



**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

D.T.C. 24-AR

October 30, 2024

Investigation by the Department of Telecommunications and Cable on its own motion, pursuant to G.L. c. 159 §§ 12, 32 and 39, and G.L. c. 166 §§ 11 and 12, regarding the failure by individually named common carriers of telecommunications services to file an annual return for calendar year 2020.

ORDER OPENING INVESTIGATION

<u>Docket #</u>	<u>Carrier</u>	<u>Year of Delinquency</u>	<u>Massachusetts Secretary of the Commonwealth Status</u>
DTC-24-AR-1	FirstLight Fiber Inc.	2020	Registered/Active
DTC-24-AR-2	Inmark, Inc.	2020	Registered/Active
DTC-24-AR-3	Last Mile Solutions, LLC	2020	Registered/Active
DTC-24-AR-4	LCR Telecommunications, LLC	2020	Involuntary Revocation 04/30/2009
DTC-24-AR-5	M.B.E. Coin Phone, LLC aka M.B.E Connect, LLC	2020	Not Registered
DTC-24-AR-6	MegaCLEC, Inc.	2020	Registered/Active
DTC-24-AR-7	Norstar Telecommunications LLC	2020	Involuntary Revocation 12/29/2023
DTC-24-AR-8	North Atlantic Networks, LLC	2020	Registered/active
DTC-24-AR-9	Public Communications Services, Inc.	2020	Withdrew 02/03/2023
DTC-24-AR-10	Reliable Air-Vac, Inc.	2020	Registered/active
DTC-24-AR-11	Smart Communications Holdings, Inc.	2020	Registered/active
DTC-24-AR-12	Uniti National, Inc.	2020	Registered/active

I. INTRODUCTION

The Department of Telecommunications and Cable (“Department”) requires each telecommunications common carrier “doing business” in the Commonwealth during the corresponding calendar year to file an annual return with the Department. The Department’s records indicate that the 12 common carriers named in this Order did not file an annual return for calendar year 2020. Accordingly, the Department opens this investigation on its own motion to

address these common carriers' failures to file an annual return. The Department has docketed these proceedings under the generic docket number, D.T.C. 24-AR, with a sequential number for each individual case, e.g., D.T.C. 24-AR-1, D.T.C. 24-AR-2, etc.

II. ORDER OPENING INVESTIGATION

Pursuant to G.L. c. 166, § 11, the Department requires all telecommunications common carriers “doing business” in the Commonwealth to file an annual return for the preceding calendar year by March 31, or at a later date fixed by the Department for “good cause shown.” G.L. c. 159, § 32; G.L. c. 166, § 11. Furthermore, the Department requires all common carriers engaged in the “transmission of intelligence within the [C]ommonwealth” to register and have an approved tariff and Statement of Business Operations (“SBO”) on file with the Department.¹

Investigation by the Dep't of Pub. Utils. on its own motion into the regulatory treatment of telecomms. common carriers within the Commw. of Mass., D.P.U. 93-98, Order at 12 (May 11, 1994) (“Common Carrier Regulatory Treatment Order”).

The Department may commence enforcement proceedings against common carriers that fail to file their annual returns. *See* D.T.C. 16-AR, *Order Opening Investigation* (Feb. 3, 2016); D.T.C. 13-AR, *Order Opening Investigation* (Dec. 3, 2013); D.T.C. 11-AR, *Order Opening Investigation* (Dec. 2, 2011). The Department may deem a common carrier's failure to file an annual return as cause for cancellation of the carrier's registration and intrastate tariff(s). This cancellation prevents the common carrier from operating or providing telecommunications services within the Commonwealth. *See* D.T.C. 16-AR, *Final Order* at 9 (Aug. 1, 2017) (“*D.T.C. 16-AR Final Order*”); D.T.C. 13-AR, *Final Order* at 10-11 (Apr. 1, 2015) (“*D.T.C. 13-AR Final Order*”); D.T.C. 11-AR-C, *Final Order* at 9-11 (June 3, 2013) (“*D.T.C. 11-AR-C*”). Similarly,

¹ Payphone providers are not required to have approved tariffs on file if their operator services are provided by a carrier registered with the Department.

the Department may cancel the registration and “direct removal of public access line services from the payphones of any company” that fails to file its annual return and update its registration information. *See, e.g., D.T.C. 16-AR Final Order at 24; D.T.C. 13-AR Final Order at 19; D.T.C. 11-AR-C at 11.* Finally, the Department assesses statutory forfeitures against common carriers that fail to file an annual return. *See G.L. c. 166, § 12; D.T.C. 16-AR Final Order at 6-9; D.T.C. 13-AR Final Order at 6-9.*

