

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, APRIL 6, 2017

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JOINT PETITION OF

LUMOS NETWORKS CORP.,  
LUMOS TELEPHONE INC.,  
LUMOS TELEPHONE OF BOTETOURT INC.,  
LUMOS NETWORKS INC.,  
FIBERNET OF VIRGINIA, INC.,  
LMK COMMUNICATIONS, LLC,  
and  
MTN INFRASTRUCTURE TOPCO, INC.

CASE NO. PUR-2017-00034

For approval to transfer control pursuant to the  
Utility Transfers Act, Va. Code § 56-88 *et seq.*

ORDER FOR NOTICE AND COMMENT

On March 20, 2017, Lumos Networks Corp. ("Lumos Parent"); Lumos Telephone Inc. ("Lumos Telephone"); Lumos Telephone of Botetourt Inc. ("Lumos Botetourt"); Lumos Networks Inc. ("Lumos Networks"); FiberNet of Virginia, Inc. ("FiberNet-VA"); LMK Communications, LLC ("LMK"); and MTN Infrastructure TopCo, Inc. ("MTN Infrastructure") (collectively, "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> requesting approval to transfer control of Lumos Parent's certificated

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<sup>1</sup> The Petitioners provided the statutorily required verifications for the following entities, as they also are considered Petitioners: EQT AB ("EQT"); EQT Infrastructure III (GP) SCS; EQT Fund Management S.á r.l.; EQT Infrastructure III General Partner S.á r.l.; EQT Holdings Infrastructure III B.V.; EQT Holdings B.V.; EQT International Holdings B.V.; EQT Holdings Coöperatief W.A.; MTN Infrastructure Intermediate, LP; MTN Infrastructure Intermediate GP, Inc.; MTN Infrastructure TopCo Blocker, Inc.; MTN Infrastructure TopCo, LP; MTN Infrastructure TopCo GP, LLC; MTN Infrastructure Lux II S.á r.l.; MTN Infrastructure Lux III S.á r.l.; MTN Infrastructure Co-invest 1 SCSp; MTN Infrastructure Co-invest 2 SCSp; MTN Infrastructure Sidecar 1 SCSp; and MTN Infrastructure Sidecar 2 SCSp.

<sup>2</sup> Code § 56-88 *et seq.*

Virginia operating subsidiaries: Lumos Telephone, Lumos Botetourt, Lumos Networks, FiberNet-VA, and LMK (collectively, "Lumos Licensees").<sup>3</sup>

According to the Petition, MTN Infrastructure will acquire all the outstanding common stock of Lumos Parent through an Agreement and Plan of Merger dated February 18, 2017.<sup>4</sup> The Petitioners state that as a result of the merger, MTN Infrastructure, and every other Petitioner with a controlling interest in MTN Infrastructure, will acquire indirect control over Lumos Parent and each of the Lumos Licensees ("Proposed Transfer").<sup>5</sup> The Lumos Licensees are authorized to provide telecommunications services in the Commonwealth of Virginia pursuant to certificates of public convenience and necessity issued by the Commission.<sup>6</sup> The Petitioners state that MTN Infrastructure is a holding company created to aggregate the ownership of various investment funds ultimately managed by an affiliate of EQT AB, and that EQT AB is a leading alternative investment firm that was founded in Sweden in 1994.<sup>7</sup> The Petitioners represent that the investment funds managed by EQT AB affiliates have successfully invested in a number of fiber-based communications companies, including one company operating in the United States and several others operating across Europe.<sup>8</sup>

In support of the Proposed Transfer, the Petitioners maintain that the Lumos Licensees will continue to have the financial, managerial, and technical resources to provide

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<sup>3</sup> Petition at 1-2.

<sup>4</sup> *Id.* at 8-9.

<sup>5</sup> *Id.* at 1, 2, 9; Exhibit A.

<sup>6</sup> Petition at 6-8.

