

BEFORE THE COMMONWEALTH PUBLIC UTILITIES COMMISSION

COMMONWEALTH PUBLIC
UTILITIES COMMISSION
ACT OF 2006

ADMINISTRATIVE DOCKET

Proposed

ADMINISTRATIVE ORDER GOVERNING CERTIFICATES OF PUBLIC
CONVENIENCE AND NECESSITY UNDER 4 CMC § 8457.

1. Statutory Authority.

4 CMC § 8457¹ provides that any telecommunications company interested in providing or operating a telecommunications service in the Commonwealth shall request, obtain and maintain a valid certificate of public convenience and necessity [*Certificate*] from the Commonwealth Public Utilities Commission [*CPUC*]; provided, however that certification shall not be required for any telecommunications company interested in providing or operating an information service, as that term is defined in the Federal Communications Act of 1934. This statute further provides that CPUC shall grant certification to a telecommunications company if it determines that aside from complying with established criteria, certification is consistent with the public interest. The statute provides that the application for certification shall be in such form and contain such information, including that regarding the financial and technical capability of the applicant, as CPUC may reasonably require. The statute requires that the public be provided with an opportunity to comment on any application for certification.

2. Application.

Applicants for a Certificate shall complete and file an application, in form made *Attachment A*. Applications shall undergo review by CPUC staff or regulatory consultants.

3. Public Notice.

Applicants shall cause public notice to be published in a newspaper of general circulation in the Commonwealth. The notice shall be in form made *Attachment B*. Applicants shall file a certificate of publication, which has attached a copy of

¹ Statutory citations in this rule refer to sections contained in the public law which promulgated it.

the published notice. Applicants should not publish notice until directed to do so by CPUC.

4. Public Hearing.

An Applicant may, within 10 days of the publication of notice, request a public hearing before CPUC with regard to its application. CPUC will publish public notice of the hearing, which will be conducted under the oversight of its hearing examiner, in accordance with Part Seven of CPUC's *Rules for Practice and Procedure*.

5. Public Information.

The information submitted with an application for Certificate will be made part of the public record unless eligible for confidential treatment under CPUC's Confidentiality Rules as adopted by CPUC administrative order dated April 2, 2009.

6. Revocation or Suspension.

Any CPUC proceeding under 4 CMC § 8457[b] to consider the revocation, suspension or modification of a Certificate shall be conducted pursuant to Part 7 of PUC's *Rules for Practice and Procedure*.

Proposed Attachment A

**APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY TO PROVIDE INTRASTATE TELECOMMUNICATIONS
SERVICES**

Section 1. Company and Telecommunication [*telecom*] Service Information.

a. Indicate the type of intrastate telecom services that Applicant wants to provide in the Commonwealth:

- Resold local exchange telecom services
- Facilities based local exchange telecom services
- Alternative operator services telecom services
- Non-customer owned pay telephone telecom services
- Other [*Attach a complete description*]

b. The name, address, telephone number, facsimile number and e-mail address of Applicant.

c. The d/b/a/ [*doing business as*] name if Applicant is doing business under a name different from that listed in 1(b) above.

d. The name, address, telephone number, facsimile number and email address of Applicant's management contact.

e. The name, address, telephone number, facsimile number and email address of Applicant's attorney and/or consultant.

f. The name, address, telephone number, facsimile number and email address of Applicant's complaint contact person.

g. What type of legal entity is Applicant:

- Sole proprietorship
- Partnership: limited general CNMI Foreign
- Limited Liability Company: CNMI Foreign

_____ Corporation: ___ "S" ___ "C"

_____ Other, specify:

- h. Include as *Attachment 1*:
- . A copy of Applicant's Certificate of Good Standing as a domestic or foreign corporation, LLC or other entity in the Commonwealth and in its state of organization, if other than the Commonwealth.
 - . A certified copy of Applicant's articles of organization.
 - . A list of the names of all owners, partners, limited liability company managers or corporation officers and directors [*specify*], including percentages of ownership of each listed person.
- i. Include Applicant's Tariff as *Attachment 2*, which must contain the following information:
- . Proposed rates and charges for each service offered.
 - . Terms and conditions applicable to provision of service.
 - . Deposits, advances and/or prepayments applicable to provision of services.
 - . The proposed fee that will be charged for returned checks.
- j. Indicate if Applicant or any of its officers, directors, partners or managers has been or are currently involved in any formal or informal complaint proceedings pending before any state, territorial or federal regulatory commission, administrative agency or law enforcement agency. Describe in detail any such involvement, including the following:
- . Jurisdiction in which Applicant has been or is involved in proceedings.
 - . Detailed explanation of the substance of the complaints.
 - . Orders or rulings that resolved any and all complaints.

