

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held December 7, 2017

Commissioners Present:

Gladys M. Brown, Chairman
Andrew G. Place, Vice Chairman
Norman J. Kennard
David W. Sweet
John F. Coleman, Jr.

Application of Consolidated Telecom, Inc. for
Approval to Offer, Render, Furnish or Supply
Telecommunications Services to the Public as an
Interexchange Carrier Reseller in the Commonwealth
of Pennsylvania.

A-2017-2608094

ORDER

BY THE COMMISSION:

On June 2, 2017, Consolidated Telecom, Inc. (Applicant) filed an Application seeking a Certificate of Public Convenience pursuant to the Telecommunications Act of 1996, 47 U.S.C. §§ 201 *et seq.*, (TA-96)¹ and to Chapter 11 of the Public Utility Code (Code) (66 Pa. C.S. §§ 1101 *et seq.*) evidencing authority to provide telecommunication services to the public as an Interexchange Carrier Reseller (IXC Reseller)² throughout the Commonwealth of Pennsylvania.

Applicant was granted provisional authority pursuant to our Secretarial Letter of November 13, 2017, to provide the proposed telecommunications services pursuant to its

¹ In light of the policy objectives of TA-96, market entry requirements for telecommunication service providers are set out in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Order entered June 3, 1996; Order on Reconsideration entered September 9, 1996) (*TA-96 Implementation Orders*).

² 66 Pa C.S. § 3018(b)(2) gives IXCs the option to (1) file and maintain tariffs with the Commission, (2) file and maintain price lists with the Commission, or (3) detariff. Further, 52 Pa. Code § 63.104 outlines the disclosure requirements for filing and maintaining tariffs or operating as a detariffed IXC. The Applicant was provided with these options via Secretarial Letter and has elected to maintain a tariff with the Commission.

proposed tariff as a tariffed IXC Reseller during the pendency of the application process. The assigned utility code is 3119957.

The Applicant complied with notice requirements set forth in our *TA-96 Implementation Orders* by serving a copy of its Application upon the Office of Consumer Advocate, the Office of Small Business Advocate and the Office of Attorney General. No protests or petitions to intervene were filed and no hearings were held.

Information concerning the Applicant is as follows:

- The Applicant is a Texas corporation with its principal place of business at 2448 Gateway Drive, Suite 120, Irving Texas 75063, telephone (972) 679-2722, facsimile (972) 239-2358.
- The Applicant complied with Pennsylvania Law relating to a foreign corporation.
- The Applicant's registered office provider within Pennsylvania is CT Corporation System, 116 Pine Street, Suite 320, Harrisburg, PA 17101.
- Correspondence to resolve complaints may be directed to Jerome Jacobs, Consolidated Telecom, Inc., 2448 Gateway Drive, Suite 120, Irving, TX 75063, telephone (972) 679-2722, facsimile (972) 239-2358.
- The Applicant will not be using a fictitious name.
- The Applicant is operating as a public utility in other states: Alabama, Arkansas, Georgia, Idaho, Illinois, Indiana, Michigan, Minnesota, Missouri, Montana, North Dakota, Nebraska, Ohio, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington and Wisconsin. The Applicant provides various telecommunications services including IXC and IXC Reseller services, inmate phone services, operator services, pay telephone services, and institutional telecommunications services.
- The Applicant has no affiliates or predecessors within Pennsylvania.

- The Applicant has no affiliates or predecessors rendering public utility service outside Pennsylvania.

The Applicant understands that if it plans to cease doing business within the Commonwealth of Pennsylvania, it is under a duty to request authority from the Commission for permission prior to ceasing such operations.

The Applicant proposes to provide inmate operator services to correctional facilities throughout the Commonwealth of Pennsylvania. The Applicant plans to market its services to a customer base that consists of correctional facilities.

We conclude that the Applicant has met the requirements for certification as an IXC Reseller, consistent with this Order. Premised upon our review of the Application and the proposed tariff and consistent with our Orders, the Code, our Regulations and TA-96, we conclude that the Applicant's proposed services do not raise concerns at this time regarding safety, adequacy, reliability or privacy.

We note, however deficiencies in the proposed tariff. We shall direct the Applicant to revise the proposed tariff in accordance with the changes noted in Appendix A of this Order.³ The Applicant shall thereafter file its Initial Tariff reflecting the requested changes on or before sixty days from the date of entry of this Order. The Applicant may file its Initial Tariff electronically, consistent with Commission rules.⁴ Copies of the Initial Tariff shall also be served upon the same entities receiving service of the original Application. If the time required for such resolution and filing exceeds sixty days, the Applicant may request an extension of an additional sixty days with the Commission's Secretary. Thus, if the Initial Tariff is not filed within sixty days (120 days including the extension) of the entry of this Order, the Application will be dismissed and the authority granted herein will be revoked without further Commission Order.

