

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF GEARHEART	)	
COMMUNICATIONS, INC. DBA COALFIELDS	)	
TELEPHONE COMPANY FOR AUTHORIZATION	)	
TO ISSUE INDEBTEDNESS PAYABLE AT	)	CASE NO.
PERIODS OF MORE THAN TWO (2) YEARS	)	2016-00397
FROM THE DATE THEREOF	)	

ORDER

On November 17, 2016, Gearheart Communications, Inc. d/b/a Coalfields Telephone Company ("Coalfields Telephone") applied to the Commission for authority to issue indebtedness payable at periods of more than two years from the date thereof. In Coalfields' application ("Application"), the utility proposes to use the proceeds from the proposed Bank of America loan to refinance existing indebtedness and to finance a construction project for which the Commission previously issued a Certificate of Public Convenience and Necessity ("CPCN").<sup>1</sup> Coalfields also requests that the Commission, if necessary for approval of the Application, alter or amend the CPCN issued in Case No. 2016-00037.<sup>2</sup>

In granting the CPCN, the Commission authorized Coalfields Telephone to deploy a Fiber-to-the-Premises ("FTTP") network with the ability to achieve broadband data speeds of up to one gigabit per second for 3,862 potential subscribers in the

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<sup>1</sup> PSC Case No 2016-00037, *Application of Gearheart Communications, Inc. dba Coalfields Telephone Company for a Certificate of Public Convenience and Necessity for the Construction of Fiber-to-the-Premise and Additional Network Upgrades in Floyd and Pike Counties, Kentucky* (Ky. PSC Mar. 1, 2016.)

<sup>2</sup> Application at 7 and 8.

Harold exchange serving portions of Floyd and Pike counties.<sup>3</sup> In addition, the company planned to install a new electronic Softswitch at the Harold central office, along with supporting equipment and facilities throughout the operating area of Coalfields Telephone. Coalfields Telephone intended to finance the project through a loan from the Rural Utility Service (“RUS”); however RUS, in the final loan documents, required Coalfields Telephone to convert a receivable to equity as a condition of the loan. Coalfields Telephone determined that such a conversion would require an immediate tax obligation which would make the loan financially infeasible. Coalfields instead sought out commercial financing and has applied for and received preliminary approval from the Bank of America for a loan totaling \$11,000,000.

The company intends to use the financing for four purposes: 1) to retire existing debt; 2) to fund the projects outlined in its CPCN through 2018; 3) to fund the purchase of property and the construction of a building to house its new Softswitch at a location that is better suited for its network requirements; and 4) miscellaneous capital improvements including land and vehicles, and network upgrades.

The Commission recognizes that Coalfields Telephone has previously sought and received approval for the construction of its planned network upgrades. However, when comparing the project as previously approved and the budgeted amounts in the current Application, it is apparent that certain modifications have been made to the construction plan. The overall cost of the project has decreased, from \$12,306,019 to \$11,000,384. Coalfields appears to have materially altered the construction plans for which the CPCN was granted; therefore, a new CPCN is required for the proposed project. As mentioned earlier in this Order, Coalfields, in the Application, has requested

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<sup>3</sup> *Id.* at 1.

that the Commission alter or modify the original CPCN if the Commission deems it necessary for approval of the Application. The Commission, therefore, also will consider the Application as a request for the issuance of CPCN approving the construction projects for which the financing is sought.

Coalfields Telephone's intended use of the funds is as follows:<sup>4</sup>

<u>Category</u>		<u>Total Amount</u>
Debt Refinance (Fifth Third Bank)		\$ 1,500,000
CPCN – Case 2016-00037		\$5,932,916
2016 Budget Amount	\$2,314,974	
2017 Budget Amount	\$1,800,641	
2018 Budget Amount	\$1,817,301	
New Central Office		\$ 1,945,293
Property	\$ 400,000	
Building	\$ 690,293	
2nd Story Shell	\$ 200,000	
Generators	\$ 655,000	
Miscellaneous Capital		\$ 1,597,175
Fiber Node	\$ 640,000	
Land and Vehicles	\$ 372,672	
Warehouse additions	\$ 118,561	
Wheelwright 10M upgrade	\$ 465,942	
Total:		\$ 10,975,384
Reserve for cost over-runs		<u>\$ 25,000</u>
		\$ 11,000,384

The major differences between the previously approved CPCN and the proposed plan in the Application are the reduction in the costs of the network upgrades, the debt retirement, the addition of the new central office and miscellaneous capital spending projects.

