

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF EVERSTREAM)	
SOLUTIONS LLC FOR A CERTIFICATE OF)	CASE NO.
PUBLIC CONVENIENCE AND NECESSITY FOR)	2020-00405
THE CONSTRUCTION OF FIBER OPTIC CABLE)	

ORDER

On December 14, 2020, Everstream Solutions, LLC (Everstream) submitted an application pursuant to KRS 278.020(1) and 807 KAR 5:001 Sections 14 and 15 seeking a Certificate of Public Convenience and Necessity (CPCN) for the construction of a fiber optic cable in Jefferson County, Kentucky. On January 6, 2021, Everstream submitted a revised application curing the filing deficiencies.

Everstream describes itself as a super-regional network service provider of Ethernet, internet and data center solutions to businesses operating in Ohio, Michigan, Indiana, Illinois, Missouri, Wisconsin, and Minnesota.¹ Everstream does not currently serve Kentucky residents but states in its application that it has plans to expand its network into parts of Kentucky and provide service as a wholesale carrier.² The purpose of the construction is to link the facilities of T-Mobile, a wireless provider, by placing fiber optic cable in existing ducts owned by AT&T and crossing the Clark Memorial Bridge from Indiana to Louisville, Kentucky.³ Everstream's proposed construction is estimated to cost

¹ Application at 1–2.

² *Id.*

³ *Id.*

\$50,000 with annual operating costs of \$20,000 and will be financed from its general funds.⁴

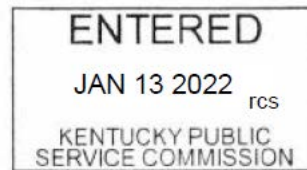
KRS 278.020(1) requires that: “No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010 . . . until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.” KRS 278.010 defines utility services, notably at KRS 278.010(e), as “The transmission or conveyance over wire, in air, or otherwise, of any message by telephone or telegraph for the public, for compensation.” Everstream, as noted in its application, states that it intends to provide wholesale services to other carriers. The Commission finds that the services Everstream intends to provide are not “for the public” as they are provided wholesale to utilities and not the general public. The Commission, additionally, does not regulate the rates or charges of telecommunications wholesale services of entities such as Everstream, and, thus, wholesale services are a non-regulated activity pursuant to KRS 278.010(21). The Commission, based on the foregoing, finds that the proposed construction of the fiber optic cable is not under the jurisdiction of the Commission and therefore a CPCN from the Commission is not required.

IT IS THEREFORE ORDERED that:

1. Everstream’s application for a CPCN is denied as moot.
2. This case is closed and removed from the Commission’s docket.

⁴ *Id.*

By the Commission



ATTEST:


Executive Director

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