

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

APPLICATION OF INDIANA BELL)
TELEPHONE COMPANY, INCORPORATED)
FOR A CERTIFICATE OF FRANCHISE)
AUTHORITY TO PROVIDE VIDEO)
SERVICE IN THE STATE OF INDIANA)
PURSUANT TO I.C. 8-1-34-16)

CAUSE NO. 43094 VSP 02

APPROVED: JAN 07 2009

BY THE COMMISSION:

Larry S. Landis, Commissioner
Angela Rapp Weber, Administrative Law Judge

On October 20, 2008, Indiana Bell Telephone Company, Incorporated d/b/a AT&T Indiana ("Applicant"), filed with the Indiana Utility Regulatory Commission ("Commission") an Application for a Certificate of Franchise Authority ("Application") to provide video service within the State of Indiana pursuant to Ind. Code § 8-1-34 *et seq.* This Application covers geographic areas not included in Applicant's previous filing in 43094 VSP 01.

In addition, on October 30, 2008, Applicant filed a *Motion for Protection of Confidential and Proprietary Information* ("Motion") in this Cause. In its Motion, Applicant indicated that certain information it intended to submit with its Application in this matter, contains trade secrets ("Confidential Information") as that term is defined under Ind. Code § 24-2-3-2. Information containing trade secrets is excepted from public disclosure under Ind. Code § 5-14-3-4(a)(4). In support of its Motion, the Applicant included the sworn *Affidavit of Thomas J. Hess* ("Affidavit"). A preliminary finding of confidentiality was issued in a Docket Entry by a Presiding Officer on November 12, 2008. In accordance with said Docket Entry, Applicant submitted the confidential portion of its Application on November 14, 2008, which was supplemented on November 20, 2008.

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

1. **Commission Notice and Jurisdiction.** Notice of the Application was provided on the Commission's website in accordance with General Administrative Order 2006-4. The Applicant requests the issuance of a Certificate of Franchise Authority ("CFA") pursuant to Ind. Code § 8-1-34-17 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 CFA on the application form prescribed by the Commission. The Applicant provided information describing the video service that it is proposing to provide in certain designated service areas within the State of Indiana.

Based upon the information provided by the Applicant in its Application, the Commission finds the Application to be complete and properly verified. Therefore, in accordance with Ind. Code § 8-1-34-17(a), the Commission finds that a CFA for video services

within the designated service areas as identified in the Application should be issued to the Applicant. In addition, the Commission finds that the Applicant should be authorized to use and occupy public rights-of-way in the delivery of the requested video services, subject to state and local laws and regulations governing the use and occupancy of public rights-of-way and the police powers to enforce such laws and regulations. The granting of this CFA is subject to the Applicant's lawful provision and operation of video service.

Further, as a condition of receiving this CFA, the Commission finds the Applicant shall comply with all applicable legal requirements pertaining to the construction and operation of video services authorized by this CFA, including without limitation, the following:

- a. Notice to the Commission of any changes involving the Applicant or this CFA pursuant to Ind. Code § 8-1-34-20(a);
- b. Ten (10) days advance notice to any unit or unincorporated area included in the designated service area covered by this CFA in which the Applicant does not already provide video service, stating that the Applicant intends to provide video service in the unit's or unincorporated area's jurisdiction as required by Ind. Code § 8-1-34-20(b);
- c. Advance notice to customers in the event of a change in rates and charges for video service in accordance with Ind. Code § 8-1-34-20(c)(1);
- d. Advance notice to customers in the event the Applicant will cease to offer video service or any specific video programming that it currently offers in any of the Applicant's designated service areas in Indiana pursuant to Ind. Code § 8-1-34-20(c)(2);
- e. Annual filing, by March 1 of each year, of a report indicating changes (e.g., deletions and additions) in video programming or other programming service during the previous calendar year and the service area(s) affected by such changes pursuant to Ind. Code § 8-1-34-20(a)(6);
- f. Quarterly filing with the Commission of updated maps indicating, at the census block and census tract levels, the portion of authorized designated service areas in which the Applicant is actually offering video service or a statement indicating that no changes occurred during the quarter pursuant to Ind. Code § 8-1-34-20(a)(7);
- g. Assure that access to video service is not denied to any group of potential residential video subscribers because of the income of the residents of the local area in which such group resides in accordance with Ind. Code § 8-1-34-28(b) and 47 USC § 541(a)(3);
- h. Payment and performance of any rights, duties, and obligations owed to any private person as required by Ind. Code § 8-1-34-22(c);

- i. Payment of all fees owed to units and unincorporated areas included within Applicant's service area as required by Ind. Code § 8-1-34-24; and
- j. Compliance with any requirements that may be imposed by the Commission upon petition of a unit or an unincorporated area included in the Applicant's service area, or upon the Commission's own motion, regarding channels for public, educational and governmental programming ("PEG Channels") as set forth in Ind. Code §§ 8-1-34-25 through 8-1-34-27.

Finally, pursuant to Ind. Code §§ 8-1-2-29 and 5-14-3-4, the Commission finds that information submitted by the Applicant in sealed envelopes in accordance with the Presiding Officer's November 12, 2008 Docket Entry, constitutes confidential, trade secret information entitled to confidential treatment by the Commission and should be excepted from public disclosure.

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

1. Subject to the Findings set forth in this Order, the Applicant, Indiana Bell Telephone Company, Incorporated d/b/a AT&T Indiana, is hereby granted a Certificate of Franchise Authority to provide the requested video services in the Applicant's designated service areas within the State of Indiana.

2. Pursuant to Ind. Code § 8-1-34-17(a)(2), Applicant is granted authority to use and occupy public rights-of-way, subject to state and local laws and regulations and the police powers of local units to enforce such local laws governing the use and occupancy of public rights-of-way.

3. The authority granted in Order paragraphs 1 and 2 above is subject to the Applicant's lawful provision and operation of the video service.

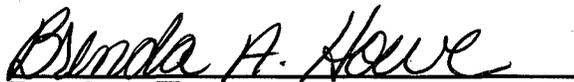
4. The Confidential Information filed by the Applicant constitutes confidential information and shall continue to be treated by the Commission as such and excepted from public disclosure.

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

HARDY, GOLC, LANDIS, AND ZIEGNER CONCUR; SERVER ABSENT:

APPROVED: JAN 07 2009

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



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