

ORIGINAL

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION
GENERAL ADMINISTRATIVE ORDER

2011-2

JOA
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WHEREAS, IC § 8-1-32.5 *et seq.* establishes statutory requirements for certificates of territorial authority (CTA) for communications service providers (CSP) in the State of Indiana; and

WHEREAS, IC § 8-1-32.5-6 requires that a person or entity seeking to provide communications services in Indiana after June 30, 2009 file an application for a CTA with the Indiana Utility Regulatory Commission; and

WHEREAS, IC § 8-1-32.5-6 requires the Indiana Utility Regulatory Commission to prescribe the form on which such an application for a CTA is to be made; and

WHEREAS, IC § 8-1-32.5-12 requires a holder of a CTA to provide notice to the Indiana Utility Regulatory Commission of certain changes involving the holder or the certificate; and

WHEREAS, IC § 8-1-32.5-12 requires the Indiana Utility Regulatory Commission to prescribe the time in which a holder of a CTA must report changes and the form on which such changes must be reported; and

WHEREAS, on May 13, 2011, the Governor signed into law Senate Enrolled Act No. 480, which amended IC 8-1-32.5 and specifically changed the reporting requirements for CSPs that offer only a service described in IC § 8-1-2.6-1.1, so that such a CSP must report and certify the accuracy of only the information required under IC §§ 8-1-32.5-6(a)(1) and 8-1-32.5-6(a)(2), which are:

- (1) The provider's legal name and any name under which the provider does or will do business in Indiana, as authorized by the secretary of state.
- (2) The provider's address and telephone number, along with contact information for the person responsible for ongoing communications with the commission.

WHEREAS, the referenced provisions of Senate Enrolled Act No. 480 have an effective date of July 1, 2011; and

WHEREAS, the Indiana Utility Regulatory Commission herein finds that changes should be made to the Application for a Certificate of Territorial Authority for Communication Service Providers in the State of Indiana and the Notice of Change in Certificate(s) of Territorial Authority, adopted under General Administrative Order 2009-4; and

WHEREAS, the Indiana Utility Regulatory Commission also finds that nonsubstantive changes may be made to the forms adopted hereunder;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the Application for a Certificate of Territorial Authority for Communication Service Providers in the State of Indiana and the Notice of Change in Certificate(s) of Territorial Authority, attached to General Administrative Order 2009-4 are hereby revoked and that the revised Application for a Certificate of Territorial Authority for Communication Service Providers in the State of Indiana, the Notice of Change in Certificate(s) of Territorial Authority, and the instruction thereto, which are attached to this General Administrative Order as Appendix A, are adopted by this Commission.

ATTERHOLT, BENNETT, MAYS, LANDIS, AND ZIEGNER CONCUR:

APPROVED: JUL 27 2011

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



Brenda A. Howe, Secretary to the Commission

APPENDIX A



APPLICATION FOR A CERTIFICATE OF TERRITORIAL AUTHORITY FOR COMMUNICATIONS SERVICE PROVIDERS

State Form 52648 (R4 /10-09)
INDIANA UTILITY REGULATORY COMMISSION

Applicants are required to file an original and five paper copies.

Cause No. _____ (IURC use only)

PURSUANT TO I.C. 8-1-32.5-4, A COMMUNICATIONS SERVICE PROVIDER (“CSP”) MEANS A PERSON OR ENTITY THAT OFFERS COMMUNICATIONS SERVICE TO CUSTOMERS IN INDIANA, WITHOUT REGARD TO THE TECHNOLOGY OR MEDIUM USED BY THE PERSON OR ENTITY TO PROVIDE THE COMMUNICATIONS SERVICE. THE TERM INCLUDES A PROVIDER OF COMMERCIAL MOBILE RADIO SERVICE (AS DEFINED IN 47 U.S.C. 332).

List each type of Communications Service which applicant proposes to offer in Indiana:

TELECOMMUNICATIONS SERVICE AS DEFINED IN 47 U.S.C. 153(46)

Please list each type of service, such as facilities-based local exchange; bundled resale of local exchange; commercial mobile radio service; interexchange; operator services or other.

INFORMATION SERVICE AS DEFINED IN 153(20), WITHOUT REGARD TO THE TECHNOLOGY OR MEDIUM USED TO PROVIDE THE COMMUNICATIONS SERVICE.

Please list each type of service, such as internet protocol enabled services; broadband service; advanced service (as defined in 47 CFR 51.5); or other.