Any common carrier “doing business” in the Commonwealth that fails to file an annual return for the preceding calendar year by the requisite deadline shall forfeit \$5.00 per day for the first fifteen days of delinquency, \$10.00 per day for the subsequent fifteen days, and a sum not exceeding \$15.00 per day for each day of delinquency thereafter. G.L. c. 166, § 12. If the Department determines that a common carrier “unreasonably refuses or neglects” to file an annual return, the company shall forfeit up to \$500 for each offense as an additional penalty. *Id.*

The 12 common carriers listed below (individually, “Delinquent Carrier,” and collectively, “Delinquent Carriers”) failed to file an annual return for calendar year 2020. The Department notes the registration status of each delinquent carrier with the Secretary of the Commonwealth.

<u>Docket #</u>	<u>Carrier</u>	<u>Year of Delinquency</u>	<u>Massachusetts Secretary of the Commonwealth Status</u>
DTC-24-AR-1	FirstLight Fiber Inc.	2020	Registered/Active
DTC-24-AR-2	Inmark, Inc.	2020	Registered/Active
DTC-24-AR-3	Last Mile Solutions, LLC	2020	Registered/Active
DTC-24-AR-4	LCR Telecommunications, LLC	2020	Involuntary Revocation 04/30/2009
DTC-24-AR-5	M.B.E. Coin Phone, LLC aka M.B.E Connect, LLC	2020	Not Registered
DTC-24-AR-6	MegaCLEC, Inc.	2020	Registered/Active
DTC-24-AR-7	Norstar Telecommunications LLC	2020	Involuntary Revocation 12/29/2023
DTC-24-AR-8	North Atlantic Networks, LLC	2020	Registered/active
DTC-24-AR-9	Public Communications Services, Inc.	2020	Withdrew 02/03/2023
DTC-24-AR-10	Reliable Air-Vac, Inc.	2020	Registered/active

DTC-24-AR-11	Smart Communications Holdings, Inc.	2020	Registered/active
DTC-24-AR-12	Uniti National, Inc.	2020	Registered/active

The Delinquent Carriers were registered to provide telecommunications services at the onset of the relevant calendar year by having on file with the Department an approved tariff and SBO. *See* G.L. c. 159, §§ 12, 19; *Common Carrier Regulatory Treatment Order* at 12. Being registered with the Department to provide telecommunications services is indicative of “doing business” in the Commonwealth for the relevant year. *See D.T.C. 16-AR Final Order* at 6-7, 14; *D.T.C. 13-AR Final Order* at 7-8. Each Delinquent Carrier has not filed its annual return for the year listed.

Therefore, the Department hereby opens an investigation on its own motion into each Delinquent Carrier’s failure to file an annual return. The Department will make a determination as to whether the Delinquent Carriers have neglected or refused to file an annual return and, if so, may cancel their registrations and intrastate tariffs. *See* G.L. c. 159, § 39; G.L. c. 166, §§ 11, 12; *D.T.C. 16-AR Final Order* at 9; *D.T.C. 13-AR Final Order* at 10-11. Furthermore, the Department shall also assess appropriate statutory forfeitures. *See* G.L. c. 166, § 12; *D.T.C. 16-AR Final Order* at 6-9; *D.T.C. 13-AR Final Order* at 6-9. In evaluating a Delinquent Carrier’s annual return obligations, the Department considers several factors, including: (1) the extent and nature of the company’s operations within the Commonwealth and its revenues for each of the applicable years; (2) the Delinquent Carrier’s registration status with the Secretary of the Commonwealth;² (3) whether the company reported that it operates within Massachusetts on its

² The Department acquires this information from the Secretary of the Commonwealth’s website at <http://corp.sec.state.ma.us/corpweb/corpsearch/CorpSearch.aspx> (last viewed Oct. 17, 2024).

Federal Communications Commission (“FCC”) Form 499-A;³ and (4) whether the Delinquent Carrier failed to file updated address and contact information for their file or applicable intrastate tariff with the Department. *See, e.g.*, G.L. c. 166, § 11; *D.T.C. 16-AR Final Order* at 6-8; *D.T.C. 13-AR Final Order* at 7-9.