³ Regardless of the review process, any tariff provision(s) inconsistent with the provisions of the Code, TA-96, our Regulations, or Orders will be deemed inoperative and superseded.

⁴ See *Final Rulemaking to Permit Electronic Filing*, Docket No. L-00070187 (Order entered May 23, 2008).

We note that the Commission will only approve tariff provisions regarding limitation of liability consistent with law. The Commission does not have jurisdiction to determine liability or award monetary damages. Any tariff provisions contained in the Initial Tariff regarding limitation of liability found to be inconsistent with any applicable laws, rules and regulations will be deemed inoperative and superseded. Any claim against the public utility and/or public utility's customer regarding liability outside the limited scope of the tariff must be filed in court for determination of liability and monetary damages.

To the extent that the proposed tariff contains rates, the Initial Tariff may become effective on one day's notice from the date upon which it is filed and served.

Carriers are required to provide telecommunications service to customers in Pennsylvania within one year of certification.⁵

In accordance with the affidavit that accompanied the application for a Certificate of Public Convenience, the Applicant has agreed to abide by all applicable federal and state laws and regulations and by the decisions of the Commission. We remind the Applicant that, in accordance with our *TA-96 Implementation Orders*, a public utility that seeks Commission certification or that is certificated in Pennsylvania to provide telecommunications service, as defined by state and federal law, must provide the service in full compliance with all applicable provisions of Pennsylvania and federal law. This includes compliance with Section 1511 of Pennsylvania's Business Corporation Law, 15 Pa. C.S. § 1511,⁶ when siting facilities/equipment in public rights-of-way. Failure to comply with applicable law may result in fines being imposed against a public utility or

⁵ For complete details regarding this requirement, including consequences for non-compliance, see *Final Order Regarding the Commission's Plan to Implement a One-Year Timeframe for Inactive Telecommunication Carriers to Provide Service on an Annual Basis within the Commonwealth of Pennsylvania*, Docket No. M-2011-2273119 (Order entered July 19, 2012).

⁶ 15 Pa. C.S. § 1511(e) provides as follows: "A public utility corporation shall have the right to enter upon and occupy streets, highways, waters and other public ways and places for one or more of the principal purposes specified in subsection (a) and ancillary purposes reasonably necessary or appropriate for the accomplishment of the principal purposes, including the placement, maintenance and removal of aerial, surface and subsurface public utility facilities thereon or therein. Before entering upon any street, highway or other public way, the public utility corporation shall obtain such permits as may be required by law and shall comply with the lawful and reasonable regulations of the governmental authority having responsibility for the maintenance thereof."

in the suspension or revocation of the utility's Certificate of Public Convenience, consistent with due process.

We remind the Applicant that certificated public utilities in Pennsylvania are required to file with the Commission an accurate annual financial report and an accurate separate statement of gross intrastate revenues for fiscal assessment purposes, as received from operations conducted pursuant to the authority granted by the Commission's certification order.⁷ Additional reporting of intrastate retail revenues is also required for the purpose of Pennsylvania Universal Service Fund contribution assessments. Failure to comply with applicable reporting requirements may result in billing for back payments due and the imposition of fines and/or other lawful remedies, including revocation of certification, consistent with due process.

Conclusion

Accordingly, we shall grant the Application. Upon the establishment of filed rates and the approval of the Initial Tariff, a Certificate of Public Convenience shall be issued evidencing the Applicant's authority to provide services as an IXC Reseller throughout the Commonwealth of Pennsylvania, consistent with this Order; **THEREFORE,**

IT IS ORDERED:

1. That the Application of Consolidated Telecom, Inc. at Docket No. A-2017-2608094 for authority to operate as an Interexchange Carrier Reseller throughout the Commonwealth of Pennsylvania is granted, consistent with this Order.
2. That Consolidated Telecom, Inc. shall either eFile or submit an original of its Initial Tariff consistent with the requisite changes noted in Appendix A of this Order within sixty (60) days (120 days including an approved extension) after the date of entry of this Order. Consolidated Telecom Inc. is directed to identify any changes made to the proposed Initial Tariff that are in addition to the changes noted in Appendix

⁷ See 66 Pa. C.S. § 510(b); see also 52 Pa. Code §§ 63.31 *et seq.* We note that flexibility for the Applicant's system of accounts is provided by our own annual reporting regulations for competitive local exchange carriers that the Applicant may also utilize. See generally 52 Pa. Code §§ 63.31(3) and 63.32(c).

