

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE APPLICATION OF ) CAUSE NO. 44613  
ENCARTELE, INC. FOR A CERTIFICATE OF )  
TERRITORIAL AUTHORITY FOR ) APPROVED:  
COMMUNICATIONS SERVICE PROVIDERS )

JUN 10 2015

ORDER OF THE COMMISSION

**Presiding Officer:**  
**Gregory R. Ellis, Administrative Law Judge**

On April 9, 2015, Encartele, Inc. (“Encartele” or “Applicant”) filed with the Indiana Utility Regulatory Commission (“Commission”) its Application for a Certificate of Territorial Authority (“CTA”) to provide communications services, specifically telecommunications services as defined in 47 U.S.C. § 153(46)<sup>1</sup> and described in the Application, within the State of Indiana. The Commission published notice that Applicant filed an application for a CTA to provide communications services within the State of Indiana. Absent a timely request, the Application may be granted without a hearing.

On May 11, 2015, Encartele filed its Request for Confidential Treatment of Encartele, Inc.’s Financial Qualifications seeking a determination that designated confidential information (“Confidential Information”) involved in this proceeding be exempt from public disclosure under Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3. The Confidential Information was granted protection on a preliminary basis through a docket entry on June 4, 2015.

Based upon information contained in the Application and applicable law, the Commission makes the following findings:

**1. Commission Notice and Jurisdiction.** Due, legal and timely notice of the Application was given and published by the Commission in accordance with General Administrative Order (“GAO”) 2011-2 and Ind. Code § 8-1-32.5-9. Applicant requests the issuance of a CTA pursuant to Ind. Code ch. 8-1-32.5 and, therefore, the Commission has jurisdiction over the Applicant and the subject of this Cause.

**2. Commission Discussion and Findings.** The Applicant filed an application for a CTA and information describing its legal authority and demonstrating its financial, managerial and technical ability to provide the proposed communications services in certain identified

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<sup>1</sup> The definition of telecommunications service referenced and cited in Indiana Code ch. 8-1-32.5 as 47 U.S.C. §153(46) was amended October 8, 2010, by Public Law 111-260. P.L. 111-260 added seven new definitions to 47 U.S.C. §153. The definition of telecommunications service was not changed, but redesignated as 47 U.S.C. §153(53). The current version of Indiana Code ch. 8-1-32.5 refers to the definitions in 47 U.S.C. §153 prior to its amendment.

service areas. The Applicant also provided information indicating the type, means and location of service that the Applicant proposes to provide.

The Application was filed with the Commission on April 9, 2015. Notice of the Application was posted to the Commission's website. No timely written request for intervention or a hearing was made by any entity during the 30-day posting period, and the Commission has not, on its own motion, determined a need for a hearing in this Cause. Accordingly, no hearing is required in this Cause.

Therefore, based upon the information provided by Encartele in its Application, the Commission finds that a CTA for advanced telecommunications services originating from correctional facilities as proposed to be offered within the service areas identified in the Application should be issued to the Applicant, consistent with and subject to the following findings.

The Applicant shall comply with all applicable legal requirements pertaining to the provision of the communications services authorized by this CTA, including, but not limited to, the following:

a. **Public Utility Fees.** Applicant shall pay all public utility fees assessed by the Commission, pursuant to Ind. Code ch. 8-1-6.

b. **InTRAC.** Applicant shall establish and maintain contact with the Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired ("InTRAC") and pay all fees required by Ind. Code ch. 8-1-2.8.

c. **Indiana Universal Service Fund.** Applicant shall pay all required assessments into the Indiana Universal Service Fund ("IUSF"), based on the "net billed intrastate retail telecommunications revenue," pursuant to the Order in Cause No. 42144<sup>2</sup> and the "Implementation Guidelines" attached to the July 25, 2007 Docket Entry issued in Cause No. 42144, and pursuant to any subsequently issued IUSF-related requirements, rules, or procedures.

d. **Notice of Initiation of Service.** Pursuant to Ind. Code §§ 8-1-32.5-6(b)(3)(D) and 8-1-32.5-6(a)(9)(A), Applicant shall file a notice with the Secretary of the Commission of Applicant's "in service" dates (i.e., the dates on which Applicant commences offering communications service in each service area identified in the Application in accordance with Ind. Code § 8-1-32.5-6(a)(4)) within ninety (90) days of each "in service" date.