The Department directs each Delinquent Carrier to provide the Department with the following information in writing by December 9, 2024:

1. Did the company file its annual return for the relevant calendar year? If so, provide a copy of the annual return and documentation of the filing. If not, explain why the company did not file the annual return, and state whether the failure to file is reasonable. If the failure to file is stated as reasonable, explain why.
2. Did the company provide telecommunications services in Massachusetts during the relevant calendar year?

If any Delinquent Carrier fails to provide the Department with the requested information, the Department may make adverse findings of fact, and may order corrective action, including: cancelling the company’s registration and intrastate tariff(s) on file with Department;⁴ assessing statutory forfeitures; and referring the matter to the Attorney General for enforcement. *See* G.L. c. 159, § 39; G.L. c. 166, § 12; *D.T.C. 16-AR Final Order* at 4-24; *D.T.C. 13-AR Final Order* at 5-20.

The Department will conduct these investigations as adjudicatory proceedings under G.L. c. 30A and 207 C.M.R. 1.00. The Department has initiated an independent proceeding for each Delinquent Carrier, and each proceeding will have a separate evidentiary record. Any person

³ The FCC requires all telecommunications providers to file FCC Form 499-A annually by April 1, with limited exception. *See* FCC, 2015 Telecommunications Reporting Worksheet Instructions (FCC Form 499-A) at 2. The FCC reports submitted information on its FCC Form 499 Filer Database, *available at* <http://apps.fcc.gov/cgb/form499/499a.cfm> (last viewed Oct. 17, 2024).

⁴ Although the Department may have already cancelled the registration and intrastate tariff(s) of some of the Delinquent Carriers, the Department still must determine whether such carriers were “doing business” in the relevant year, for purposes of assessing statutory forfeitures.

who wishes to file written comments, to intervene in the proceeding, or to request a hearing on these matters in accordance with G.L. c. 30A, § 1 and § 10 may file such requests with Shonda D. Green, Secretary of the Department, at the physical address below or electronically at dte.efiling@mass.gov

Shonda D. Green
Department of Telecommunications and Cable
1000 Washington Street, Suite 600
Boston, MA 02118-6500

Comments, requests to intervene, and requests for hearing must be filed by December 9, 2024. At that time, if the Department has not received a request for a hearing, any person having a right to request such a hearing shall be deemed to have waived such right pursuant to G.L. c. 30A, § 10. Petitions for leave to intervene must satisfy the substantive requirements of 207 C.M.R. § 1.03. The text of each submission must specify: (1) the complete docket number; (2) the name of the person submitting the filing; (3) that person's title, if any; and (4) a brief descriptive title of the document (e.g., petition to intervene). Each submission should also include the name, title, and telephone number of a person to contact in the event of questions about the filing.

III. ORDER

Therefore, it is hereby:

ORDERED: That the Department opens investigations docketed D.T.C. 24-AR-1 through D.T.C. 24-AR-12, into the failure of 12 telecommunications common carriers to file an annual return for calendar year 2020; and it is

FURTHER ORDERED: That the named Delinquent Carriers must provide the Department with information in accordance with this Order by December 9, 2024; and it is

FURTHER ORDERED: That petitions to intervene in this proceeding and written comments shall be filed with the Secretary of the Department by December 9, 2024; and it is

FURTHER ORDERED: That a hearing, if so desired, must be requested by December 9, 2024; and it is

FURTHER ORDERED: That the Secretary of the Department shall publish the attached Notice of Investigation and Opportunity for Hearing in the Springfield Republican and the Boston Globe on November 12, 2024, and provide the Presiding Officer with return of service and proof of publication.

By Order of the Department,

A handwritten signature in blue ink that reads "Karen Charles". The signature is written in a cursive style and is positioned above a horizontal line.

Karen Charles, Commissioner

RIGHT OF APPEAL

Pursuant to G.L. c. 25, § 5, and G.L. c. 166A, § 2, an appeal as to matters of law from any final decision, order or ruling of the Department may be taken to the Supreme Judicial Court for the County of Suffolk by an aggrieved party in interest by the filing of a written petition asking that the Order of the Department be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Department within twenty (20) days after the date of service of the decision, order or ruling of the Department, or within such further time as the Department may allow upon request filed prior to the expiration of the twenty (20) days after the date of service of said decision, order or ruling. Within ten (10) days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court for the County of Suffolk by filing a copy thereof with the Clerk of said Court. Appeals of Department Orders on basic service tier cable rates, associated equipment, or whether a franchising authority has acted consistently with the federal Cable Act may also be brought pursuant to 47 C.F.R. § 76.944.