

**EXHIBIT C**

**Certifications of Vesta Solutions, Inc. from Other Jurisdictions**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate to provide  
local telecommunications service by Airbus  
DS Communications, Inc.

DOCKET NO. 160052-TX  
ORDER NO. PSC-16-0241-PAA-TX  
ISSUED: June 16, 2016

The following Commissioners participated in the disposition of this matter:

JULIE I. BROWN, Chairman  
LISA POLAK EDGAR  
ART GRAHAM  
RONALD A. BRISÉ  
JIMMY PATRONIS

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING CERTIFICATE OF AUTHORITY

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

Airbus DS Communications, Inc. (Airbus) applied for a Certificate of Authority to provide telecommunications service, pursuant to Section 364.335, Florida Statutes (F.S.). Upon review of the application, it appears that Airbus has sufficient technical, financial, and managerial capability to provide such service. Accordingly, we hereby grant to Airbus Certificate of Authority No. 8887, which shall authorize Airbus to provide telecommunications service throughout the State of Florida.

Telecommunications service providers are required to comply with all applicable provisions of Chapter 364, F.S., and Chapter 25-4, F.A.C.

In addition, under Section 364.336, F.S., certificate holders must pay a minimum annual Regulatory Assessment Fee (RAF) if the certificate was active during any portion of the calendar year. A RAF Return notice will be mailed each December to Airbus for payment by January 30th. Neither the cancellation of its certificate nor the failure to receive a RAF Return notice shall relieve Airbus from its obligation to pay its RAF.

ORDER NO. PSC-16-0241-PAA-TX

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If this Order becomes final and effective, it will serve as Airbus certificate. Airbus shall retain this Order as proof of its certification. We are vested with jurisdiction over this matter pursuant to Sections 364.335 and 364.336, F.S.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Airbus DS Communications, Inc.'s application for a Certificate of Authority is hereby granted. It is further

ORDERED that Airbus DS Communications, Inc. is awarded Certificate of Authority No. 8887, which authorizes Airbus DS Communications, Inc., to provide telecommunications service throughout the State of Florida, subject to the terms and conditions set forth in the body of this Order. It is further

ORDERED that this Order shall serve as Airbus DS Communications, Inc.'s certificate and shall be retained by Airbus DS Communications, Inc., as proof of certification. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 16th day of June, 2016.



CARLOTTA S. STAUFFER  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

SMH

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 7, 2016.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

COMMISSIONERS

W. KEVIN HUGHES  
CHAIRMAN

HAROLD D. WILLIAMS  
JEANNETTE M. MILLS  
MICHAEL T. RICHARD  
ANTHONY O'DONNELL

STATE OF MARYLAND



**PUBLIC SERVICE COMMISSION**

**#6, 8/3/16 AM; ML#s 182941, 183967 and 193639, TE-11761**

August 3, 2016

Wesley K. Wright  
Keller and Heckman LLP  
1001 G Street, N.W.  
Suite 500 West  
Washington, DC 20001

Dear Mr. Wright:

The Commission has reviewed the application to provide facilities-based local exchange telecommunications services in Maryland filed on January 29, 2016 by Airbus DS Communications, Inc. Additional information was filed on February 25, 2016 and June 27, 2016.

After considering this matter at the August 10, 2016 Administrative Meeting, the Commission authorized the Company to operate as a provider of facilities-based local exchange telecommunications services in Maryland, granted the requested waivers in Waiver Group "C", and accepted the Company's initial tariff for filing. Accordingly, the Company is directed to file, by August 31, 2016, an original and one (1) "clean" copy of its initial tariff (including an electronic copy) with an effective date of August 3, 2016.

By Direction of the Commission,

*/s/ David J. Collins*

David J. Collins  
Executive Secretary

DJC/st

WILLIAM DONALD SCHAEFER TOWER • 6 ST. PAUL STREET • BALTIMORE, MARYLAND 21202-6806

410-767-8000 • Toll Free: 1-800-492-0474 • FAX: 410-333-6495

MDRS: 1-800-735-2258 (TTY/Voice) • Website: [www.psc.state.md.us](http://www.psc.state.md.us)



Agenda Date: 12/12/16  
Agenda Item: IB

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314**  
**Post Office Box 350**  
**Trenton, New Jersey 08625-0350**  
**www.nj.gov/bpu/**

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF AIRBUS DS )  
COMMUNICATIONS, INC. FOR AUTHORITY TO )  
PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE )  
TELECOMMUNICATIONS SERVICES THROUGHOUT )  
THE STATE OF NEW JERSEY ) ORDER  
  
