

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

Before Commissioners:                      Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Dwight D. Keen

In the Matter of the Application of Crown	)	
Castle Fiber, LLC for a Certificate of	)	
Authority to Provide Resold and Facilities-Based	)	Docket No. 19-CCFT-084-COC
Local Exchange Telecommunications Services	)	(CLEC)
in the State of Kansas.	)	

**ORDER AND CERTIFICATE**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and record and being fully advised in the premises, the Commission finds and concludes as follows:

**I. BACKGROUND**

1. On August 16, 2018, Crown Castle Fiber, LLC (Crown Fiber) filed an Application requesting a Certificate of Authority authorizing the company to provide Resold and Facilities-Based Local Exchange Telecommunications Services in the State of Kansas. Crown Fiber intends to provide primarily facilities-based Dark Fiber, Private Line, Ethernet, Wavelength, Dedicated Internet Access and Collocation services to wholesale and customers in government, health care, education, financial services, and other enterprises. Crown Fiber also seeks authority to provide local exchange services in all areas that are currently open, or become open in the future, to competition so that it may expand into other services as warranted by market conditions. It does not intend to offer voice services at the present time and does not seek authority to do so. In part, the application is being filed in conjunction with a corporate consolidation by Crown Castle Fiber Holding Corp., a Delaware Corporation.

2. On October 17, 2018, the Commission Staff (Staff) submitted its Report and Recommendation dated October 16, 2018, containing its analysis and recommendation of the Crown Fiber's Application.

3. Crown Fiber indicates that it intends to build communication solutions for enterprise and carrier customers tailored to individual preferences. It proposes to primarily provide services using its own facilities and facilities leased from other carriers as well as services for resale. Crown Fiber may be subject to the requirements of Section 251(f) of the Telecommunications Act of 1996 should it desire to provide local exchange service in a rural area at a later date. Section 251(f) exempts rural local exchange companies from certain competitive entry requirements and establishes an explicit procedure for lifting the exemption. Certification in a rural telephone company's service area is also governed by K.S.A. 66-2004. At this time, Crown Fiber is applying for authority to provide local exchange service within the service territories of AT&T and Century Link. It is a foreign limited liability company properly registered with the Kansas Secretary of State's office where its status is shown to be *active and in good standing*.

## **II. DISCUSSION AND ANALYSIS**

4. The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 2017 Supp. 66-1,188. Defining telecommunications public utilities, K.S.A. 2017 Supp. 104(a) provides in part that:

The term "public utility" as used in this act, shall be construed to mean every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant or generating machinery, or any part thereof, for the transmission of telephone messages or for the transmission of telegraph messages through any part of the state...

K.S.A. 2017 Supp. 66-131(a) provides in part that:

No...common carrier or public utility...governed by the provisions of this act shall transact business in the State of Kansas until it shall have obtained a certificate from the corporation commission that public convenience and necessity will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this state.

In determining whether the public convenience will be promoted by the transaction of said business, Staff points out that the Commission looks at a number of factors when determining whether a particular application is consistent with the public interest. Regarding such factors, Staff cites K.S.A. 2017 Supp. 66-2005(w) which provides in part that:

...telecommunications carriers that were not authorized to provide switched local exchange telecommunications services in this state as of July 1, 1996...must receive a certificate of convenience based upon a demonstration of technical, managerial and financial viability and the ability to meet quality of service standards established by the commission.

5. According to Staff, Crown Fiber has the requisite personnel and expertise to provide resold and facilities-based local exchange telecommunication services. Staff further states that the financial records submitted by the company support Crown Fiber's financial ability to conduct operations consistent with the authority it is proposing to provide in Kansas. Crown Fiber does not seek to provide voices services, including switched access, and therefore has not filed an intrastate fixed access tariff.

6. Based on its investigation, Staff recommends the Commission grant Crown Fiber's Application requesting Certificate authority to provide Competitive Local Exchange Carrier service in Kansas. Staff further determines that the granting of Crown Fiber's Application and issuance of the requested Certificate would be in the public interest of Kansans. At the same time,

Staff recommends that upon certification Crown Fiber be directed to comply with the following requirements:

- (i) Crown Fiber file Interrogatory Reports with the Commission; remain current with the Kansas Secretary of State's office, pay all Commission and Kansas Universal Service Fund (KUSF) assessments, and follow the Telecommunications Carrier Code of Conduct.
- (ii) Crown Fiber Register with GVNW Consulting, Inc., the KUSF Administrator, for KUSF purposes within 30 days of an order granting the company's Application.
- (iii) Once Crown Fiber begins generating Kansas intrastate assessable retail revenue, the company, within 30 days of commencing operations, will ensure that it has made the appropriate KUSF remittance and payment election via the Company Identification and Operations Form (Attachment B) and submit the relevant Carrier Remittance Worksheets and assessment payments to GVNW.
- (iv) Crown Fiber notify the Commission of any changes of contact personnel, address and/or phone numbers.

Crown Fiber's failure to meet the foregoing requirements could result in the revocation of its Certificate of Convenience and Authority.