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.* at 3-4.

telecommunications services under MTN Infrastructure's ownership and control.<sup>9</sup> The Petitioners represent that the quality of the service provided by the Lumos Licensees will improve as a result of the enhanced access to capital and financial strengths of MTN Infrastructure and its ultimate owners.<sup>10</sup> The Petitioners state that they intend to keep Lumos Parent's existing management team and personnel in place, ensuring that managerial, technical, and operational standards will be maintained.<sup>11</sup> The Petitioners further represent that after the transfer, the Lumos Licensees will continue to provide high-quality communications services at reasonable terms and conditions for existing customers under the Lumos brand name and that their existing tariffs and price lists will not be affected by the Proposed Transfer and will remain in effect with any future changes to be made in the ordinary course of business in accordance with applicable rules and notice requirements.<sup>12</sup>

NOW THE COMMISSION, upon consideration of the Petition and applicable statutes, finds that this matter should be docketed; that the Petitioners should give notice of the Petition to the public; that interested persons should have an opportunity to comment and request a hearing on the Petition; and that the Commission's Staff ("Staff") should be directed to investigate the Petition and file a report containing the Staff's findings and recommendations ("Staff Report"). Further, a Hearing Examiner should be appointed to rule on all discovery matters that arise during the course of this proceeding.

Under Code § 56-88.1, the Commission must approve or disapprove this Petition no later than 60 days from the filing date, unless the review period is extended by the Commission for up

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<sup>9</sup> *Id.* at 10.

<sup>10</sup> *Id.* at 11.

<sup>11</sup> *Id.*

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

to an additional 120 days. The Petition will be deemed approved if the Commission fails to act within 60 days or any extended period the Commission orders. We find that our review period should be extended an additional 70 days. We expect to rule on the Petition expeditiously but find that additional time is necessary to review the transaction, to provide public notice, and to afford interested persons an opportunity to file comments or request a hearing.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUR-2017-00034.

(2) Pursuant to Code § 56-88.1, the period of time for the review of the issues presented by the Petition is extended seventy (70) days through July 28, 2017.

(3) As provided by Code § 12.1-31 and 5 VAC 5-20-120 of the Commission's Rules of Practice and Procedure ("Rules of Practice"),<sup>13</sup> a Hearing Examiner is appointed to rule on any discovery matters that may arise in this proceeding.

(4) On or before May 12, 2017, the Petitioners shall publish the following notice as display advertising, not classified, on one (1) occasion in newspapers having general circulation throughout the Petitioners service territory in the Commonwealth of Virginia:

NOTICE TO THE PUBLIC OF THE PETITION OF  
LUMOS NETWORKS CORP., LUMOS TELEPHONE INC.,  
LUMOS TELEPHONE OF BOTETOURT INC.,  
LUMOS NETWORKS INC., FIBERNET OF VIRGINIA, INC.,  
LMK COMMUNICATIONS, LLC, and  
MTN INFRASTRUCTURE TOPCO, INC.,  
FOR APPROVAL TO TRANSFER CONTROL PURSUANT TO  
THE UTILITY TRANSFERS ACT, VA. CODE § 56-88 ET SEQ.  
CASE NO. PUR-2017-00034

On March 20, 2017, Lumos Networks Corp. ("Lumos Parent"); Lumos Telephone Inc. ("Lumos Telephone"); Lumos Telephone of Botetourt Inc. ("Lumos Botetourt"); Lumos

<sup>13</sup> 5 VAC 5-20-10 *et seq.*

Networks Inc. ("Lumos Networks"); FiberNet of Virginia, Inc. ("FiberNet-VA"); LMK Communications, LLC ("LMK"); and MTN Infrastructure TopCo, Inc. ("MTN Infrastructure") (collectively, "Petitioners"), 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, requesting approval to transfer control of Lumos Parent's certificated Virginia operating subsidiaries: Lumos Telephone, Lumos Botetourt, Lumos Networks, FiberNet-VA, and LMK (collectively, "Lumos Licensees").

According to the Petition, MTN Infrastructure will acquire all the outstanding common stock of Lumos Parent through an Agreement and Plan of Merger dated February 18, 2017. The Petitioners state that as a result of the merger, MTN Infrastructure, and every other Petitioner with a controlling interest in MTN Infrastructure, will acquire indirect control over Lumos Parent and each of the Lumos Licensees ("Proposed Transfer"). The Lumos Licensees are authorized to provide telecommunications services in the Commonwealth of Virginia pursuant to certificates of public convenience and necessity issued by the Commission. The Petitioners state that MTN Infrastructure is a holding company created to aggregate the ownership of various investment funds ultimately managed by an affiliate of EQT AB, and that EQT AB is a leading alternative investment firm that was founded in Sweden in 1994. The Petitioners represent that the investment funds managed by EQT AB affiliates have successfully invested in a number of fiber-based communications companies, including one company operating in the United States and several others operating across Europe.

