type of Final Decision to the Administrator of the Division of Digital Access, Consumer and Environmental Affairs based on the guidance provided in previous dockets involving recertification pursuant to the provisions of Act 22.

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<sup>1</sup> See “Final Decision Granting Recertification as an Alternative Telecommunications Utility, *Notice of Wisconsin Bell, Inc., d/b/a AT&T Wisconsin to Terminate Certificate Under Wis. Stat. § 196.50 and Become Certified as an Alternative Telecommunications Utility Under Wis. Stat. § 196.203*, Docket No. 6720-NC-100 (July 12, 2011).

<sup>2</sup> CenturyTel affiliates were recertified ATUs under Wis. Stat. § 196.50(2)(j)1.a., similar to AT&T Wisconsin. Frontier and TDS Telecom affiliates were granted recertification as “telecommunications utilities” pursuant to Wis. Stat. § 196.50(2)(j)1.b.

### **Findings of Fact**

1. 8th Fire is qualified by the Wisconsin Department of Financial Institutions to do business in Wisconsin.

2. 8th Fire represents that it has the financial resources, managerial ability, and technical expertise to adequately provide its proposed telecommunications services.

No information to the contrary has come to the Commission's attention.

3. It is consistent with Wis. Stat. § 196.203(2)(b) to reflect 8th Fire's certification as statewide in geographical scope.

4. The following statutes must be applied to 8th Fire: Wis. Stat. §§ 196.01, 196.016, 196.025(6), 196.191, 196.206, and 196.212.

5. The Commission may apply to 8th Fire's certification a number of statutes: Wis. Stat. §§ 196.02(1), (4), and (5); 196.04; 196.135; 196.14; 196.197(1), (2), and (4); 196.199; 196.207; 196.208; 196.209; 196.218; 196.219(1), (2)(b), (c), and (d); (2r); (3)(a), (d), (j), (m), (n) and (o); 196.25; 196.26; 196.39; 196.395; 196.40; 196.41; 196.43; 196.44; 196.65; 196.66; 196.81; 196.85; 196.858 and 196.859.

6. The Commission finds it in the public interest to impose certain statutes with respect to 8th Fire's intrastate switched access services, specifically Wis. Stat. §§ 196.03(1) and (6), 196.37 and 196.212; and, with respect to 8th Fire's wholesale telecommunications services only, Wis. Stat. §§ 196.03(1) and (6), 196.219(4), 196.28, and 196.37.

7. It is not necessary in this Final Decision to determine the application of the parity provisions of Wis. Stat. § 196.203(3) to different types of ATUs.

8. It is not necessary in this Final Decision to interpret the meaning of "switched access service" in Wis. Stat. § 196.01(8e) as that definition relates to Extended Area Service (EAS) and Extended Community Calling (ECC).

9. It is not necessary to address in this Final Decision the potential that historical, informal arrangements with other providers may be changed in light of Act 22.

10. It is reasonable to continue to apply any previous orders, rules, or Commission determinations that are not inconsistent with Act 22.

### **Conclusions of Law**

1. The Commission concludes it has jurisdiction pursuant to Wis. Stat. §§ 196.02(1), 196.395, and 196.203 to certify 8th Fire as a competitive local exchange carrier in the ATU-other category. This certification under Wis. Stat. § 196.203(3) and (4m), with the imposition of statutes described above in Findings of Fact Nos. 4, 5, and 6, is in the public interest and complies with applicable law.

2. The Commission has authority under Wis. Stat. § 15.02(4) to delegate to the Administrator of the Division of Digital Access, Consumer and Environmental Affairs those functions vested by law as enumerated above, and has delegated the authority to issue this Final Decision.

3. It is consistent with Wis. Stat. § 196.203(2)(b) in this certification to reflect 8th Fire's certification as statewide in geographical scope.

4. It is reasonable, in the public interest, and consistent with the Commission's prior decision in docket 6720-NC-100 as applicable here, to act, or refrain from acting, as set forth herein in certifying 8th Fire under Wis. Stat. § 196.203(2)(a).

### **Opinion**

The Commission concludes that the public interest is best served by imposing on 8th Fire the same statutes imposed on AT&T Wisconsin in docket 6720-NC-100.

The public interest supports the imposition of the statutes listed in Findings of Fact Nos. 4, 5 and 6. Those statutes contribute to leveling regulation among competitors in the telecommunications service market in this state, thereby removing potentially distorting effects of differential regulation and maximizing competition consistent with Wis. Stat. §§ 133.01 and 196.03(6)(a). This reduced, “levelized” regulation, when combined with the statewide certification for ATUs effected by Wis. Stat. § 196.203(2)(b), also contributes to the public interest by promoting consumer choice, deployment of telecommunications infrastructure, and efficiency and productivity. *See* Wis. Stat. § 196.03(1) and (6)(b), (e), and (f). Other public interest factors listed in Wis. Stat. § 196.03(6) are either not relevant or outweighed by the foregoing cited factors.

