



Control Number: 36934



Item Number: 11

Addendum StartPage: 0

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Public Utility Commission of Texas

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TO: Kristopher Twomey
Law Office of Kristopher E. Twomey
1725 I St., N.W., Ste. 300
Washington, D.C. 20006

Infrastructure and Reliability Division
Legal Division

RE: **Docket No. 36934 - Application of WIRESTAR, INC. for a Service Provider Certificate of Operating Authority**

NOTICE OF APPROVAL

This Notice addresses the application of WIRESTAR, INC. (Applicant), filed on April 24, 2009, for a service provider certificate of operating authority (SPCOA) to provide facilities-based and resale telecommunications services within the geographic area of the entire State of Texas. The docket was processed in accordance with applicable statutes and Commission rules. The Commission provided notice of the application to interested parties. More than 15 days have passed since the completion of notice. No protests, motions to intervene, or requests for hearing were filed. Applicant and the Commission Staff (Staff) are the only parties to the proceeding. Staff recommends approval of the application. The application is approved.

Statutory Findings

1. Applicant is a Texas corporation formed on December 6, 2007 with authority to transact business in the State of Texas.
2. Applicant has no parent company or affiliated companies that are public utilities or that are providing telecommunications services.

11

3. Pursuant to PURA¹ § 54.153, Applicant has less than six percent of the total intrastate switched access minutes of use as measured by the most recent 12-month period.
4. The name requested by Applicant for this SPCOA does not duplicate and is not similar to a name already being used by an existing SPCOA holder.
5. Neither Applicant nor Applicant's owners or affiliates has ever had a permit, license, or certificate denied or revoked by another state.
6. Applicant has never provided telecommunications services in Texas or any other state.
7. The application complies with PURA § 54.154(b).
8. Pursuant to PURA §§ 54.154(b) and 54.155(b), Applicant is entitled to approval of this application. Applicant has demonstrated the required financial and technical qualifications to provide the proposed services and the ability to provide the necessary quality of service to its customers.
9. Applicant is not precluded by PURA §§ 54.201 or 54.152 from providing service under an SPCOA.

Complaint History

10. The Office of the Texas Attorney General reported no complaints registered against Applicant.
11. The Commission's Customer Protection Division complaint database revealed no complaints registered against Applicant.

¹ The Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001 – 66.016 (Vernon 2007 & Supp. 2008) (PURA).

12. The Commission's Enforcement & Investigations database revealed no outstanding notices of violation against Applicant.
13. In Applicant's responses to the Commission's Service Quality Questionnaire, Applicant committed to continue to meet the quality of service standards.

Ordering Paragraphs

1. The application of WIRESTAR, INC. for a facilities-based and resale telecommunications SPCOA is approved.² WIRESTAR, INC. is granted SPCOA No. 60835 for the geographic area of the entire State of Texas.
2. Applicant shall comply with pertinent provisions of the federal Telecommunications Act of 1996,³ including the procedural requirements of FTA § 251(f)(1)(B), when seeking interconnection, services, or network elements from a rural telephone company.
3. Applicant shall establish an access line account and submit quarterly reports in compliance with P.U.C. SUBST. R. 26.467.
4. Applicant is bound by the requirements of P.U.C. SUBST. R. 26.111. Applicant will provide service exclusively under the name approved by the Commission.
5. An SPCOA certificate holder that has not provided service for a period of 12 consecutive months must provide a sworn affidavit to the Commission on an annual basis attesting that they continue to possess the technical and financial resources necessary to provide the level of service proposed in the initial application. An SPCOA certificate holder that has not provided service within

² Administrative approval of this uncontested application has no precedential value in a future proceeding.

³ Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of 15 and 47 U.S.C.)(FTA).

48 months of being granted the certificate by the Commission, may have its certificate suspended or revoked, as defined by P.U.C. SUBST. R. 26.114, after due process, or undergo certification re-qualification. Applicant shall comply with the above requirements.

6. Applicant shall file any future changes in address, contact representative, and/or telephone numbers in an annual report with the Commission by June 30th of each year *Annual Information Reporting Requirements for a Service Provider Certificate of Operating Authority and/or a Certificate of Operating Authority*, Project No. 27357. If the SPCOA holder has any change during the year in the information requested in Section One of the annual report form, then the SPCOA holder shall file an updated form correcting the information in Section One within 30 days of the change.
7. Applicant shall provide a copy of its application and/or the Commission's Notice of Approval, in accordance with the individual entity's requirements, to all affected Commission on State Emergency Communications (9-1-1) entities prior to providing service to those entities.
8. Applicant's provision of local telephone service to end-users, whether by its own facilities, flat-rate resale, or usage sensitive loop, must also include "9-1-1" emergency telephone service at a level required by the applicable regional plan followed by local telephone service providers under Chapters 771 and 772 of the Texas Health and Safety Code, TEX. HEALTH & SAFETY CODE ANN. §§ 771.001 *et seq.* (Vernon 2003) (the Code) or other applicable law, and any applicable rules and regulations implementing those chapters. Applicant shall diligently work with the Commission on State Emergency Communications, local "9-1-1" entities, and any other agencies or entities authorized by Chapters 771 and 772 of the Code to ensure that all "9-1-1" emergency services, whether provided through the certificate holder's own facilities, flat-rate resale, or usage sensitive loop, are provided in a manner consistent with

the applicable regional plan followed by local telephone service providers under Chapters 771 or 772 of the Code or other applicable law and any applicable rules and regulations implementing those chapters. The Applicant shall diligently work with the "9-1-1" entities to pursue, in good faith, the mutually agreed goal that the local "9-1-1" entities and emergency service providers experience no increase in their current level of rates and, to the extent technically feasible, no degradation in services as a result of the certification granted herein and the involvement of the certificate holder in the provision of "9-1-1" emergency service.

9. Applicant shall notify all affected 9-1-1 administrative entities at least 30 days prior to activating or using a new NXX in a rate center or upon the commencement of providing local telephone service in any rate center in compliance with P.U.C. SUBST. R. 26.433(d)(3).
10. Applicant shall execute a separate service agreement with each 9-1-1 entity and remit the required 9-1-1 emergency service fee to the 9-1-1 entity pursuant to such agreement in compliance with P.U.C. SUBST R. 26.435(e)(4).
11. Applicant has committed to and is bound by the quality of service requirements set forth in the Quality of Service Questionnaire. The underlying incumbent local exchange companies (ILECs) continue to be bound by the quality of service requirements contained in P.U.C. SUBST. R. 26.54. Approval of the SPCOA application does not expand the scope of the underlying ILEC's obligation to its own customers.

12. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS the 3rd day of June 2009.

PUBLIC UTILITY COMMISSION OF TEXAS



SONYA BATCHELOR
ADMINISTRATIVE LAW JUDGE