In support of the Proposed Transfer, the Petitioners maintain that the Lumos Licensees will continue to have the financial, managerial, and technical resources to provide telecommunications services under MTN Infrastructure's ownership and control. The Petitioners represent that the quality of the service provided by the Lumos Licensees will improve as a result of the enhanced access to capital and financial strengths of MTN Infrastructure and its ultimate owners. The Petitioners state that they intend to keep Lumos Parent's existing management team and personnel in place, ensuring that managerial, technical, and operational standards will be maintained. The Petitioners further represent that after the transfer, the Lumos Licensees will continue to provide high-quality communications services at reasonable terms and conditions for existing customers under the Lumos brand name, and that their existing tariffs and price lists will not be

affected by the Proposed Transfer and will remain in effect with any future changes to be made in the ordinary course of business in accordance with applicable rules and notice requirements.

A copy of the Petition may be obtained by submitting a written request to counsel for the Petitioners, Cliona Robb, Esquire, Christian and Barton, LLP, 909 East Main Street, Suite 1200, Richmond, Virginia 23219; or Andrew D. Lipman, Esquire, Russell M. Blau, Esquire, Joshua M. Bobeck, Esquire, and Brett P. Ferencak, Esquire, Morgan, Lewis & Bockius LLP, 1111 Pennsylvania Avenue, NW, Washington, D.C. 20004. The Petition and related documents are available for review in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Unofficial copies may be downloaded from the Commission's website: <http://www.scc.virginia.gov/case>.

On or before June 2, 2017, any person or entity may file written comments on the Petition with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Comments may be submitted electronically on or before June 2, 2017, by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. Comments shall refer to Case No. PUR-2017-00034.

On or before June 2, 2017, any person or entity may request that the Commission convene a hearing on the Petition by filing a request for hearing. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be filed with the Clerk of the Commission at the address set forth above. Requests for hearing shall refer to Case No. PUR-2017-00034 and shall include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the factual and legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. Any request for hearing shall state with specificity why the issues raised in the request for hearing cannot be adequately addressed without a hearing. A copy of a request for hearing also shall be sent to counsel for the Petitioners at the addresses set forth above and via email or facsimile transmission at the email addresses or fax numbers set forth in the Petition.

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Any person or entity may participate as a respondent in this proceeding by filing a notice of participation on or before June 2, 2017. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be filed with the Clerk of the Commission at the address set forth above. A copy of the notice of participation as a respondent also shall be sent to counsel for the Petitioners at the addresses set forth above. Pursuant to 5 VAC 5-20-80 B of the Commission's Rules of Practice and Procedure ("Rules of Practice"), any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30 of the Rules of Practice. All filings shall refer to Case No. PUR-2017-00034.

The Commission's Rules of Practice may be viewed at <http://www.scc.virginia.gov/case>. A printed copy of the Commission's Rules of Practice may be obtained from the Clerk of the Commission at the address set forth above.

LUMOS NETWORKS CORP.,  
MTN INFRASTRUCTURE TOPCO, INC., ET AL.

(5) On or before May 12, 2017, the Petitioners shall serve a copy of this Order for Notice and Comment on the chairman of the board of supervisors and the county attorney of any county, and upon the mayor or manager (or equivalent official) and city or town attorney of every city and town in the Petitioners' service territory in the Commonwealth of Virginia. Service shall be made by either personal delivery or first class mail to the customary place of business or residence of the person served.

(6) The Petitioners shall respond promptly to requests for copies of the Petition and shall provide one copy free of charge. A copy of the Petition may be obtained by submitting a written request to counsel for the Petitioners: Cliona Robb, Esquire, Christian and Barton, LLP, 909 East Main Street, Suite 1200, Richmond, Virginia 23219; or Andrew D. Lipman, Esquire, Russell M. Blau, Esquire, Joshua M. Bobeck, Esquire, and Brett P. Ferenchak, Esquire, Morgan, Lewis &

Bockius LLP, 1111 Pennsylvania Avenue, NW, Washington, D.C. 20004. The Petition and related documents also are available for review in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays.

Unofficial copies may be downloaded from the Commission's website:

<http://www.scc.virginia.gov/case>.