VIDEO SERVICE AS DEFINED IN I.C. 8-1-34-14 (Note: A Video Service Provider which does not currently have a video franchise (local or state) for the service area described above must obtain a state issued video franchise as specified in I.C. 8-1-34-16.)

Please list any service areas in Indiana where Applicant offers service under a local franchise.

PURSUANT TO I.C. 8-1-32.5-6(e), A CSP THAT IS ONLY OFFERING A SERVICE(S) DESCRIBED IN I.C. 8-1-2.6-1.1 IS ONLY REQUIRED TO REPORT AND CERTIFY THE ACCURACY OF SOME OF THE INFORMATION REQUESTED IN THIS FORM. NOT ALL PORTIONS OF THE FORM ARE APPLICABLE TO SUCH A CSP. *SEE PAGE 2 FOR INSTRUCTIONS.

The following services are “described in I.C. 8-1-2.6-1.1”:

- (1) advanced services (as defined in 47 CFR 51.5);
- (2) broadband service, however defined or classified by the Federal Communications Commission;
- (3) information service (as defined in 47 U.S.C. 153(20));
- (4) Internet Protocol enabled retail services:
 - (A) regardless of how the service is classified by the Federal Communications Commission;
 - and
 - (B) except as expressly permitted under I.C. 8-1-2.8;
- (5) commercial mobile service (as defined in 47 U.S.C. 332); or
- (6) any service not commercially available on March 28, 2006.

In Indiana, will Applicant ONLY offer services described in I.C. 8-1-2.6-1.1?

Check one: YES NO

Please list the specific services, as described in I.C. 8-1-2.6-1.1, the Applicant proposes to offer:

PLEASE NOTE: All CSPs must complete a Verified Notice of Change form if the answer to this question changes at any time subsequent to completing this application form. The Notice of Change form is currently available on the Commission's website: www.in.gov/iurc.

***INSTRUCTIONS for providers offering ONLY a service(s) described in I.C. 8-1-2.6-1.1:**

You **DO NOT** have to complete the following sections:

- Part II •Part IV.2.a •Part IV.2.b
- Some portions of Part VI may also not apply.

The following sections **are required**, unless otherwise noted:

- Part I.A •Part I.D •Part IV.1
- Part I.B •Part I.E. •Part IV.3
- Part I.C •Part III •Part V
- Selected portions of Part VI

I. APPLICANT CONTACT INFORMATION

A. Legal Name of Company: _____

B. Name(s) under which the company will be marketing services in Indiana:
(Company names, including any "doing business as" names, must be registered with Indiana Secretary of State)

C. Company Address:

Main Telephone Number: _____ FAX Number: _____
E-mail Address: _____
Website Address: _____

D. Name, title, and other contact information of company's contact person for ongoing communications with the commission *(including regulatory affairs and/or customer service information)*:
Name and Title _____
Telephone Number: _____ FAX Number: _____
Mailing Address: _____
Email Address: _____

E. Name, title, and other contact information of attorney or contact person for this application, if different from E. above:
Name and Title _____
Telephone Number: _____ FAX Number: _____
Mailing Address: _____
E-mail Address: _____

F. Parent Company's Legal Name, Address, and Telephone Number (if applicable):

(CSPs that will only offer a service(s) described in I.C. 8-1-2.6-1.1 are not required to provide their parent company information.)

II. SERVICE INFORMATION

(Add additional sheets if necessary.)

A. Please describe the geographic area(s) for which the applicant seeks authority.

B. Please provide a description of each service area in Indiana in which the applicant initially proposes to offer communications service (i.e., county, city, or rate center). If the applicant is proposing to offer Video Service, will the service be authorized through a State or local franchise? If the applicant is a Video Service provider authorized through a local franchise authority, please provide the issuing franchise authority and expiration date.

C. Please provide a description of each type of communications service that the provider proposes to offer in each of the service areas identified in II B. above. The services listed should be consistent with the services marked at the top of Page 1.

D. For each type of service identified in C, please list whether the communications service will be offered only to residential customers, only to business customers or to both residential and business customers.

E. Please provide an estimated date of deployment (year and quarter) for each service area and each service type within that area for which the applicant seeks authority. The services listed should be consistent with the services marked at the top of Page 1.

F. Will applicant offer stand alone basic telecommunications service for a flat monthly rate pursuant to I.C. 8-1-2.6-0.1?