#### Discussion and Findings

It appears that the proposed construction will result in a significant expansion of the services available to subscribers and will enhance Coalfields Telephone's ability to

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<sup>4</sup> *Id.* at 3.

maintain its facilities and provide service to customers. However, the planned construction is extensive, with substantial costs, and is designed primarily for Coalfields Telephone to support services that may be beyond the jurisdiction of the Commission.<sup>5</sup> The Commission recognizes that the General Assembly has found that the provision of broadband and other state-of-the-art telecommunications technologies is an “essential element to the Commonwealth’s initiative to improve the lives of Kentucky citizens ....”<sup>6</sup> Nevertheless, the Commission remains obligated to ensure that Coalfields Telephone’s ability to offer safe, adequate, and reasonable basic local exchange service is not adversely affected.<sup>7</sup> Coalfields Telephone should carefully account for the costs associated with the construction of these facilities, and should properly allocate those costs to jurisdictional and non-jurisdictional services, respectively.<sup>8</sup>

The Commission has reviewed the proposed financing in conjunction with the proposed construction and expansion of facilities and finds Coalfields Telephone’s proposal to be in the public interest. The Commission, after consideration of the evidence of record and being sufficiently advised, finds that:

1. The proposed loan from Bank of America is for lawful objects within the corporate purposes of Coalfields Telephone, is necessary and appropriate for and consistent with the proper performance by the utility of its service to the public, will not

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<sup>5</sup> KRS 278.5462 provides, in part, that the provision of broadband services is not subject to Commission regulation. However, the Commission retains authority to investigate and resolve complaints stemming from broadband service and has the authority to arbitrate and enforce interconnection agreements. Interconnection agreements may include provisions related to remote terminals and central office facilities which may incorporate broadband services.

<sup>6</sup> KRS 278.546(1).

<sup>7</sup> KRS 278.542(1)(n).

<sup>8</sup> The Commission retains the authority to review the reasonableness of such accounting procedures when considering adjustments of rates for basic local exchange service.

impair its ability to perform that service, is reasonable, necessary, and appropriate for such purposes, and should be approved.

2. Coalfields Telephone should execute its note as security for the proposed loan in the manner described in its Application.

3. Within ten days of finalizing the refinancing transaction, Coalfields Telephone should notify the Commission in writing of the exact amount of the new Bank of America loan. Coalfields Telephone should include with the notice the actual interest rate and terms of the loan.

4. Within ten days of the execution of the new Bank of America loan documents, Coalfields Telephone should file with the Commission one copy of the loan documents.

5. The proceeds from the proposed loan should be used only for the lawful purposes set out in Coalfields Telephone's Application.

6. The terms and conditions of the new Bank of America loan should be consistent with the terms as described in Coalfields Telephone's Application.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Coalfields Telephone should be authorized to proceed with the proposed construction and borrow \$11,000,000 from Bank of America as set forth in its Application and described herein and Coalfields should be authorized to proceed with the proposed construction as set forth in its Application and described herein.

IT IS THEREFORE ORDERED that:

1. Coalfields Telephone is authorized to borrow from Bank of America \$11,000,000 as described in the Application. The loan maturity date and interest rate shall be as described in Coalfield Telephone's Application.

2. Coalfields Telephone shall execute the Bank of America loan documents as authorized herein.

3. Coalfields Telephone shall comply with all matters set out in finding paragraphs 3 through 6 as if they were individually so ordered.

4. Coalfields Telephone is granted a CPCN to construct new facilities as set forth in its Application and as described in this Order.

5. Should the costs of the construction authorized herein exceed by more than 10 percent the estimated costs contained in the Application, Coalfields Telephone shall immediately notify the Commission in writing of the adjustment and include an explanation of the additional costs for the Commission's approval.

6. As provided for in this Order, Coalfields Telephone shall maintain records that clearly and sufficiently document the proper allocation of costs for jurisdictional and non-jurisdictional services provided as a result of this construction project.

7. Any documents filed pursuant to ordering paragraph 3 of this Order shall reference the number of this case and shall be retained in the utility's general correspondence file.

Nothing contained herein shall be deemed a warranty or finding of value of securities or financing authorized herein on the part of the Commonwealth of Kentucky or any agency thereof.

By the Commission

ENTERED  
FEB 02 2017  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

Case No. 2016-00397

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