DOCKET NO. TE16050477

**Parties of Record:**

**Evangelia C. Pelonis, Esq.,** Keller and Heckman LLP for Petitioner  
**Stefanie A. Brand, Esq.,** Director, New Jersey Division of Rate Counsel

**BY THE BOARD:**

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the Federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and by letter dated May 26, 2016, Airbus DS Communications, Inc. ("Petitioner" or "Airbus") filed a verified petition with the New Jersey Board of Public Utilities ("Board") requesting authority to provide competitive local exchange and interexchange telecommunications services throughout the State of New Jersey. Petitioner has submitted its financial information under seal and has filed a Motion for Confidentiality and a sworn affidavit with substantiation for confidential treatment in accordance with the Board's rules for determining confidentiality, N.J.A.C. 14:1-12 et seq. and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

Airbus is a privately-owned corporation organized under the laws of the State of California. Airbus is 100% owned by Plant Holdings, Inc. Petitioner was formerly known as Cassidian Communications, Inc. ("CCI"), which was formerly known as Plant Equipment, Inc. Petitioner filed a Certificate of Amendment and Restatement of Articles of Incorporation on June 26, 2014, changing its legal name from CCI to Airbus. Petitioner's principal offices are located at 42505 Rio Nedo, Temecula, California 92590.

Petitioner has submitted copies of its Certificate of Amendment and Restatement of Articles of Incorporation and Certificate of Good Standing from the State of California and its New Jersey Amended Certificate of Authority to Transact Business as a Foreign Corporation. Petitioner initially received provisional authority to offer Competitive Local Exchange Carrier ("CLEC") service in the Incumbent Local Exchange Carriers ("ILECs") service territories of Verizon Pennsylvania LLC and Verizon North LLC. On June 30, 2016 Petitioner received authority to

provide telecommunications services as a CLEC in ILECs territories throughout the Commonwealth of Pennsylvania. Additionally, Petitioner also received authority to provide telecommunications services in Florida, Maryland, North Carolina, Pennsylvania, Texas and Virginia and, its application for authority is pending in California and New York. Petitioner plans to enter into an interconnection agreement with ILECs to the extent necessary to offer its service upon approval of its petition.

Petitioner states that it has not been denied authority to provide telecommunications services nor has its authority been revoked in any jurisdiction. Moreover, Airbus states that to date, there are no civil or criminal proceedings pending against the Petitioner in any jurisdiction including settlements of any such proceeding regardless of whether liability is or not admitted. However, in the last ten (10) years there have been six (6) civil actions filed against the Petitioner ranging in nature from two (2) patent infringements, two (2) wrongful deaths, one (1) employment related claim and one (1) alleged breach of a non-disclosure and non-competition agreement. In response to staff's inquiry, Petitioner has submitted an affidavit from its General Counsel and Chief Compliance Officer stating that the above stated six Civil Actions have each been satisfactorily concluded in accordance with the terms of their respective confidential settlement agreements resolving the same and the related terms have been met by each of the six Plaintiffs and Defendant, Airbus. Hence, all of the aforementioned actions filed were settled and dismissed with prejudice. Additionally, Airbus' Chief Compliance Officer also stated under penalty of perjury that the information submitted is true-and-correct to the best of his/her knowledge, information and belief.

Petitioner seeks authority to provide an emergency (E-9-1-1) routing and location identification service, an important component of the 9-1-1 system in the State of New Jersey. The proposed E-9-1-1 service permits landline, mobile, and Voice over Internet Protocol ("VoIP") service providers to transmit call routing and caller location information to Public Safety Answering Points ("PSAPs") in a quick, reliable, and efficient manner and, assert that it is a critical link in ensuring that customers use current and future landline, mobile and Internet Protocol-based services to obtain reliable E-9-1-1 services. Petitioner further asserts that its solutions are offered on a competitive basis and its entry into the market helps promote technological innovation by other carriers while also streamlining prices for E-9-1-1- routing services. Petitioner's plans for the next five years is not only to continue to be the provider of E-9-1-1 call handling solutions sold through distribution channels but also, to expand into providing additional E-9-1-1 emergency services direct to government and quasi-government PSAPs. Petitioner may also provide other local exchange and interexchange telecommunications services including, but not limited to, business resold and facilities-based local, interexchange, bundled interexchange and wholesale or carrier-to-carrier Next Generation 911 services, including bundled data, voice and/or wireless services in support of Next Generation 911 service. Petitioner will utilize the facilities of ILEC and other facilities-based carriers. As such, it will not be constructing or extending any facilities. Petitioner states that it does not have any future plans to provide residential telecommunications services to end users in the State of New Jersey. However, if Airbus undertakes plans in the future to provide residential telecommunications services to end users, Petitioner will inform the Board of its intent and post its tariff online. Petitioner will post initial tariff online and provide related link to the Board's staff within reasonable amount of time upon approval of its petition. Petitioner maintains a toll-free number for customer service inquiries.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 which requires that books and records be kept within the State of New Jersey. Instead, Petitioner requests permission to keep all books, records, documents and other writings incidental to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices located in Temecula, California in accordance with N.J.A.C. 14:1-5.15(a)(2).