8th Fire’s request for certification does not alter some issues identified in docket 6720-NC-100. Specifically, this decision does not resolve the “carry over” issues, or allow for differing treatments, as to the following: (1) the meaning of “switched access service” in Wis. Stat. § 196.01(8e); (2) any changes in treatment or status of historical, informal arrangements between providers in light of Act 22; (3) any application to, or effect on, rights, duties or privileges that 8th Fire may have under federal law; (4) reservation of a right to seek certificate modifications to continue parity of regulatory treatment; and (5) intended continued application of previous orders, rules or Commission determinations that are not inconsistent with Act 22. *See* Final Decision, docket 6720-NC-100, at 4-5, and 10-11.

The Commission's issuance of this certification for 8th Fire is consistent with Wis. Stat. § 196.203, the precedential guidance of the Final Decision in docket 6720-NC-100, and the public interest as framed by Wis. Stat. § 196.03(1) and (6).

### **Order**

1. This Final Decision shall be effective one day after the date of service.
2. 8th Fire is granted certification as an alternative telecommunications utility as set forth in the certificate below.
3. In the event that future Commission action implicates the parity provisions of Wis. Stat. § 196.203(3) and impacts 8th Fire's certificate, 8th Fire shall provide notice to the Commission that it desires to be issued a new certificate reflecting the change in regulation.
4. The Commission retains jurisdiction.

### **Certificate**

8th Fire Communications, LLC, as of the effective date of this Final Decision, is a telecommunications utility per Wis. Stat. § 196.01(10), an ATU per Wis. Stat. § 196.01(1d)(f), certified per Wis. Stat. §§ 196.203(2)(a), and authorized throughout Wisconsin to offer facilities-based and resold intrastate telecommunications services, access services, and all other telecommunications services available for certification.

8th Fire Communications, LLC, shall be subject to the following statutory provisions: Wis. Stat. §§ 196.01; 196.02 (1), (4), and (5); 196.04; 196.016; 196.025(6); 196.135; 196.14; 196.191; 196.197(1), (2) and (4); 196.199; 196.206; 196.207; 196.208; 196.209; 196.212; 196.218; 196.219(1), (2)(b), (c), and (d), (2r), and (3)(a), (d), (j), (m), (n), and (o); 196.25;

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196.26; 196.39; 196.395; 196.40; 196.41; 196.43; 196.44; 196.65; 196.66; 196.81; 196.85; 196.858; and 196.859.

With respect to wholesale telecommunications services only, 8th Fire shall be subject to the following additional provisions of Wis. Stat. ch. 196: Wis. Stat. §§ 196.03(1) and (6), 196.219(4), 196.28, and 196.37.

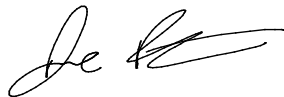
With respect to its intrastate switched access services only, 8th Fire shall be subject to the following additional provisions of Wis. Stat. ch. 196: Wis. Stat. §§ 196.03(1) and (6), and 196.37.

To the extent the Commission later chooses not to impose a provision listed in section Wis. Stat. § 196.203(4m)(a) on any ATU, pursuant to Wis. Stat. § 196.203(3), 8th Fire shall be provided the same regulatory relief and shall provide notice to the Commission that it desires to be issued a new certificate reflecting that change in regulation.

All regulatory requirements related to 8th Fire's certification that are not inconsistent with 2011 Wisconsin Act 22 or this certificate, apply to 8th Fire.

Dated at Madison, Wisconsin, June 12, 2024.

For the Commission:



Joe Fontaine  
Division Administrator  
Division of Digital Access, Consumer, and Environmental Affairs

JF:PRJ:bs DL:02014920

See attached: Notice of Rights  
Appendix A

PUBLIC SERVICE COMMISSION OF WISCONSIN  
4822 Madison Yards Way  
P.O. Box 7854  
Madison, Wisconsin 53707-7854

**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE  
TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE  
PARTY TO BE NAMED AS RESPONDENT**

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

*PETITION FOR REHEARING*

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of the date of service of this decision, as provided in Wis. Stat. § 227.49. The date of service is shown on the first page. If there is no date on the first page, the date of service is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

*PETITION FOR JUDICIAL REVIEW*

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission serves its original decision.<sup>3</sup> The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: March 27, 2013

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<sup>3</sup> See *Currier v. Wisconsin Dep't of Revenue*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.



**APPENDIX A**

The persons listed below are defined by Wis. Admin. Code § PSC 2.02(7), (10), and (12) as parties in this docket and participated therein.

PUBLIC SERVICE COMMISSION OF WISCONSIN (not a party but must be served)  
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