A. Consolidated Telecom Inc. shall serve copies of its Initial Tariff on each entity receiving a copy of the original Application. The Initial Tariff may become effective on or after one (1) day's notice from the date upon which it is filed and served.

3. That an Initial Tariff shall be labeled on its face according to the respective authority: "Interexchange Carrier Reseller."

4. That Consolidated Telecom, Inc., shall comply with all the provisions of the Public Utility Code, as now exist or as may be hereafter amended, and with all pertinent rules, regulations, and Orders of this Commission, now in effect or as may be prescribed by this Commission, including those identified in this Order.

5. That the authority granted herein, to the extent that it duplicates authority now held by, or subsequently granted to, the Consolidated Telecom Inc., shall not be construed as conferring more than one operating right to the Consolidated Telecom Inc.

6. That Consolidated Telecom Inc., shall maintain accurate accounting records that properly classify and segment its Interexchange Carrier Reseller service revenues from its operations within the Commonwealth and file with the Commission an accurate annual financial report and an accurate separate statement of gross intrastate revenues for fiscal assessment purposes.

7. That Consolidated Telecom Inc., shall maintain accurate accounting records that properly classify and segment its gross retail intrastate revenues for purposes of the Pennsylvania Universal Service Fund contribution assessment report.

8. That in accordance with Commission Orders entered October 5, 2005, at Docket No. M-00041857 and on August 21, 2006, at Docket No. L-00050176, Consolidated Telecom Inc., shall follow the reporting requirements outlined at the following website: www.puc.pa.gov/telecom/docs/Reporting_Requirements.docx.

9. That Consolidated Telecom Inc., shall file such affiliated interest agreements as may be necessary relative to any transactions with affiliates within thirty (30) days of the entry date of this Order.

10. That in the event Consolidated Telecom, Inc., has not, on or before sixty (60) days (120 days including an approved extension) from the date of entry of this Order, complied with the requirements set forth herein, the Application at Docket No. A- 2017-2608094 shall be dismissed and the authority granted herein revoked without further Commission Order.

11. That upon the establishment of filed rates and the approval of the Initial Tariff, a Certificate of Public Convenience shall be issued authorizing Consolidated Telecom, Inc., to furnish services as an Interexchange Carrier Reseller throughout the Commonwealth of Pennsylvania; consistent with this Order.

12. That changes and/or additions made to an approved, filed tariff shall be made in the form of supplements, consecutively numbered in the order of their filing dates, and the tariff designation shall be in the following manner: Supplement No. ___ to Tariff Telephone Pa. P.U.C. No. ____.

13. That Consolidated Telecom, Inc., shall add its Pennsylvania tariff to its website within thirty (30) days of the filing of its initial tariff and mark it "Pending." Within thirty (30) days of receipt of its Certificate of Public Convenience, Consolidated Telecom Inc., shall make any required modifications to the tariff on its website and remove the "Pending" notation. Thereafter, Consolidated Telecom, Inc., will continually update the website whenever any supplemental revisions to the tariff are approved by the Commission such that the website tariff is a true and accurate representation of its tariff on file with the Commission.

14. That within thirty (30) days of receipt of its Certificate of Public Convenience, Consolidated Telecom, Inc., shall contact Cyndi Page ((717) 787-5722; cypage@pa.gov) of the Commission's Office of Communications to create a link from the Commission's website to Consolidated Telecom, Inc.'s website.

15. That if Consolidated Telecom, Inc., plans to cease doing business within the Commonwealth of Pennsylvania, it shall request authority from the Commission for permission prior to ceasing.

16. That a copy of this Order be served on the Pennsylvania Department of Revenue, Bureau of Corporation Tax.

BY THE COMMISSION,

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta". The signature is written in a cursive, flowing style.

Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: December 7, 2017

ORDER ENTERED: December 7, 2017

Consolidated Telecom, Inc.
Docket No(s). A-2017-2608094
Proposed Interexchange Carrier Reseller Tariff

The proposed tariff contains certain deficiencies that must be addressed by the Applicant before the tariff can be approved and the Certificate of Public Convenience issued. **The Applicant must submit a copy of this Appendix with its revised compliance tariff. On that copy, please note the page/sheet of the compliance tariff where the required revision is located for each item below.**

Tariff deficiencies noted – IXC Reseller A-2017-2608094 Pa. P.U.C. Telephone Tariff No. 1

1. Correct the Title to read:

CONSOLIDATED TELECOM, INC.
INTEREXCHANGE CARRIER RESELLER
Regulations and Schedule of Charges

2. All Pages: Enter issued and effective dates as per ordering paragraph.

3. All Pages: Replace PA P.U.C. No 1 with: Pa. P.U.C. Telephone Tariff No. 1