### **III. FINDINGS AND CONCLUSION**

7. Pursuant to K.S.A. 2017 Supp. 66-1,188, the Commission has jurisdiction to supervise and control telecommunications public utilities doing business in Kansas. Crown Fiber is a telecommunications public utility under K.S.A. 2017 Supp. 66-1,187 and is subject to the Commission's jurisdiction. The Commission adopts Staff's analysis and recommendation of October 16, 2018, as stated in its Report and Recommendation, which is attached and made a part of the Order by reference, and finds that Crown Fiber's Application should be granted and a Certificate of Convenience and Authority should be issued to Crown Fiber authorizing it to engage in the business of providing Competitive Local Exchange Carrier services in the State of Kansas.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED AND CERTIFIED  
THAT:**

A. Crown Castle Fiber, LLC's Application filed in this matter on August 16, 2018, is hereby granted and it is hereby issued a Certificate of Convenience and Authority authorizing the company to provide Competitive Local Exchange Carrier services in the State of Kansas within the territories served by AT&T Kansas and CenturyLink.

B. Crown Castle Fiber, LLC is directed to comply with the filing, payment, and notification requirements set forth in paragraph 6 above. Failure to meet these requirements could result in revocation of the company's Certificate.

C. Any party may file and serve a petition for reconsideration pursuant to the requirements and time limits established by K.S.A. 77-529(a)(1).<sup>1</sup>

D. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

**BY THE COMMISSION IT IS SO ORDERED AND CERTIFIED.**

Albrecht, Chair; Emler, Commissioner; Keen, Commissioner

Dated: 10/23/2018



Lynn M. Retz  
Secretary to the Commission

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<sup>1</sup> K.S.A. 66-118b; K.S.A. 77-503(c); and K.S.A. 77-531(b).

# STATE OF KANSAS



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## REPORT AND RECOMMENDATION UTILITIES DIVISION

**TO:** Chair Shari Feist Albrecht  
Commissioner Jay Scott Emler  
Commissioner Dwight D. Keen

**FROM:** Kelly Mabon, Senior Telecommunications Analyst  
Christine Aarnes, Chief of Telecommunications  
Jeff McClanahan, Director of Utilities

**DATE:** October 16, 2018

**SUBJECT:** Docket No. 19-CCFT-084-COC (CLEC)  
Application of Crown Castle Fiber, LLC for a Certificate of Authority to Provide Resold and Facilities-Based Local Exchange Telecommunications Services in the State of Kansas.

### **SUMMARY:**

On August 16, 2018, Crown Castle Fiber, LLC applied for Certification to provide Resold and Facilities-Based Local Exchange Telecommunications Services in the state of Kansas. Staff recommends Commission approval of this Application.

### **BACKGROUND:**

The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 66-1,188. The Commission derives its authority to certificate and de-certificate public utilities from K.S.A. 66-131.

Pursuant to K.S.A. 66-131, the Commission must review all certification and decertification Applications to determine whether the "public convenience" will be promoted by granting the request.

## **ANALYSIS:**

Crown Castle Fiber, LLC is a Delaware Limited Liability Company located at 1220 Augusta Drive, Suite 600, Houston, TX 77057. Crown Castle Fiber, LLC is a Foreign Limited Liability Company and was properly registered with the Kansas Secretary of State's office on May 31, 2018. They are currently "active and in good standing" with the Secretary's office. Crown Castle Fiber, LLC seeks certification to provide competitive local exchange service within the service area of AT&T and CenturyLink.

The Company may be subject to the requirements of Section 251 (f) of the Telecommunications Act of 1996 should it desire to provide local exchange service in a rural area. Section 251 (f) exempts rural local exchange companies from certain competitive entry requirements and establishes an explicit procedure for lifting the exemption. Certification in a rural telephone company's service area is also governed by K.S.A. 66-2004.

The Company seeks to provide primarily facilities-based Dark Fiber, Private Line, Ethernet, Wavelength, Dedicated Internet Access and Collocation services to wholesale (e.g., other carriers) and customers in government, health care, education, financial services, and other enterprises. The Company seeks authority to provide local exchange services in all areas that are currently open, or become open in the future, to competition so that it may expand into other services as warranted by market conditions. The Company does not intend to offer retail voice services at the present time.

The Company's business plan is building communications solutions for enterprise and carrier customers individually for each project's needs. The Company will primarily provide services using its own facilities and facilities leased from other carriers, but also seeks authority to provide service for resale. The Company does not have plans to deploy specific facilities in Kansas at this time.

Staff believes that adequate expertise exists to operate resold services. Confidential financial records of the Company's Parent Company submitted indicate there is sufficient capital to fund the startup of Crown Castle Fiber, LLC. The Company did not submit an access tariff with this filing.

All other aspects of Crown Castle Fiber, LLC's Application have been reviewed and everything is acceptable with respect to the standards established through Staff's review process.

To the extent that the Company's presence in Kansas would increase the consumer's options for local service, Staff believes the general public would benefit from Commission approval of this Application.

## **RECOMMENDATION:**

Staff recommends approval of Crown Castle Fiber, LLC's Application to provide Resold and Facilities-Based Local Exchange Telecommunications Services within the service area of AT&T and CenturyLink in the state of Kansas.

The Company must register with GVNW Consulting, Inc., the Kansas Universal Service Fund (KUSF) Administrator, within 30 days of an Order granting the Company's Application. Within 30 days of generating Kansas intrastate assessable retail revenue, the Company shall make the appropriate KUSF remittance and payment election via the Company Identification and Operations Form and submit the relevant Carrier Remittance Worksheets and assessment payments to GVNW.

The Company must submit an access tariff prior to charging access rates. The Company is reminded to notify the Commission immediately of any change in address or contact telephone numbers, file timely annual reports, maintain current registration with the Kansas Secretary of State's Office, and pay all Commission and Kansas Universal Service Fund assessments in a timely manner.



## CERTIFICATE OF SERVICE

19-CCFT-084-COC

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of first class mail and electronic service on 10/24/2018.

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