G. Does the applicant seek authorization to provide facilities-based local exchange? _____

H. Does the applicant seek authorization to offer interexchange services only? _____

I. Is applicant offering wholesale communications services, retail communications services, or both?

J. Will the applicant operate as a Local Cooperative Corporation pursuant to I.C. 8-1-17-3?

- K. Please list other states in which applicant is authorized to provide communications services and the types of services offered.
-
-
-

III. ADDITIONAL REQUIREMENTS²

Applicant further represents that it will:

- Comply with Indiana law (including but not limited to Title 8 of the Ind. Code) and IURC regulations (170 IAC 7) and applicable current and future Orders of the IURC.³
- Notify the Commission of any change in the legal name, address, control or status of the CTA, or service area (if applicable), pursuant to I.C. 8-1-32.5-12, using the CSP Notice of Change Form prescribed by the Commission. Such notification of change shall be provided to the Commission thirty (30) days prior to the occurrence of the change.
- Upon request, provide any other information the Commission is authorized to collect from a communications service provider under state or federal law pursuant to I.C. 8-1-2.6-13-9(E).
- Applicant represents that it will, at the time requested by the commission, provide an annual report concerning communications services offered in each service area (county and zip code) in Indiana as required by I.C. 8-1-2.6-13(d)(9)((C) Note: This does not apply to CMRS providers.
- If applicable, file intrastate access tariffs, concurrences, and exceptions pursuant to the Commission's filing procedures and provide informational copies of interstate access tariffs.
- If applicable, provide the Commission with current and updated/corrected hyperlinks to the company's intrastate and interstate access tariffs, concurrences, and exceptions, consistent with the IURC's General Administrative Order (GAO) 1998-2.

IV. ATTACHMENTS

The following information must be included with this application:

1. A copy of the Applicant's Certificate of Authority from the Indiana Secretary of State, authorizing the applicant to do business within the State of Indiana. (A tax statement or other documentation from the Indiana Department of Revenue *is not acceptable*.)
 - a. Applicants that are units of a municipal government, or are owned by a municipal government entity, may submit their local authorizing ordinance in lieu of the Secretary of State Certificate of Authority.
2. Information demonstrating the financial, managerial and technical ability to provide each communication service identified in the application.
 - a. The applicant's most recent financial statement or balance sheet or that of the parent company if separate Indiana operations have not yet been established. Applicants that are municipalities may submit their local budget.
 - b. Biographies of the applicant's corporate officers responsible for Indiana indicating managerial and technical qualifications.
(Attachment 2a and 2b are not required for CSPs that will "only offer a service(s) described in IC 8-1-2.6-1.1.")
3. A statement signed under penalty of perjury by an officer or another person authorized to bind the applicant (*see attached affidavit*).

¹ The Commission is required to provide notice of CTA applications of local cooperative corporations to each facilities-based local exchange carrier operating in territory contiguous to the area in which the cooperative corporation proposes to render telephone service pursuant to IC 8-1-17-5(d)

² Part III applies to all communications service providers, unless explicitly exempted pursuant to Indiana law and as otherwise noted herein.

³ Telecommunications Service Providers and Video Service Providers are subject to enforcement remedies for prohibited actions pursuant to IC 8-1-29.5.

Although an evidentiary hearing before the Commission is not required, the Commission shall hold an evidentiary hearing, if one is requested pursuant to I.C. 8-1-32.5-9(a). Any hearing shall follow the statutory provisions of I.C. 8-1-32.5-9(b).⁴

V. APPLICATION VERIFICATION

I affirm under the penalties of perjury that the above representations made in this application are true.
(Must be signed by an officer of the company)

Signature and Date *(month/day/year)*

Name and Title *(printed or typed)*

⁴ The FCC determines market entry of CMRS providers pursuant to 47 CFR Chapter 1 Part 13.

