

# **Instructions for the Application for a Communications Service Provider Certificate of Territorial Authority and for a Notice of Change**

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### **Overview**

Pursuant to Ind. Code ch. 8-1-32.5, a communications service provider (“CSP”) that seeks to offer communications service to Indiana customers after June 30, 2009, must apply to the Indiana Utility Regulatory Commission (“Commission”) for a certificate of territorial authority (“CTA”).

A CSP that has an existing CTA 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 chapter (“Application”) as long as the certificate remains in effect. However, if the CSP provides or plans to provide communications services other than those in its existing CTA, it shall update the CTA by filing with the Commission a notice of change under Ind. Code § 8-1-32.5-12 (“Notice of Change”).

Definitions and applicable statutes and rules are included at the end of these instructions. In particular, note that engaging in activities described in Ind. Code ch. 8-1-32.3, permits for wireless service providers, is not necessarily the equivalent of offering “communications services.” See [Definitions and Applicable Statutes and Rules](#) for more information.

### **Completing a CTA Application**

The Application is on the Commission’s website at <http://www.in.gov/iurc/2400.htm>.

Pursuant to Ind. Code § 8-1-32.5-6(e), a CSP is only required to report and certify the accuracy of some of the information requested in the Application if it is only offering the following service(s) as described in Ind. Code § 8-1-2.6-1.1:

- Advanced services as defined in 47 C.F.R. §51.5.
- Broadband service, however defined or classified by the Federal Communications Commission.
- Information service as defined in 47 U.S.C. § 153.
- IP-enabled retail services, regardless of how the service is classified by the Federal Communications Commission and except as expressly permitted under Ind. Code § 8-1-2.8, dual party relay services for persons who are deaf, hard of hearing, or speech impaired.
- Commercial mobile service as defined in 47 U.S.C. § 332.

- A service not commercially available on March 28, 2006. Ind. Code § 8-1-2.6-1.1

**In Summary, providers who check the YES box, at the top of page 4, indicating that they are offering ONLY a service(s) described in IND. CODE § 8-1-2.6-1.1 (see below):**  
**DO NOT** have to complete: Part I(F), Part II(A through I), Part IV(C); and  
**MUST** complete: Part I(A through E), Part III, Part IV(A and B), Part V, and Part VI.

The Application consists of the following, noting certain sections not applicable to CSPs that only offer service(s) described in Ind. Code § 8-1-2.6-1.1, as detailed above:

- Complete, accurate, and properly verified responses to the questions on the Application, unless as noted below. Ind. Code § 8-1-32.5-8.
- Part I, the Applicant's contact information. The Applicant's parent company contact information, Part I(F) is *not applicable to Ind. Code § 8-1-2.6-1.1 entities*.
- Part II, a description of each service area for which the applicant proposes deployment of the communications services. This is *not applicable to Ind. Code § 8-1-2.6-1.1 entities*.
- Part III, additional requirements that **All CSP CTA Applicants** are required to fulfill unless explicitly exempt under Indiana law or as otherwise noted herein and/or in Appendix A.
- Part IV(A), a copy of the Applicant's Certificate of Authority, Certificate of Incorporation, Certificate of Existence, or similar certification 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 a sufficient substitute for this requirement.
  - Applicant shall include its Certificate of Authority from the Indiana Secretary of State for any "doing business as" names or aliases as well as its legal name.
  - Applicants that are units of a municipal government or are owned by a municipal government entity may submit their local authorizing ordinance to satisfy this requirement.
- Part IV(B), a statement signed under penalty of perjury by an officer or another person authorized to bind the applicant (*see attached affidavit, which is Part VI in the CTA Application*.)
- Part IV(C), information attesting to the Applicant's financial, managerial, and technical qualifications to provide each communication service identified in the application, such as biographies of corporate officers and/or personnel of the company who are key to Indiana operations. This includes the Applicant's most recent balance sheet or the parent company's balance sheet if Indiana specific financial information is not available. Municipal applicants may submit their local budget. Ind. Code § 8-1-32.5-6(b)(2). This is *not applicable to Ind. Code § 8-1-2.6-1.1 entities*.
- Part V, a statement signed, under penalty of perjury, by an officer or another person authorized to bind the Applicant, affirming the representations made in the Application are true.
- Part VI, a statement, signed under penalty of perjury by an officer or another person authorized to bind the Applicant, Affirming the criteria set forth under Ind. Code § 8-1-32.5-6(b)(3).