e. **Additional Filing Requirements.** Applicant shall file any other data, information, or reports required or requested by the Commission, including but not limited to information concerning the types of service offered, the areas in which the services are offered and any information needed by the Commission.

f. **Indiana Underground Plant Protection Service.** To the extent Applicant owns, maintains, or otherwise has control over underground facilities, Applicant shall

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<sup>2</sup> *Commission Investigation*, Cause No. 42144, 2004 Ind. PUC LEXIS 61 (IURC March 17, 2004).

establish and maintain contact with, and provide appropriate notice to, the Indiana Underground Plant Protection Service, the designated administrator of the 811 dialing code in Indiana, and comply with Ind. Code ch. 8-1-26.

g. **Notice of Initiation of Service.** Pursuant to Ind. Code §§ 8-1-32.5-6(b)(3)(D) and 8-1-32.5-6(a)(9)(A), Applicant shall file under this Cause a notice with the Secretary of the Commission of Applicant's "in service" dates (i.e., the dates on which Applicant commences offering communications service in each service area identified in the Application in accordance with Ind. Code § 8-1-32.5-6(a)(4)) within 90 days of each "in service" date.

h. **Additional Filing Requirements.** Applicant shall file any other data, information, or reports required or requested by the Commission, including but not limited to information concerning the types of service offered, the areas in which the services are offered and any information needed by the Commission.

i. **Notice of Changes.** Applicant shall notify the Commission, pursuant to Ind. Code § 8-1-32.5-12, of any change involving either the Applicant or the CTA occurring after the issuance of this CTA. Such notice shall be provided using a Notice of Change form in accordance with GAO 2011-2. If the change involves the provision of other types of services than those approved herein or the reclassification of a communications service approved in this CTA, additional obligations and fees may apply.

j. **Other Customer Notifications.** Applicant shall provide appropriate notice to customers when Applicant offers new communications services, discontinues communications services, and/or increases rates and charges for communications services in any of the Applicant's service areas in Indiana pursuant to Ind. Code § 8-1-32.5-11(b) and any regulations adopted by the Commission.

k. **Operator Services to Controlled Populations.** To the extent that the Applicant offers alternative operator services to controlled populations, Applicant shall also comply with Ind. Code ch. 5-22-23. Ind. Code ch. 5-22-23 limits the amount that can be solicited by purchasing agents of certain controlled populations in the State for: (1) a per call service charge; (2) a per minute rate; or (3) a commission rate, to no higher than the terms of the most recent contract between the state and a telecommunications provider for the same services.

3. **Confidential Information.** Applicant sought a determination that Confidential Information involved in this proceeding be exempt from public disclosure under Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3. The request was supported by the affidavit of Mr. Don Peeler, which indicated the Confidential Information contained financial data that is not known or readily available to persons outside Encartele. By the Commission's June 4, 2015 docket entry, the Presiding Officer granted Applicant's request, finding the Confidential Information to be preliminarily confidential. After reviewing the Confidential Information, we find all such information qualifies as confidential financial information pursuant to Ind. Code § 8-1-32.5-6(d) and Ind. Code § 5-14-3-4(a). Encartele takes reasonable steps to maintain the secrecy of the information and disclosure of such information would cause harm to Encartele. Therefore, we affirm the preliminary ruling and find this information should be exempted from the public

access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29, and held confidential and protected from public disclosure by this Commission.

**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:**

1. Subject to the Findings set forth in this Order, the Applicant Encartele, Inc. is hereby issued a CTA as a Communications Service Provider to provide Telecommunications Services, specifically to provide advanced telecommunications services originating from correctional facilities for communication originating and terminating within the State of Indiana as requested in the Application that is the subject of this Order.

2. The material submitted to the Commission under seal is declared to contain confidential financial information and therefore is exempted from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29.

3. This Order shall be effective on and after the date of its approval.

**MAYS-MEDLEY, HUSTON, AND ZIEGNER CONCUR; STEPHAN AND WEBER ABSENT:**

**APPROVED: JUN 10 2015**

**I hereby certify that the above is a true and correct copy of the Order as approved.**

  
**Brenda A. Howe**  
**Secretary to the Commission**