AFFIDAVIT⁵

I, _____ (*print name*), as an authorized corporate officer or person authorized to bind _____ (*company name*), affirm under penalty of perjury that:

a) the applicant has filed or will timely file with the Federal Communications Commission (“FCC”) all forms required by the FCC;

b) the applicant agrees to comply with customer notification requirements of the Commission pursuant to I.C. 8-1-32.5-6(b)(3)(B) and 8-1-32.5-11(b) (not applicable to CMRS providers per I.C. 8-1-32.5-11(b));

c) the applicant (including CMRS providers⁶) agrees to update the information provided in the application on a regular basis pursuant to I.C. 8-1-32.5-12;

d) the applicant agrees to notify the Commission when the applicant commences offering communications service in each service area identified in the application (Pursuant to I.C. 8-1-32.5-6(e), this requirement is not applicable to CSPs that only offer a service(s) described in I.C. 8-1-2.6-1.1.);

e) the applicant agrees to pay any lawful rate or charge for switched and special access services, as required under any:

- applicable interconnection agreement; or
- lawful tariff or order approved or issued by a regulatory body having jurisdiction.

f) the applicant agrees to report, at the time requested by the Commission, information required under I.C. 8-1-2.6-13(d)(9) *et seq.* (This requirement is not applicable to CMRS providers, per I.C. 8-1-2.6-13(d)(9).); and

g) applicant further represents that it will provide an annual report concerning communications services offered in each service area (county, zip code and census tract) in Indiana as required by I.C. 8-1-2.6-13(d)(9)(C). (Not applicable to CMRS providers, per I.C. 8-1-2.6-13(d)(9).

Signature

Title

Date (*month/day/year*)

Subscribed and Sworn to before me, a Notary Public, this _____ day of _____, A.D. 20____

Signature

Printed Name

My Commission Expires : _____

My County of Residence: _____

⁵ See IC 8-1-32.5-6(b)(3).

⁶ There is an exception in IC 8-1-32.5-12-6 to the information that CMRS providers must provide. This exception does not apply to the other subsections in IC 8-1-32.5-12.



**VERIFIED NOTICE OF CHANGE IN A CERTIFICATE OF TERRITORIAL AUTHORITY
TO PROVIDE COMMUNICATIONS SERVICES WITHIN THE STATE OF INDIANA
(As addressed in I.C. 8-1-32.5-12)**
State Form 50739 (R4 / 3-11)
INDIANA UTILITY REGULATORY COMMISSION

*Applicant should file either, an original and two paper copies of each form with supporting documentation,
or file using the IURC's Electronic Filing System.*

Tracking number: _____ (IURC use only)

To the Communications Division of the Indiana Utility Regulatory Commission (IURC):

(Name of company)

hereby notifies the IURC of a change in the Certificate of Territorial Authority (CTA) to provide
(please list the types of communications services currently authorized in Indiana):

Authorized under Cause number(s): _____ **dated** _____.

*Please list the service territory or territories being affected by this notice of change. (This
requirement is not applicable to CSPs that only offer a service(s) described in I.C. 8-1-2.6-1.1.)*

REASON FOR CHANGE IN CTA STATUS

The change being noticed herein by Applicant relates to:
(Please check all boxes and complete all blanks that apply, and attach any supporting documents.)

1. **Change in Ownership, Operation, Control or Corporate Organization of the
Provider, including Merger, Acquisition or Reorganization.**

a. Please provide a description of transaction: _____

b. Effective date (month, day, year): _____

2. **Name change or an adoption of or change to an assumed business name or change in parent company name, etc.**

- a. Existing name: _____
- b. New name: _____
- c. Alias or d/b/a name: _____

For a name change, please provide the following: (attach additional sheets as necessary)

- The reason for the name change or d/b/a and the effect on the operations and/or the utility's customers.
- A certified copy of the amended certificate of authority or certificate of assumed business name issued by the Indiana Secretary of State.
- Method by which the company's customers were or will be notified of the proposed name change or assumed name to alleviate customer confusion and prevent baseless slamming complaints (attach copy of bill insert, notice, etc.)

3. **Change in Provider's Principal Business Address or Change of the Person Authorized to Receive Notice on Behalf of the Provider**

Name and title: _____
Telephone number: _____ Fax number: _____
Mailing address: _____

E-mail address: _____

4. **Sale, Assignment, Lease or Transfer to:**

Subject to any notice requirements adopted by the Commission under I.C. 8-1-32.5-12, a CTA pursuant to I.C. 8-1-32.5-10 may be: 1) sold, assigned, leased, or transferred by the holder to any communications service provider to which a CTA may be lawfully issued; or 2) included in the property and rights encumbered under any indenture of mortgage or deed of trust of the holder.

a. Transferee company name and Indiana d/b/a: _____

Contact Name and Title: _____
Telephone number: _____ Fax number: _____
Mailing address: _____

E-mail address: _____

b. If customers are being transferred, please provide the method by which the company's customers were or will be notified of the transfer pursuant to 47 CFR 64.1120(e)(3).

c. Does transferee have a current Indiana CTA? Yes No

- If yes, please provide the Cause Number(s): _____.
- If no, please complete the Transfer CTA application in **Attachment A** and include it with this filing.