By letter dated June 22, 2016, the New Jersey Division of Rate Counsel submitted comments to the Board stating that, based on its review, Rate Counsel is satisfied that the Verified Petition meets the regulatory requirements and is consistent with the public interest, convenience, and necessity, and does not object to a grant of the waiver requested in connection with record-keeping by Petitioner, nor does Rate Counsel oppose Petitioner's request is to treat its financial information as confidential and place under seal. Accordingly, Rate Counsel does not oppose a grant of authority or approval of Petitioner's request to provide telecommunications services throughout the State of New Jersey.

### **DISCUSSION**

On February 8, 1996, the Federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. § 151 et seq., was signed into law, removing barriers to competition by providing that "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." 47 U.S.C. § 253(a).

Any grant of authority is subject to the right of the Board as the State regulatory authority to impose requirements necessary to protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. 47 U.S.C. § 253(b).

In considering this petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets by qualified applicants. 47 U.S.C. § 253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to "[p]rovide diversity in the supply of telecommunications services" and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Airbus' petition and the information supplied in support thereof, the Board **FINDS** that Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board **HEREBY AUTHORIZES** Petitioner to provide local exchange and interexchange telecommunications services in the State of New Jersey subject to certain conditions. In the public interest and consistent with N.J.S.A. 48:2-23, the Board requires Petitioner to submit to the Board all E-9-1-1 complaints filed against the company and any resolution thereto for a period of three (3) years. Pursuant to N.J.A.C. 14:3-1.3(a), the Board notes that Petitioner will not be permitted to provide telecommunications services until a tariff is filed with the Board. Additionally, Petitioner is not relieved from its responsibility to file an Annual Report and a Statement of Gross Intrastate Revenues from Operations form for the preceding calendar year.

Furthermore, the Board **FINDS** that in accordance with N.J.S.A. 48:2-59 and 48:2-60 and N.J.S.A. 52:27EE-52, Petitioner is subject to an annual assessment by both the Board and the Division of Rate Counsel, respectively.

The Board **HEREBY ORDERS:**

- 1) Petitioner shall file its tariff with the Board within five (5) days of the issuance of a Board Order and provide notice of its link to the online tariff posting.
- 2) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.
- 3) Pursuant to N.J.S.A. 48:2-62, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.
- 4) Petitioner shall file with the Board's staff E-9-1-1 complaints filed against the company and the resolution thereof for a period of three (3) years.

On or before February 1 of each year, Petitioner will receive from the Division of Audits an annual report package and a Statement of Gross Intrastate Revenues from Operations form for the preceding calendar year. The purpose of these documents is to report Petitioner's financial information and gross intrastate revenues from operations as of December 31 of each year. The Annual Report and a Statement of Gross Intrastate Revenues from Operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also Petitioner's responsibility to ensure timely filing of these reports.

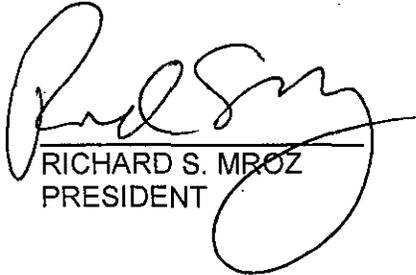
Regarding the Petitioner's request for waiver of the Board rules, the Board **HEREBY FINDS** that the Petitioner demonstrated good cause why the Board should grant relief from its requirements that the Petitioner keep its books and records within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board books and records upon 48 hours' notice, and in the manner requested, and to pay to the Board all expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board **HEREBY APPROVES** the Petitioner's request for the exemptions from keeping its books and records in New Jersey.

This Order shall be effective December 22, 2016.

