

STATE CORPORATION COMMISSION

*State Corporation Commission*

AT RICHMOND, NOVEMBER 18, 2024

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JOINT PETITION OF

UNITED FIBER & DATA, LLC,  
UNITED FEDERAL DATA OF VIRGINIA, LLC,  
and  
CABLEVISION LIGHTPATH LLC,

CASE NO. PUR-2024-00111

For approval of a transfer of indirect control  
of United Federal Data of Virginia, LLC

ORDER GRANTING APPROVAL

On June 21, 2024, United Fiber & Data, LLC ("UFD"), United Federal Data of Virginia, LLC ("United" or "Licensee"), and transferee Cablevision Lightpath LLC ("Lightpath" and collectively with UFD and United, "Petitioners")<sup>1</sup>, filed a Joint Petition ("Petition") with the State Corporation Commission ("Commission"), pursuant to the Utility Transfers Act, Chapter 5 of Title 56 of the Code of Virginia ("Code"),<sup>2</sup> for approval of a transfer in which UFD, which wholly owns and controls its Licensee subsidiary, will transfer United to Lightpath as part of Lightpath's acquisition of substantially all the assets of UFD's telecommunication business ("Transfer").<sup>3</sup> The Petitioners also filed a Motion for Protective Order ("Petitioners' Motion") in accordance with Rule 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure.<sup>4</sup>

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<sup>1</sup> Louis J. Appell III Sole & Separate Property Trust DTD 12/30/2009, Altice USA, Inc., Cablevision Systems Corporation, CSC Holdings LLC, Lightpath Holdco 1, Inc., Cablevision Lightpath Holdings LLC, Lightpath Holdings LLC, and NHIP Lantern Holding LLC are also considered Petitioners in this proceeding and have provided the statutorily required verifications.

<sup>2</sup> Code § 56-88 *et seq.*

<sup>3</sup> *See* Petition at 1.

<sup>4</sup> 5 VAC 5-20-10 *et seq.*

On July 31, 2024, Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("Dominion" or "Company") filed a Motion to Accept Notice of Participation of Virginia Electric and Power Company and Request for Expedited Consideration ("Dominion's Motion"). In Dominion's Motion, Dominion stated that United and the Company are parties to an agreement under which United may obtain permits to construct, operate, and maintain wireline attachments approved by the Company on the Company's poles, subject to the Federal Communications Commission Pole Attachment Rules.<sup>5</sup> Dominion further stated that United owes the Company past-due pole rental fees, in addition to fees for unauthorized attachments, make-ready costs, and interest, in the total amount of approximately \$250,000 ("Debt Amounts").<sup>6</sup> Additionally, the Company stated that it had identified nearly 400 attachments on its poles constructed by United without the Company's prior approval ("Unauthorized Attachments").<sup>7</sup>

Dominion requested that the Commission approve the Company's request to participate as a respondent in this matter and accept the Company's notice of participation.<sup>8</sup> Dominion further requested that the Commission condition any approval of the Petition on the following:

- (i) United's full payment of the Debt Amounts to the Company within 60 days of the date of the Commission's final order of approval in this matter;
- (ii) United's submission to the Company of a sufficiently detailed written plan for United's inspection of the Unauthorized Attachments and United's remediation of all violations caused by the Unauthorized Attachments, at United's sole cost ("Remediation Plan"), within 60 days of the date of the Commission's final order in this matter; and

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<sup>5</sup> Dominion's Motion at 2.

<sup>6</sup> *Id.* at 3.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 5.

(iii) United's completion of all work required by the Remediation Plan within one year of the date of the Commission's final order in this matter.<sup>9</sup>

On August 19, 2024, the Commission issued a Procedural Order ("Procedural Order") establishing a procedural schedule for this matter and extending the review period for the Petition by 120 days, through December 18, 2024, pursuant to Code § 56-88.1. The Procedural Order docketed the Petition; required the Petitioners to file a response to Dominion's Motion on or before August 23, 2024; and required the Company to file any reply to the response of the Petitioners on or before August 30, 2024.

On August 23, 2024, the Petitioners filed a Response of Joint Applicants to Motion to Accept Notice of Participation and Request for Expedited Consideration of Virginia Electric and Power Company ("Petitioners' First Response"). In the Petitioners' First Response, the Petitioners stated that they had been proactively working with Dominion to resolve the matter and that they consent to Dominion's requested conditions.<sup>10</sup> The Petitioners requested that the Commission extend the compliance deadline for the payment of the Debt Amounts (Dominion's condition (i)) until five business days after consummation of Lightpath's acquisition of United if the Petitioners cannot consummate the transaction within 60 days of any final order by the Commission.<sup>11</sup> The Petitioners stated that they had provided the Remediation Plan to Dominion and Dominion had agreed to review it and address it in Dominion's reply.<sup>12</sup> Due to the discussions between UFD and Dominion as described in the Petitioners' First Response, the

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<sup>9</sup> *Id.* at 4.