### **Confidential Treatment of Information**

Generally, information submitted to the Commission is considered a public record and disclosable to the public under the Access to Public Records Act. Ind. Code § 5-14-3-3. However, there are

confidential records that are not disclosable, including, but not limited to, records declared confidential by state statute or federal law and records containing trade secrets. Ind. Code § 5-14-3-4(a).

If the applicant believes that any of the information in the Application should receive confidential treatment, the applicant shall submit a Petition for Confidential Treatment per 170 Ind. Admin. Code 1-1.1-4 and 1-1.1-9 along with its Application and withhold the information for which confidential treatment is sought. Note, the Application will not be considered complete until the Commission receives the required information.

The Petition for Confidential Treatment shall include a sworn statement or testimony of the applicant that describes the following:

- The nature of the confidential information.
- The reasons why the information should be treated as confidential information under Ind. Code § 8-1-2-29, public inspection of Commission reports, files and records, and Ind. Code ch. 5-14-3, the Access to Public Records Act.
- The efforts the applicant has made to maintain the confidentiality of the information. 170 Ind. Admin. Code 1-1.1-4.

The Commission will review the information and issue an order stating whether the information is entitled to confidential treatment on a preliminary basis. After a determination is issued, the applicant may upload the documents into the Commission's electronic filing system using the assigned Cause Number and, if the determination permits confidential treatment, designate the filing as confidential. The information will be treated as confidential on a preliminary basis and excepted from public disclosure in accordance with Ind. Code ch. 5-14-3.

Immediately following the submission of a confidential document, a Notice of Filing should be submitted as a general filing to the case. Notices of Filing are documents that are part of the case record, alerting parties to the case that a party filed a confidential document.

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

#### **When a Notice of Change is Required**

Pursuant to Ind. Code § 8-1-32.5-12, a CSP must file a Notice of Change if there are one of these subsequent changes to the CTA:

- Transactions involving a change in the ownership, operation, control, or corporate organization of the provider, including a merger, acquisition, or reorganization.
- Changes in the CSP's legal name or the adoption of, or change to, an assumed business name.
- Changes in the CSP's principal business address or in the name of the person authorized to receive notice on behalf of the CSP.
- Sale, assignment, lease, or transfer of the certificate to another CSP, as allowed by Ind. Code § 8-1-32.5-10.
- Relinquishment of CTAs.

- Other than providers of commercial mobile service, as defined in 47 U.S.C. § 332, changes in the communications services provided in the service area(s) identified in the CSP's application for a CTA.
- Changes in the service area(s) identified in the CSP's application for a CTA that would increase or decrease the territory within the service area. Note, telecommunications providers of last resort must comply with Ind. Code ch. 8-1-32.4. Ind. Code § 8-1-32.5-12

### **Completing a Notice of Change Form**

The Notice of Change form is on the Commission's website at <http://www.in.gov/iurc/2400.htm>.

A Notice of Change consists of the following:

- Complete, accurate, and properly verified responses to the questions on the Notice of Change form, except as noted below. Ind. Code § 8-1-32.5-8.
- Part 1, in the instance of a change of company ownership, operation, control, or corporate organization, a description of the transaction and the effective date.
- Part 2, in the instance of a change in legal or assumed name, a copy of the Certificate of Authority, Certificate of Incorporation, Certificate of Existence, or other similar certification from the Indiana Secretary of State.
- Part 3, in the instance of a change of address, the updated contact information.
- Part 4, in the instance of sale, assignment, lease, or transfer of the certificate to another CSP, as allowed by Ind. Code § 8-1-32.5-10, the identity of the other CSP to which the sale, assignment, lease, or transfer is made. Part 4 also applies when a CSP is encumbering, but not transferring (or selling, assigning, or leasing) its CTA. See Ind. Code § 8-1-32.5-10.
  - Note: a CSP must have an existing CTA in Indiana before acquiring an additional 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. This is filed along with the Notice of Change form.
- Part 5, in the instance of relinquishment of provider of last resort status under Ind. Code § 8-1-32.4-17, include as much information as possible about the affected service area.
- Part 6, in the instance of a relinquishment of the CTA, the CSP shall identify the following:
  - The reason for relinquishment.
  - Other CTAs that the CSP will retain.
  - The number of Indiana customers in the CTA's service area.
  - The method the CSP used or will use to notify its customers of the relinquishment and a copy of the notice. For local exchange carriers, this includes the information noted in 170 Ind. Admin. Code 7-6-5(2).
  - The amount of time customers will have to find a new provider before the Applicant's operations cease.
- Part 7, in the instance of changes in the service territory, include information about the change.
  - Ind. Code § 8-1-2.6-1.1 entities do not have to complete this.