5. **Relinquishment of Certificate** (Not applicable to telecommunications providers of last resort pursuant to I.C. 8-1-32.4)

a. Reason for CTA Relinquishment: _____

(Attach additional sheets as necessary)

b. Please identify any other Indiana CTA(s) currently held by Applicant -- by Cause Number, type, and date issued -- that will be retained.

c. For each service for which Applicant is relinquishing its CTA, please provide the number of residential and business customers that Applicant currently serves in Indiana.

d. For each service for which Applicant is relinquishing its CTA, please provide the method by which Applicant's customers were or will be notified that Applicant is relinquishing its CTA and provide a copy of the notice.

e. For each service for which Applicant is relinquishing its CTA, how much time will Indiana customers have to find a new provider after receipt of notice before Applicant's operations cease? To the extent your answer varies by service territory or location, please provide a clear, detailed response.

6. **Change in one or more of the service areas identified in the provider's CTA application that would increase or decrease the territory within the service area¹.**

(This requirement is not applicable to CSPs that only offer a service(s) described in I.C. 8-1-2.6-1.1.)

(Attach additional sheets as necessary)

7. **Change in type of Communications Service provided in one or more of the service areas identified in the provider's application for Certificate of Territorial Authority.**

(This requirement is not applicable to CSPs that only offer a service(s) described in I.C. 8-1-2.6-1.1.)

Above, please list the types of communications services you **propose** to offer in Indiana (e.g. facilities-based local exchange; bundled resale of local exchange; commercial mobile radio service; interexchange operator services; internet protocol enabled services; broadband service; advanced service; video service² or other).

1 Providers of Last Resort may not use this process to reduce service territory. Providers of Last Resort must use the process specified in I.C. 8-1-32.4.

2 If applicant intends to offer video service and does not have a current Video Service Franchise for the service area, the applicant must obtain a franchise as specified in I.C. 8-1-34-16.

- a. Please describe the geographic area(s) for which the applicant proposes to provide the new or changed services listed above (i.e. county, city or rate center). If the applicant provides service through a local video franchise agreement, please provide the issuing franchise authority and expiration date.

- b. For each type of service identified above, please list whether the communications service will be offered to residential customers, business customers, or both.

- c. If applicant proposes offering new services, please provide an estimated date of deployment (year and quarter) for each service area and each service type within that area for which the applicant seeks authority. The services listed in this response should be consistent with the services listed above.

- d. Does the applicant propose to offer facilities-based local exchange service?

- e. Will applicant offer stand alone basic telecommunications service for a flat monthly rate per I.C. 8-1-2.6-0.1?

- f. Will applicant offer interexchange services only? _____

- g. Does the applicant seek authorization to provide commercial mobile radio service?

Designated Regulatory or Customer Service Contact Information

Include name, title, mailing address, phone & fax numbers, and e-mail address for the designated regulatory or customer service contact person *responsible for ongoing communications* with the Commission:

Designated Contact Information for *this* Notice of Change Only

Include name, title, mailing address, phone & fax numbers, and e-mail address for the designated contact person for *this* Notice of Change (*if different than the general regulatory or customer service contact information listed on page 4*).

VERIFICATION

I affirm under penalties of perjury that the foregoing representations are true.

Officer's Printed Name & Title: _____

Officer's Signature: _____

Date Signed (day, month, year): _____

Telephone number: _____

IURC ACKNOWLEDGEMENT

Notice of Change Number: _____

Date of Acknowledgement: _____

F. Name, title, and other contact information of attorney or contact person for this application, if different from E. above:

Contact Name and Title: _____
Telephone number: _____ Fax number: _____
Mailing address: _____

E-mail address: _____

II. Transferor of CTA Information

A. Legal name of company: _____
B. Any Aliases or d/b/a names used in Indiana: _____

III. Service Information

(Add additional sheets if necessary.)

The following services are “described in I.C. 8-1-2.6-1.1”:

- (1) advanced services (as defined in 47 CFR 51.5);
- (2) broadband service, however defined or classified by the Federal Communications Commission;
- (3) information service (as defined in 47 U.S.C. 153(20));
- (4) Internet Protocol enabled retail services:
 - (A) regardless of how the service is classified by the Federal Communications Commission; and
 - (B) except as expressly permitted under I.C. 8-1-2.8;
- (5) commercial mobile service (as defined in 47 U.S.C. 332); or
- (6) any service not commercially available on March 28, 2006.