<sup>10</sup> Petitioners' First Response at 2.

<sup>11</sup> *Id.* at 2-3.

<sup>12</sup> *Id.* at 4.

Petitioners stated that they "are confident that the parties are near an agreement on the terms of a complete resolution."<sup>13</sup>

On August 30, 2024, Dominion filed a Reply to Response of Joint Petitioners ("Dominion's Reply"). In Dominion's Reply, Dominion stated that it anticipates that the total Debt Amounts of \$267,367.64 will be paid within five business days of the date on which the Transfer is consummated; therefore, the Company is satisfied that condition (i) from Dominion's Motion will be met.<sup>14</sup> To clarify that United will be solely responsible for the cost of work that United performs in accordance with the Remediation Plan, Dominion requested that United make such representations before the Commission in the public record, or otherwise that the matter be expressly addressed by the Commission in its order issued in this proceeding.<sup>15</sup> Dominion also requested that United represent before the Commission in the public record, or otherwise that the Commission expressly address in its order, that United will complete all work required under the Remediation Plan within one year of the Commission's approval of the Transfer.<sup>16</sup> Dominion requested that the Commission: (1) direct the Petitioners to confirm their intent to comply with the conditions of approval requested in Dominion's Motion, or otherwise expressly address such items in its order issued in this proceeding; (2) maintain and keep the case docket open pending written notice from Dominion that all required payments have been made

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<sup>13</sup> *Id.* at 3 and 4.

<sup>14</sup> Dominion's Reply at 2.

<sup>15</sup> *Id.* at 2-3.

<sup>16</sup> *Id.* at 3.

and the work required under the Remediation Plan is complete; and (3) grant any such other relief as deemed appropriate and necessary.<sup>17</sup>

On September 11, 2024, the Petitioners filed a Response of Joint Applicants to Reply of Virginia Electric and Power Company ("Petitioners' Second Response," collectively with the Petitioners' First Response, "Petitioners' Responses"). In the Petitioners' Second Response, the Petitioners reiterated their affirmative consent to Dominion's three proposed conditions and specifically confirmed that: (i) Lightpath, as the future parent of United, has approved of and agreed to fund the Remediation Plan, and United will be solely responsible for the cost of the work it performs in accordance with the Remediation Plan; and (ii) all work required under the Remediation Plan will be completed within one year of the Commission's approval of the Petition, as requested in Dominion's Reply.<sup>18</sup> The Petitioners stated that they did not object to Dominion's request for the Commission to hold open this docket for receipt of confirmation that the Petitioners have satisfied the conditions following the Commission's final order in this proceeding and the Petitioners' consummation of the Transfer.<sup>19</sup>

The Petitioners assert that the Transfer will not involve any change to the operations of United. The Petitioners further state that United will continue to provide the same level or higher of services to customers without changes to the rates, terms, and conditions of service and that the Transfer will not impede but will improve competition in the Virginia telecommunications market as Lightpath did not previously compete in it.<sup>20</sup>

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<sup>17</sup> *Id.* at 3-4.

<sup>18</sup> Petitioners' Second Response at 3.

<sup>19</sup> *Id.*

<sup>20</sup> *See* Petition at 7.

NOW THE COMMISSION, upon consideration of this matter and having been advised by its Staff through Staff's Action Brief, and having considered Dominion's Motion, the Petitioners' Responses, and Dominion's Reply, is of the opinion and finds that the above-described Transfer should be approved subject to certain requirements discussed below. Finally, we find that the Petitioners' Motion is no longer necessary and, therefore, is moot.<sup>21</sup>

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to Code §§ 56-88.1 and 56-90, the Petitioners are granted approval of the Transfer as described herein.

(2) The Petitioners shall file a report of action with the Commission's Document Control Center within thirty (30) days after closing of the Transfer, which shall note the date the Transfer occurred.

(3) The Petitioners and the Company shall submit to the Commission proof of the full payment of the Debt Amounts within thirty (30) days after closing of the Transfer.

(4) The Petitioners and the Company shall submit to the Commission proof of the completion of all work required by the Remediation Plan within thirty (30) days of its completion.

(5) The Petitioners' Motion is moot; however, we direct the Clerk of the Commission to retain the confidential information to which the Petitioners' Motion pertains under seal.

(6) This case is continued, pending submissions by the Petitioners and the Company as described above.

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<sup>21</sup> The Commission held the Petitioners' Motion in abeyance and has not received a request for leave to review the confidential information submitted in this proceeding.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.