- Providers of last resort may not use this process to reduce service territory. Providers of Last Resort must use the process specified in Ind. Code ch. 8-1-32.4.
- Part 8, in the instance of changes to the type of communication services provided, the CSP shall identify the following:
  - The affected geographic area.
  - Which customers are eligible.
  - For new services, the estimated deployment date.
  - Whether the Applicant proposes to offer facilities-based local exchange service.
  - Whether the Applicant will offer stand-alone basic telecommunications service for a flat monthly rate per Ind. Code § 8-1-2.6-0.1.
  - Whether the Applicant will offer only wholesale communication services, retail services, or both.
- An affirmation, signed under penalty of perjury, by an officer or another person authorized to bind the provider, that the representations in the Notice of Change are true.

### **Filing Applications and Notices of Change**

Submit Applications and Notices of Change through the Commission's electronic filing system at <https://iurc.portal.in.gov>.

Notice of the receipt of Applications and Notices of Change will be posted to the Commission's website at <https://www.in.gov/iurc/2337.htm>, under "Pending Cases and Filings".

### **Commission Review**

The Commission shall assign Applications a Docket Number and the cases will go through the Commission's legal process and an order will be issued which will serve as the CTA. Once an Application is received, it will be assigned to a Communications Analyst with the Commission's Communications Division for a more detailed review to ensure completeness, accuracy and the adequacy of the information filed. If the Application is not complete, Commission staff shall return the application and documents to the provider with a brief statement of any additional information required, as required by Ind. Code § 8-1-32.5-8. Within thirty days, the applicant may amend the application or withdraw it and re-file. If the applicant re-files an updated application, it will be considered a new application. Ind. Code § 8-1-32.5-8.

Commission staff will post a summary of the Application or Notice of Change to the Commission's website at <https://www.in.gov/iurc/2337.htm> on the first Monday, or first business day if Monday is a state holiday, after the Application or Notice is filed. Notice of an Application shall be posted on the Commission website for thirty days. The Commission will issue an order after the thirty-day posting period if any questions from the Commission are answered, no applicable parties request a hearing, as explained below in [Hearings](#), and the applicant satisfactorily answers any questions from the Communications Division.

Notices of Change must be filed with the Commission at least thirty days prior to the effective date of the change and shall be posted on the Commission website for thirty days. The Communications Division will assign Notices of Change a tracking number and process those filings as non-docketed cases. 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. The tracking number will become the CTA number upon acknowledgement.

## Hearings

The Commission shall conduct an evidentiary hearing upon the request of any of the following parties during the thirty-day posting period:

- The CSP submitting the application.
- A facilities-based local exchange carrier offering service in a service area identified in the CSP's Application.
- The Office of Utility Consumer Counselor.
- The Commission, on its own motion. Ind. Code §§ 8-1-32.5-8 and -9.

Note, the Commission's ex parte rules found at 170 Ind. Admin. Code 1-1.5 do not apply during the Application process. However, ex parte does become applicable after a timely request for hearing by one of the parties above.

## Help

Direct questions regarding the application to the Communications Division at (317) 232-5559.

If you experience difficulties with the electronic filing system or need assistance filing, review the User Manual at <https://www.in.gov/iurc/2898.htm> or contact Systems Support Specialists at (317) 232-2642 or (317) 232-4269.

## Definitions and Applicable Statutes and Rules

**Advanced Service:** High speed, switched, broadband, wireline telecommunications capability that enables users to originate and receive high-quality voice, data, graphics or video telecommunications using any technology. 47 C.F.R. § 51.5

### Communications Service:

- (1) Any of the following:
  - (a) Telecommunications service (as defined in 47 U.S.C. § 153).
  - (b) Information service (as defined in 47 U.S.C. § 153).
- (2) The term includes:
  - (a) video service (as defined in Ind. Code § 8-1-34-14);
  - (b) broadband service;
  - (c) advanced services (as defined in 47 C.F.R. § 51.5); and
  - (d) Internet Protocol enabled services;

however classified by the Federal Communications Commission. Ind. Code § 8-1-32.5-3

**Communications Service Provider:** A person or an 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 service (as defined in 47 U.S.C. § 332). Ind. Code § 8-1-32.5-4.