In Indiana, will Applicant ONLY offer services described in I.C. 8-1-2.6-1.1?

Check one: YES NO

PLEASE NOTE: All CSPs *must complete* a Verified Notice of Change form if the answer to this question changes at any time subsequent to completing this application form. The Notice of Change form is currently available on the Commission’s website: www.in.gov/iurc/2400.htm.

A. Will the types of services (e.g. Telecommunications, Information, and/or Video Services) offered by the Transferee be the same as those granted to the Transferor in the above referenced CTA? If not, what additional or different types of service will be offered?

B. Will the service area of the Transferee be the same as the Transferor?

(This requirement is not applicable to CSPs that will only offer a service(s) described in I.C. 8-1-2.6-1.1.)

- C. Will the communications services be offered by Transferee to the same customers types (e.g. residential, business customers, or both) as the Transferor? *(This requirement is not applicable to CSPs that will only offer a service(s) described in I.C. 8-1-2.6-1.1.)*
-
-

- D. If Transferee's service offerings will not be immediately available, please provide an estimated date of deployment (year and quarter) for each service area and each service type within that area for which the Transferee will provide service. *(This requirement is not applicable to CSPs that will only offer a service(s) described in I.C. 8-1-2.6-1.1.)*
-
-

- E. Will the transferee operate as a Local Cooperative Corporation pursuant to I.C. 8-1-17-3?

(If yes, please submit 3 original articles of incorporation as required by I.C. 8-1-17-5 et seq.)

- F. Please list other states in which the transferee is authorized to provide communications services and the type of services offered.
-
-
-

IV. Additional Requirements

1. The transferee represents that it will comply with all the conditions of the CTA issued to transferor and all other applicable requirements under state and federal law.
 2. If customers are being transferred, please provide the method by which the customers were or will be notified that their provider is changing and what options are available to them pursuant to FCC rules regarding bulk transfers of customers.
-
-

V. Attachments

The following information must be included with this application:

1. Transferee's certification from the Secretary of State authorizing the applicant to do business within the State of Indiana. *(This requirement is not applicable to CSPs that will only offer a service(s) described in IC 8-1-2.6-1.1.)*
 2. Information demonstrating the financial, managerial and technical ability to provide each communication service identified in the application. *(This requirement is not applicable to CSPs that will only offer a service(s) described in IC 8-1-2.6-1.1.)*
 - a. The applicant's most recent financial statement or balance sheet, or that of the parent company, if separate Indiana operations have not yet been established.
 - b. Biographies of the applicant's corporate officers responsible for Indiana indicating managerial and technical qualifications.
 3. A statement signed under penalty of perjury by an officer or another person authorized to bind the applicant *(VI. Application Verification)*.
-
-

VI. Application Verification

As representative of the **Transferee**, I affirm under the penalties of perjury that the above representations made in this application are true.
(Must be signed by an officer of the company)

Signature and Date *(month, day, year)*

Name and Title *(printed or typed)*

As representative of the **Transferor**, I affirm under the penalties of perjury that it is the intention of transferor to transfer the above described CTA to transferee.
(Must be signed by an officer of the company)

Signature and Date *(month, day, year)*

Name and Title *(printed or typed)*

Instructions for the Application for a Communications Service Provider (CSP) Certificate of Territorial Authority and for a Notice of Change

Pursuant to I.C. 8-1-32.5, a Communications Service Provider that seeks to offer communications service to Indiana customers after June 30, 2009, must apply to the IURC for a certificate of territorial authority.

Definitions

Communications service provider (I.C. 8-1-32.5-4): A person or entity that offers communications service to customers in Indiana, without regard to the technology or medium used by the person or entity to provide the communications service. The term includes a provider of Commercial Mobile Radio service (CMRS) as defined in 47 U.S.C. 332.

Communications Service (I.C. 8-1-32.5-3) refers to any of the following:

- (1) Telecommunications service as defined in 47 U.S.C. 153(46)
- (2) Information service as defined in 47 U.S.C. 153(20).

