

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2022-00346

February 17, 2023

GEORGETOWN BROADBAND LLC
Request for Approval of Pole
Attachment License

ORDER

BARTLETT, Chair; DAVIS and SCULLY, Commissioners

I. SUMMARY

By this Order, and pursuant to 35-A M.R.S. § 711 and Chapter 880 of the Commission's Rules, the Director of Telephone and Water Utility Industries, on behalf of the Commission, grants a Pole Attachment License to Georgetown Broadband, LLC (the Company).¹

II. BACKGROUND

On December 6, 2022, the Company filed an application, pursuant to Section 3(A) of Chapter 880 of the Commission's Rules, for a Pole Attachment License. As a part of its application, the Company included financial statements to demonstrate its evidence of financial capability. To meet the technical capability qualification of the license, the Company stated that it would not construct pole attachments itself, and that it had contracted with Axiom Technologies, LLC of Machias ME (Axiom) to do the actual construction. Axiom is a competitive local exchange carrier (CLEC) and has experience deploying fiber optics and attaching facilities to utility poles.²

On December 6, 2022, Commission Staff issued a Procedural Order providing public notice of the Company's application and soliciting comments. The Commission did not receive any comments on the Company's application.

On December 30, 2022, Commission Staff filed an informational request to help process Georgetown's application. The Commission inquired about the relationship between the Town of Georgetown and Georgetown Broadband, LLC, whether the

¹ The Commission has delegated the authority to approve pole attachment licenses to the Director of Telephone and Water Utility Industries. *Public Utilities Commission, Delegation of Authority to Director of Telephone and Water Utility Industries to Approve Pole Attachment Licenses*, Docket No. 2019-00327, Order (Dec. 18, 2019).

² Axiom received its certificate of public convenience and necessity to operate as a CLEC on June 14, 2005 and is authorized to make pole attachments. *Axiom Technologies, LLC, Petition for Finding of Public Convenience and Necessity to Provide Service as a Local Exchange and Interexchange Telephone Utility*, Docket No. 2005-00295, Order (June 14, 2005).

Company had utilized the municipal exemption for pole attachments, whether the company was already providing service to customers, the ownership of facilities attached to poles, and a copy of its agreement with Axiom.

On January 13, 2023, the Company filed responses to the Commission's informational request. The Company described its relationship to Georgetown as collaborative and explained its lease agreement. The Company explained that its community-led initiative was forged by Georgetown residents working with the Town, two additional towns and the Maine Connectivity Authority. The Company also responded that it has not and does not intend to utilize the "municipal exemption" from make-ready costs provided by Section 5(A)(1) of Chapter 880. Georgetown Broadband also stated that it began offering service to 188 customers in November 2022 through the assistance of its operator Axiom Technologies and that the Georgetown Broadband owns its own facilities.³

III. LEGAL STANDARDS

Title 35-A M.R.S. § 711(1)(D) requires that any "joint-use entity seeking access to the poles, ducts, conduits or rights-of-way owned or controlled by another joint use entity has the technical and financial capabilities to fulfill its obligations related to such joint use."⁴

To effectuate Section 711, the Commission amended Chapter 880 of its rules to add procedures governing the authorization of joint-entities to attach to joint-use utility poles in Maine. If an attaching entity has not, prior to January 24, 2018 (the effective date of the amendments to Chapter 880), attached to joint-use utility poles in Maine, the attaching entity must obtain a Pole Attachment License from the Commission prior to attaching to any joint-use utility pole in Maine.⁵ MPUC Rules, ch. 880, § 3. To obtain a Pole Attachment License, a prospective attacher must demonstrate its financial and

³ The Director of Telephone and Water Utility Industries notes that a Pole Attachment License is required for all owners of facilities attached to joint-use utility poles. It is the Director's understanding that Axiom transferred ownership of the facilities to the Company prior to the Company's application for a Pole Attachment License. While likely due to an oversight on the Company's part, the Commission reminds future attachers of their obligation to obtain a Pole Attachment License prior to acquiring ownership of attachments.

⁴ A "joint-use entity" is a public utility, voice service provider, dark fiber provider, wholesale or retail competitive local exchange carrier, cable television system, unlit fiber provider, telecommunications service provider or information service provider." 35-A M.R.S §711(7)(B).

⁵ An "attaching entity" is "a joint-use entity with an attachment to a joint-use utility pole." Chapter 880, § 1(B).

technical capability to attach to joint-use utility poles in Maine. *Id.* § 3(A)(1), (2). In addition, the prospective attacher must provide evidence of the attacher's authorization to conduct business in Maine, and provide other basic business and contact information. *Id.* § 3(A)(3), (4).

Pursuant to Chapter 880, § 3(A)(7), the Commission "will issue a license unless it finds that the attaching entity has not complied with all applicable licensing requirements of this Chapter, that the attaching entity does not have the financial and technical capability to conduct its business, or that sufficient reason exists to conclude that issuance of a license is not in the public interest."

IV. DISCUSSION AND DECISION

Based on the information provided by the Company in its application, the Director of Telephone and Water Utility Industries makes the following findings:

1. The Georgetown Broadband, LLC is a business in the State of Maine;
2. The Company's application contains the information required by Chapter 880, § 3(A) of the Commission's Rules;
3. Based on the financial guarantees of the Company, and a review of the Company's financial statements, the Company possesses the financial capability to attach to joint-use utility poles in Maine; and
4. Based on the experience of the Company's contractor, Axiom Technologies, which provides telecommunications services in Maine, the Company possesses the technical capability to attach to joint-use utility poles in Maine.

Accordingly, the Director of Telephone and Water Utility Industries approves the Georgetown Broadband, LLC application for a pole attachment license.

V. ORDERING PARAGRAPHS

In light of the foregoing, the Director of Telephone and Water Utility Industries

O R D E R S

1. That, based on the above findings, the application of Georgetown Broadband, LLC for a Pole Attachment License is GRANTED in accordance with the conditions of this Order; and
2. That the Georgetown Broadband, LLC must seek additional approval from the Commission if it contracts for technical assistance from a company other than Axiom.

Dated at Hallowell, Maine this Seventeenth Day of February, 2023

BY ORDER OF THE COMMISSION

/s/ David Braley

Director
Telephone and Water Utility Industries

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S. § 9061 requires the Public Utilities Commission to give each party at the conclusion of an adjudicatory proceeding written notice of the party's rights to seek review of or to appeal the Commission's decision. The methods of review or appeal of Commission decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 11(D) of the Commission's Rules of Practice and Procedure (65-407 C.M.R. ch. 110) within **20** days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought. Any petition not granted within **20** days from the date of filing is denied.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21** days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S. § 1320(5).

Pursuant to 5 M.R.S. § 8058 and 35-A M.R.S. § 1320(6), review of Commission Rules is subject to the jurisdiction of the Superior Court.

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.