Note: engaging in activities described in Ind. Code ch. 8-1-32.3, *Permits for Wireless Service Providers*, is not necessarily the equivalent of offering "communications services", as defined above.

Examples of those activities include, but are not necessarily limited to, the following:

- (1) Construction or modification of a small-cell facility and the associated wireless support structure. Ind. Code §§ 8-1-32.3-15(c), 8-32.3-15(a)(1) and (a)(2)

- (2) Collocation of wireless facilities on an existing wireless support structure, utility pole or electrical transmission tower, construction and placement of small cell facilities. Ind. Code §§ 8-1-32.3-15(a)(3), 8-1-32.3-15(c)(2)(A), 8-1-32.3-15(a)(4), respectively
- (3) Maintenance of wireless facilities, regardless of whether the maintenance is considered routine or non-routine and replacement of a wireless facility with another wireless facility of a similar or different type or size. Ind. Code §8-1-32.3-15(b)(1) and (b)(2), respectively
- (4) Replacement of existing utility poles and wireless support structures. Ind. Code § 8-1-32.3-15(c)(2)(B)
- (5) Installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles; construction or placement of a small cell facility on one or more new utility poles or new wireless structures. Ind. Code § 8-1-32.3-15

**Exchange Access:** The offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services. 47 U.S.C. § 153(20)

**Facility:** Any one or all of the elements of physical plant used to provide telecommunications services, sometimes used synonymously with “transmission path”, including all of the physical cables and equipment associated with that path. 170 Ind. Admin. Code 7-1.2-2

**Facilities-based Local Exchange Service:** A local exchange carrier that provides local exchange service:

- (1) exclusively over facilities owned or leased by the carrier; or
- (2) predominantly over facilities owned or leased by the carrier, in combination with the resale of the telecommunications service (as defined in 47 U.S.C. § 153) of another carrier. Ind. Code § 8-1-32.4-5

**Information Service:** The offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service. 47 U.S.C. § 153(24), 47 C.F.R. § 51.5

**Interconnected VoIP Service:** A service that:

- (1) Enables real-time, two-way voice communications;
- (2) Requires a broadband connection from the user's location;
- (3) Requires Internet protocol-compatible customer premises equipment (CPE); and
- (4) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network. 47 C.F.R. § 9.3

As noted in the CTA application, the FCC has not yet classified most forms of IP-enabled services as either telecommunications or information services, in WC Docket No. 04-36. This statement is specifically applicable to interconnected VoIP service and may also be applicable to some other types of IP enabled services.

**Interexchange Service:** A retail long distance voice telephone service provided by an interexchange carrier. Interexchange service is considered a telecommunications service, for purposes of this CTA

application or Verified Notice of Change. This term is also used in various federal statutes, including but not limited to, 47 U.S.C. §§ 254(b)(3) and 254(g)

**Local Exchange Service:** The provision of telephone exchange service (as defined in 47 U.S.C. § 153) or exchange access (as defined in 47 U.S.C. § 153). Ind. Code § 8-1-32.4-8

**Resale/Reseller/Resold:** This means the CSP is purchasing, or otherwise obtaining, one or more retail communications service(s) from another carrier or provider and then reselling those services, usually to the CSP's retail customer or subscriber. Typically, the CSP will also have a billing relationship with the end user customer. For purposes of this definition, the reseller's purchase of the underlying communications service(s) from another carrier or provider explicitly includes, but is not necessarily limited to, a purchase by a telecommunications carrier of telecommunications services made pursuant to 47 U.S.C. §§251(b)(1) or 251(c)(4).

**Telecommunications Service:** The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. 47 C.F.R. § 51.5, 47 U.S.C. § 153(53)

**Telephone Exchange Service:**

(A) service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or

(B) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service. 47 U.S.C. § 153 (54), 47 C.F.R. § 51.5

**Wholesale:** Providing communications service(s) to other carriers or providers on a carrier-to-carrier, or provider-to-provider, basis. For purposes of this CTA application, or Verified Notice of Change, a CSP reselling someone else's communications service(s) to serve the CSP's end user customers or subscribers is providing a retail service, not wholesale service.