The term includes:

- (1) Video service
- (2) Broadband service
- (3) Advanced services
- (4) Internet protocol enabled service

A communications service provider that has an existing Certificate of Territorial Authority (CTA), a Certificate of Franchise Authority (CFA), or a certificate of public convenience and necessity issued before July 1, 2009, and in effect on July 1, 2009, is not required to submit an application under this section for as long as the certificate remains in effect. However, if the CSP provides or plans to provide communications services, as defined above, other than those for which it holds an existing CTA, it should file with the IURC a Notice of Change updating the CTA. The Notice of Change should include the required information regarding the other service(s). (See Notice of Change Procedures on page 3 of this document.)

Exception

Pursuant to I.C. 8-1-32.5-6(e), a CSP that is only offering a service(s) described in I.C. 8-1-2.6-1.1 is only required to report and certify the accuracy of some of the information requested in this form. Not all portions of the form are applicable to such a CSP.

The following services are “described in I.C. 8-1-2.6-1.1”:

- (1) advanced services (as defined in 47 CFR 51.5);
- (2) broadband service, however defined or classified by the Federal Communications Commission;
- (3) information service (as defined in 47 U.S.C. 153(20));
- (4) Internet Protocol enabled retail services:
 - (A) regardless of how the service is classified by the Federal Communications Commission; and
 - (B) except as expressly permitted under I.C. 8-1-2.8;
- (5) commercial mobile service (as defined in 47 U.S.C. 332); or
- (6) any service not commercially available on March 28, 2006.

Providers offering ONLY a service(s) described in I.C. 8-1-2.6-1.1:

DO NOT have to complete the following sections:

- Part II •Part IV.2.a •Part IV.2.b
- Some portions of Part VI may also not apply.

ARE REQUIRED to complete the following sections, unless otherwise noted:

- Part I.A •Part I.D •Part IV.1
- Part I.B •Part I.E. •Part IV.3
- Part I.C •Part III •Part V
- Selected portions of Part VI

Requirements for the CSP CTA Application

An Application can be obtained from the IURC's website at <http://www.in.gov/iurc/2400.htm> and must include:

- complete responses to the questions on the application form (I.C. 8-1-32.5-8);
- a copy of the Applicant's Certificate of Authority from the Indiana Secretary of State, authorizing the applicant to do business within the State of Indiana. (A tax statement or other documentation from the Indiana Department of Revenue is *not acceptable*.)
 - Applicants that are units of a municipal government, or are owned by a municipal government entity, may submit their local authorizing ordinance in lieu of the Secretary of State's Certificate of Authority.
- the provider's most recent balance sheet or parent company's balance sheet if Indiana specific financial information is not available (*not required for CSPs that "only offer a service(s) described in I.C. 8-1-2.6-1.1."*);
- information attesting to the carrier's managerial and technical qualifications, such as biographies of corporate officers and/or personnel of the company who are key to Indiana operations (*not required for CSPs that "only offer a service(s) described in I.C. 8-1-2.6-1.1."*);
- a description of each service area for which the applicant proposes deployment of the communications services (*not required for CSPs that "only offer a service(s) described in I.C. 8-1-2.6-1.1."*);
- a statement signed, under penalty of perjury, by an officer or another person authorized to bind the provider, that affirms the provider has complied with, or agrees to comply with the criteria set forth under I.C. 8-1-32.5-6(b)(3); and
- a completed and signed Affidavit.

Applicant shall file an original and five (5) paper copies of its application as well as an electronic copy of the filed document, in PDF format. The Commission will assign a Cause Number to the application which will become the Certificate Number upon approval.

Confidential Treatment of Information

If the applicant believes that financial or other information required to be submitted with the CTA Application or Notice of Change form is confidential in accordance with 170 IAC 1-1.1-4, the applicant should include a sworn statement that describes (1) the nature of the confidential information; (2) the reasons why the information should be treated as confidential information

pursuant to I.C. 8-1-2-29 and I.C. 5-14-3; and (3) the efforts the applicant has made to maintain the confidentiality of the information. The Commission will review the affidavit and issue a docket entry concerning whether the information is entitled to confidential treatment on a preliminary basis. If a docket entry is issued finding the information is entitled to confidential treatment on a preliminary basis, one copy of the confidential financial information should be submitted on light green paper, in a sealed envelope clearly marked confidential. The information will be treated as confidential on a preliminary basis and excepted from public disclosure in accordance with Ind. Code § 5-14-3.