(7) On or before June 9, 2017, the Petitioners shall file with the Commission proof of notice and service required by Ordering Paragraphs (4) and (5), including the name, title, and address of each official served, with Joel H. Peck, Clerk, c/o Document Control Center, State Corporation Commission, P.O. Box 2118, Richmond, Virginia 23218-2118.

(8) On or before June 2, 2017, any person or entity may file written comments on the Petition with the Clerk of the Commission at the address set forth in Ordering Paragraph (7). Comments may be submitted electronically on or before June 2, 2017, by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. Compact disks or any other form of electronic storage medium cannot be filed with the comments. All comments shall refer to Case No. PUR-2017-00034.

(9) On or before June 2, 2017, any person or entity may request that the Commission convene a hearing on the Petition by filing a request for hearing. If not filed electronically, an original and fifteen (15) copies of the request for hearing shall be filed with the Clerk of the Commission at the address set forth in Ordering Paragraph (7). A copy of the request for hearing also shall be served upon counsel for the Petitioners at the addresses set forth in Ordering Paragraph (6) and sent via electronic mail or facsimile transmission at the email addresses or fax numbers set forth in the Petition. Requests for hearing shall refer to Case No. PUR-2017-00034

and shall include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the factual and legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter. Any request for hearing shall state with specificity why the issues raised in the request for hearing cannot be adequately addressed without a hearing. All such filings shall refer to Case No. PUR-2017-00034.

(10) On or before June 2, 2017, any person or entity may participate as a respondent in this proceeding by filing a notice of participation in accordance with 5 VAC 5-20-140 and 5 VAC 5-20-150 of the Rules of Practice. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be filed with the Clerk of the Commission at the address set forth in Ordering Paragraph (7). The respondent shall serve a copy of the notice of participation on counsel to the Petitioners at the addresses set forth in Ordering Paragraph (6). Pursuant to 5 VAC 5-20-80 B of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent shall be represented by counsel as required by 5 VAC 5-20-30 of the Rules of Practice. All filings shall refer to Case No. PUR-2017-00034.

(11) Within five (5) business days of receipt of a notice of participation as a respondent, the Petitioners shall serve upon such respondent a copy of this Order for Notice and Comment, a copy of the Petition, and all materials filed by the Petitioners with the Commission in this proceeding, unless these materials have already been provided to the respondent.

(12) On or before June 9, 2017, the Petitioners may file with the Clerk of the Commission a response to any requests for hearing filed in this proceeding. If not filed electronically, an original and fifteen (15) copies of any response shall be filed with the Clerk of the Commission at the address set forth in Ordering Paragraph (7). A copy of the response shall be served on any person who filed a request for hearing, any respondent who filed a notice of participation, and the Staff's counsel.<sup>14</sup>

(13) The Staff shall investigate the Petition. On or before June 30, 2017, the Staff shall file with the Clerk of the Commission an original and fifteen (15) copies of a Staff Report containing its findings and recommendations.

(14) On or before July 14, 2017, the Petitioners may file with the Clerk of the Commission any response to the Staff Report and comments filed in this proceeding. If not filed electronically, an original and fifteen (15) copies of any response shall be filed with the Clerk of the Commission at the address set forth in Ordering Paragraph (7). A copy of the response shall be served on any respondent who filed a notice of participation and the Staff's counsel.

(15) The Petitioners shall respond to interrogatories and requests for production of documents within five (5) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically, or by facsimile, on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production

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<sup>14</sup> The assigned Staff attorney is identified on the Commission's website, <http://www.scc.virginia.gov/case>, by clicking "Docket Search," then "Search Cases," and entering the case number, PUR-2017-00034, in the appropriate box.

is directed to the Staff. Except as so modified, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(16) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:

Cliona Robb, Esquire, Christian and Barton, LLP, 909 East Main Street, Suite 1200, Richmond, Virginia 23219; Andrew D. Lipman, Esquire, Russell M. Blau, Esquire, Joshua M. Bobeck, Esquire, and Brett P. Ferenchak, Esquire, Morgan, Lewis & Bockius LLP, 1111 Pennsylvania Avenue, NW, Washington, D.C. 20004; Mary McDermott, Senior Vice President and General Counsel, Lumos Networks Corp., One Lumos Plaza; P.O. Box 1068, Waynesboro, Virginia 22980; and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424. A copy also shall be delivered to the Commission's Office of General Counsel and Divisions of Public Utility Regulation, Utility Accounting and Finance, and Public Service Taxation.