COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, FEBRUARY 22, 2021

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APPLICATION OF

METRO FIBERNET, LLC

CASE NO. PUR-2020-00285

For a certificate of public convenience and necessity to provide local exchange telecommunications services in the Commonwealth of Virginia

ORDER FOR NOTICE AND COMMENT

On December 14, 2020, Metro Fibernet, LLC ("Metronet" or "Company") filed an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity to provide local exchange telecommunications services in the Commonwealth of Virginia ("Application").[1]

NOW THE COMMISSION, upon consideration of the Application, is of the opinion and finds that it should docket the Company's Application; that Metronet should give notice to the public of its Application; that interested persons should have an opportunity to comment and request a hearing on the Company's Application; and that the Staff of the Commission ("Staff") should conduct an investigation into the reasonableness of the Application and present its findings in a report ("Staff Report").

The Commission further takes judicial notice of the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued at both the state and federal levels.[2] The Commission has taken certain actions, and may take

[1] On February 1, 2021, the Company filed additional information to supplement its Application, which was deemed complete on February 2, 2021.

[2] *See, e.g.*, Executive Order No. 51, Declaration of a State of Emergency Due to Novel Coronavirus, COVID-19, issued March 12, 2020, by Governor Ralph S. Northam. *See also* Executive Order No. 53, Temporary Restrictions on Restaurants, Recreational, Entertainment, Gatherings, Non-Essential Retail Businesses, and Closure of K-12

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additional actions going forward, which could impact the procedures in this proceeding.[3] Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission will, among other things, direct the electronic filing of testimony and pleadings, unless they contain confidential information, and require electronic service on parties to this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. PUR-2020-00285.

(2) All pleadings, briefs, or other documents required to be served in this matter shall be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice").[4] Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any

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Schools Due to Novel Coronavirus (COVID-19), issued March 23, 2020, by Governor Ralph S. Northam, and Executive Order No. 55, Temporary Stay at Home Order Due to Novel Coronavirus (COVID-19), issued March 30, 2020, by Governor Ralph S. Northam. These and subsequent Executive Orders related to COVID-19 may be found at: https://www.governor.virginia.gov/executive-actions/.

[3] *See, e.g.*, *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders,* Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency Extension of Prior Orders*, Case Nos. CLK-2020-00004 and CLK-2020-00005, Doc. Con. Cen. No. 200520101, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020).

[4] 5 VAC 5-20-10 *et seq.*

pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.[5]

(3) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(4) On or before March 25, 2021, Metronet shall complete publication of the following notice to be published on one occasion, as classified advertising, in newspapers having general circulation throughout its proposed service territory:

NOTICE TO THE PUBLIC OF AN APPLICATION BY METRO FIBERNET, LLC, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES IN THE COMMONWEALTH OF VIRGINIA
CASE NO. PUR-2020-000285

On December 14, 2020, Metro Fibernet, LLC ("Metronet"), filed an application with the State Corporation Commission ("Commission") for a certificate of public convenience and necessity to provide local exchange telecommunications services throughout the Commonwealth of Virginia ("Application").

Copies of the Application may be downloaded from the Commission's website: scc.virginia.gov/pages/Case-Information, or may be obtained from Metronet by contacting Robert A. Bye,

[5] As noted in the Commission's March 19, 2020 Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency in Case No. CLK-2020-00005, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may not be processed for an indefinite period of time due to the COVID-19 emergency. *See supra* n.3.

Corporate Counsel, Metro Fibernet, LLC, 8837 Bond Street, Overland Park, Kansas 66214, Bob.Bye@MetroNetInc.com.

Any person desiring to comment on Metronet's Application may do so on or before April 15, 2021, either electronically by following the instructions on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments or by filing such comments with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

On or before April 15, 2021, any person may request a hearing on Metronet's Application. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be submitted to the Clerk of the Commission at the address set forth above. Requests shall include: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; (iv) a precise statement why a hearing should be conducted in the matter; and (v) the email addresses of such parties or their counsel. Persons filing a request for hearing shall serve a copy of their request upon Metronet.

All submissions to the Commission concerning Metronet's Application shall refer to Case No. PUR-2020-00285.

METRO FIBERNET, LLC

(5) On or before March 25, 2021, Metronet shall provide a copy of the notice contained in Ordering Paragraph (4) by email to each local exchange telephone carrier certificated in Virginia and each interexchange carrier certificated in Virginia. Lists of all current local exchange and interexchange carriers in Virginia are attached to this Order as Appendices A and B, respectively.

(6) Any person desiring to comment on Metronet's Application may do so on or before April 15, 2021, electronically by following the instructions on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments, or by filing such comments with the

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Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

(7) On or before April 15, 2021, any person may request a hearing on Metronet's Application. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be submitted to the Clerk of the Commission at the address in Ordering Paragraph (6). Requests for hearing shall refer to Case No. PUR-2020-00285 and shall include: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; (iv) a precise statement why a hearing should be conducted in the matter; and (v) the email addresses of such parties or their counsel. A copy also shall be served on Metronet via Robert A. Bye, Corporate Counsel, Metro Fibernet, LLC, 8837 Bond Street, Overland Park, Kansas 66214, Bob.Bye@MetroNetInc.com.

(8) On or before April 22, 2021, Metronet shall file with the Commission proof of notice and proof of service as ordered herein.

(9) Staff shall analyze the reasonableness of Metronet's Application and present its findings in a Staff Report to be filed on or before April 29, 2021.

(10) On or before May 6, 2021, Metronet may file responses to the Staff Report or to any comments or requests for hearing filed with the Commission. If not filed electronically, an original and fifteen (15) copies of any responses shall be submitted to the Clerk of the Commission at the address in Ordering Paragraph (6). A copy of the response shall be sent electronically to the Staff and the Commission's Office of General Counsel and to any person who filed a request for a hearing on the Application.

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(11) The Company shall respond to written interrogatories or data requests within seven (7) calendar days after the receipt of the same. Persons who filed requests for hearing shall provide to the Company, Staff, and any other persons who filed requests for hearing, promptly upon request, any work papers or documents used in preparation of their requests for hearing. Except as modified herein, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq*.

(12) The Company shall respond promptly to requests from interested persons for copies of the Application and shall provide one copy free of charge. Copies of the Application also may be downloaded from the Commission's website: scc.virginia.gov/pages/Case-Information.

(13) In accordance with 20 VAC 5-417-20 G 1 b of the Commission's Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, Metronet shall provide a performance or surety bond in the amount of $50,000 in a form to be prescribed by Staff. This bond shall be provided to the Commission's Division of Public Utility Regulation within thirty (30) days from the date of this Order.

(14) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to: Robert A. Bye, Corporate Counsel, Metro Fibernet, LLC, 8837 Bond Street, Overland Park, Kansas 66214, Bob.Bye@MetroNetInc.com; and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219, MBrowder@oag.state.va.us.

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** There are some individuals that are listed multiple times on this list -- they only require one email copy of the document(s).



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