- k. Indicate if Applicant or any of its officers, directors, partners or managers have been or are currently involved in any civil matter, judgments levied by any administrative or regulatory agency, or been convicted of any criminal acts within the last ten years. Describe in detail any such judgments or convictions, including the jurisdiction involved, the reason for the investigation and/or judgment and a copy of the Court order, if applicable.
- l. Indicate if Applicant or any of its affiliates, principals or major shareholders have declared bankruptcy or have had any bankruptcy, insolvency or similar proceedings initiated against them.
- m. Is Applicant willing to post a performance bond in an amount to be determined by CPUC? ___ Yes ___ No. If the answer is no, clarify and explain Applicant's deposit policy in its tariff. Provide a detailed explanation of why Applicant's superior financial position limits risk to Commonwealth customers.
- n. Submit a certification that legal notice of the Application has been published in form required by CPUC rule in a newspaper of general circulation in the Commonwealth. The certificate must have a copy of the published notice attached. *Do not publish legal notice until advised to do so by CPUC.*
- o. List the jurisdictions in which Applicant currently offers telecom services similar to those that it will or intends to offer in the Commonwealth, including a certified copy of any orders granting certificates of authority in those jurisdictions.

Section 2. Financial Information.

- a. Indicate if Applicant has financial statements for the two most recent years. ___ Yes ___ No. If no, explain why and give the date on which Applicant began operations.

Include as *Attachment 3*, Applicant's financial information for the two most recent years [*including the current calendar or current year reporting period*], including a copy of its balance sheet, income statement, audit report [if available], retained earnings balance and all related notes to the financial statements and information.

- b. Indicate if Applicant will rely on the financial resources of its parent company, if applicable.

- c. Applicant must provide the following information:
- . Projected total revenue expected to be generated by the provision of telecom services to Commonwealth customers for the first twelve months following certification.
 - . Operating expenses expected to be incurred during the first twelve months of providing telecom services to Commonwealth customers following certification.
 - . Net book value [*original cost less accumulated depreciation*] of all Commonwealth jurisdictional assets expected to be used in the provision of telecom service to Guam customers at the end of the first twelve months of operation.
 - . If the projected fair value of the assets is different than the projected net book value, also provide the corresponding projected fair value amounts.
- d. Indicate if Applicant is aware of any pending or threatened litigation, which could have a material adverse impact on its financial ability to provide service in accordance with CPUC rules and orders.

Section 3. Resold and/or Facilities Based Local Exchange Telecom Services.

- a. Indicate if Applicant has a resale agreement in operation.
- b. Include as *Attachment 4* a copy of Applicant's proposed quality of service standards.
- c. Indicate whether Applicant will provide all customers with E911 service and will coordinate with the incumbent local exchange carrier and emergency service providers to provide this service: ___ Yes ___ No.
- d. Indicate that Applicant's switch is able to provide equal access to facilities-based long distance companies.
- e. Describe the managerial and technical resources, which support Applicant's assertion in Section 4(a) below. Such description should include a list of Applicant's management team, including technical qualifications, work experience and training; any affiliation between

the management team and other telecom companies; a description of the transmission and switching facilities to be deployed for rendering service; and the interconnection and service arrangements, which Applicant is seeking or has obtained from the incumbent local exchange carrier.

- f. Indicate how Applicant proposes to handle customer service orders, inquiries and complaints.

Section 4. Signature and Attestation.

By signing this application form, Applicant:

- a. Certifies that it possess the requisite managerial qualifications, technical competence, and financial resources to provide the local exchange telecom services for which it is applying *[if applicable]*;
- b. Agrees to answer all questions posed by CPUC or any authorized member of its staff, including regulatory consultants concerning the application and to permit CPUC or any member of its staff, including regulatory consultants to inspect Applicant’s books and records as part of the investigation into the application;
- c. Understands that the filing of the application does not by itself constitute authority to operate.
- d. Agrees to respond in writing within ten business days to all consumer complaints filed with CPUC.
- e. Understands that if any portion of the application is found to be false or to contain material misrepresentations, any Certificate may be deemed null and void upon CPUC Order.
- f. Certifies that Applicant, pursuant to its tariff, will not unjustly discriminate among and between consumers in the provision of intrastate telecom services in the Commonwealth.

Signature _____
Name of Signatory _____
Title _____
Date _____

Affidavit: *[Attach an affidavit signed by the above person, stating that the contents of the application are true, accurate and correct].*

Proposed Attachment B

**NOTICE OF APPLICATION FOR CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE INTRASTATE
TELECOMMUNICATIONS SERVICES**

[Enter Applicant's name] ("Applicant") has filed with the Commonwealth Public Utilities Commission [CPUC] an application for a Certificate of Public Convenience and Necessity to provide the following intrastate telecommunications services in the Commonwealth:

[Insert services for which certification is sought]

Applicant will be required by CPUC to provide this service under the rates and charges and terms and conditions established by CPUC.

The application [except portions thereof which may qualify for confidential treatment under CPUC's Confidentiality Rules], the report of CPUC's staff and any exceptions to the staff report filed by Applicant are available for inspection during regular business hours at the office of the Saipan Chamber of Commerce at the Family Building, Garapan Street, Garapan or on the Chamber website at www.saipanchamber.com.²

Interested persons may file comments for the record regarding the Application. Comments, which must be received by CPUC within fourteen days of this notice should be:

Mailed to:
Commonwealth Public Utilities Commission
c/o Saipan Chamber of Commerce
P.O. Box 500806
Saipan, MP 96950
or delivered to
The Chamber's office at the above address
or emailed to
The Chamber at the above email address.

Applicant has the right to request a public hearing before PUC on its application. PUC will provide public notice of any such hearing.

² Upon the establishment of its office, CPUC will amend this notice form to provide its own address for purposes of public comment.