FAILURE TO INCLUDE THE SWORN STATEMENT OR SEAL THE CONFIDENTIAL INFORMATION SEPARATE FROM THE APPLICATION MAY RESULT IN DENIAL OF CONFIDENTIAL TREATMENT.

IURC Review

A summary of the CSP application will be posted on the IURC's website on the first Monday (or first business day if Monday is a legal Holiday) after the application is filed. If it is evident that the application is not complete, the IURC has the option to not post the application summary and send written correspondence to the applicant enumerating the deficiencies. The applicant can amend the application or withdraw it and re-file. If the applicant re-files an updated application it will be considered a new application.

Once the application summary is posted, it will be assigned to a communications analyst with the IURC Communications Division for a more detailed review to ensure completeness, accuracy and the adequacy of the information filed. Notice of the application shall be posted on the Commission website for 30 days. The Commission will issue an order after completion of the 30-day posting period if a formal hearing is not requested and once any questions from the Commission are answered.

Hearings

The Commission shall hold an evidentiary hearing if one is requested during the 30-day posting period by one of the following parties¹:

- the communications service provider;
- a facilities-based local exchange carrier offering service in a service area identified in the provider's application under I.C. 8-1-32.5-6(a)(4) of this chapter;
- the OUCC created by 8-1-1.1-2; or
- the Commission on its own motion.

When an evidentiary hearing is requested by one of the parties listed above, the IURC will conduct a hearing, subject to the requirements for hearing under I.C. 8-1-2 for public utilities. Ex Parte communication rules pursuant to 170 IAC 1-1.5 apply to this process.

Notice of Change Procedures

Pursuant to I.C. 8-1-32.5-12, the filing of a Notice of Change in Certificate of Territorial Authority is required if there are subsequent changes to the Certificate of Territorial Authority, such as: 1) a change in ownership operation, control or corporate organization of the provider, including

¹ The FCC determines market entry of CMRS providers pursuant to 47 CFR Chapter 1 Part 13.

merger, acquisition or reorganization; 2) changes to the name of the certificated entity or adoption of, or change to, an assumed business name or Indiana d/b/a; 3) a change in the provider's principal business address; 4) any sale, lease, or transfer of the CTA to another CSP pursuant to I.C. 8-1-32.5-10²; 5) a relinquishment of the CTA; 6) a change in communications services provided in one or more of the service areas identified in the providers application for Certificate of Territorial Authority (not applicable to CMRS providers); or 7) change in one or more of the service areas indentified in the provider's CTA application that would increase or decrease the territory within the service area.³

How to File a Notice of Change Form

The Notice of Change form can be found on the Commission's website at <http://www.in.gov/iurc/2400.htm> and must include complete responses to the questions on the form regarding the applicable change(s) and a copy of the Certificate of Authority from the Indiana Secretary of State in the case of a change in legal or assumed name.

Applicant shall file an original and two (2) paper copies of its Notice of Change or use the Commission's Electronic Filing System ("EFS")⁴. (See <https://myweb.in.gov/IURC/efs/>). The notice must be filed with the Commission at least thirty (30) days prior to the effective date of the change.

The Communications Division shall assign the notice a tracking number and process the filing as a non-docketed case. A summary of the Notice of Change shall be posted on the Commission's website until 30 days from the date the notice was received. The Communications Division shall acknowledge the notice after completion of the posting period if a formal hearing is not requested and once any questions from the Communications Division are answered.

A CTA Application or a Notice of Change should be submitted to:

Indiana Utility Regulatory Commission
Communications Division
PNC Center
101 West Washington Street
Suite 1500 East
Indianapolis, IN 46204

Please note that the electronic filing system may be used for an original Notice of Change. The IURC is not able to accept CTA applications via the electronic filing system; however, *amendments* to a CTA application form that has already been assigned a cause number can be filed electronically.

Notice of the receipt of an Application or Notice of Change will be posted to the Commission website at: <http://www.in.gov/iurc/2337.htm>.

Questions should be directed to the Communications Division at (317) 232-5559.

² A CSP must have an Indiana CTA to acquire a CTA from another CSP. If the acquiring company does not have a current Indiana CTA it may file Attachment A, Application for Transfer of a Certificate of Territorial Authority for Communications Service Providers, along with the Notice of Change Form.

³ Telecommunications Providers of Last Resort must comply with I.C. 8-1-32.4 *et seq.*

⁴ Instructions and additional information about the EFS are available at the following link: <http://www.in.gov/iurc/2522.htm>