DATED:

12/12/16

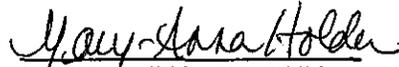
BOARD OF PUBLIC UTILITIES  
BY:



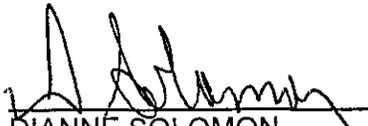
RICHARD S. MROZ  
PRESIDENT



JOSEPH L. FIORDALISO  
COMMISSIONER



MARY-ANNA HOLDEN  
COMMISSIONER

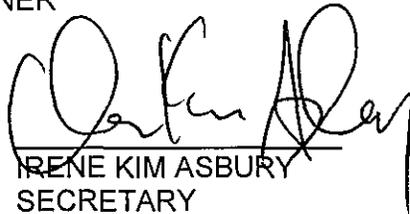


DIANNE SOLOMON  
COMMISSIONER



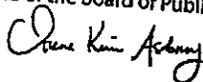
UPENDRA J. CHIVUKULA  
COMMISSIONER

ATTEST:



RENE KIM ASBURY  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public Utilities



**IN THE MATTER OF THE PETITION OF AIRBUS DS COMMUNICATIONS, INC. FOR  
AUTHORITY TO PROVIDE COMPETITIVE LOCAL EXCHANGE AND INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES THROUGHOUT THE STATE OF NEW JERSEY**

**DOCKET NO. TE16050477**

**SERVICE LIST**

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**Department of Law & Public Safety**  
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Veronica Beke, DAG  
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**Board of Public Utilities**  
44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314  
Post Office Box 350  
Trenton, New Jersey 08625-0350

Irene Kim Asbury, Esq.  
Secretary of the Board  
[Irene.asbury@bpu.nj.gov](mailto:Irene.asbury@bpu.nj.gov)

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**Department of  
Public Service**

**Public Service Commission**  
Audrey Zibelman  
Chair

Patricia L. Acampora  
Gregg C. Sayre  
Diane X. Burman  
Commissioners

Paul Agresta  
General Counsel

Kathleen H. Burgess  
Secretary

Three Empire State Plaza, Albany, NY 12223-1350  
www.dps.ny.gov

November 16, 2016

Mr. Wesley K. Wright  
Partner  
Keller and Heckman LLP  
1001 G Street, N. W.  
Washington, D.C. 20001

Re: Matter No. 16-00809

Dear Mr. Wright:

The application, by Airbus DS Communications, Inc. on April 18, 2016 for a Certificate of Public Convenience and Necessity to operate in New York State as a facilities-based provider and reseller of telephone service, in order to be a 9-1-1 Service Provider, without authority to provide local exchange and interexchange service, is hereby approved. This approval is based upon the accuracy of the information provided in the company's application and may be revoked if the application is found to contain false or misleading information, for failure to file or maintain current tariffs, or for violation of Commission rules and regulations.

The company also filed a copy of its Customer Service Guide that lists the rates, terms and conditions of its non-basic retail services, which will be available on the company's Internet site at: [www.tarrifs.net/airbus](http://www.tarrifs.net/airbus).

The company is not authorized to use its own operators to handle 0- (emergency or non-emergency) calls. Such calls must be routed to another telephone company or operator services provider authorized to handle such calls, until such time as an amended Certificate of Public Convenience and Necessity is obtained pursuant to Part 649.6 of the Commission's rules.

The company must comply with applicable federal laws, New York State Public Service Law and related statutes, and the Commission's rules and regulations. The

company is also required to file a Statement of Gross Intrastate Operating Revenues by March 31 each year. It will be notified in writing each year of the required content and format of these reports.

To maintain an active telecommunications company status, the company is required to annually submit a Telecommunications Company Critical Information (TCCI) form. The TCCI form is available for electronic filing at the following link on the Department's website: <http://www3.dps.ny.gov/T/Telco.nsf/TCCIForm?OpenForm>.

The following reporting requirements also apply.

- Service Outage Reports - Major service outages should be reported to Department Staff by telephone when they occur. See Enclosure 1 for specific instructions.
- Operating Revenues - These reports are due March 31 each year. The company will be notified in writing each year of the required content and format of these reports.
- Emergency Contingency Plan – Within 30 days of the date of this letter, an Emergency Contingency Plan (ECP) should be submitted to the Director of the Office of Telecommunications. The ECP should describe the company's operational procedures in the event of major service outages, storms, disasters, or other unusual conditions. Any updates or changes to the ECP should also be filed.

If you have any questions, please contact Jenny Quirk at [jenny.quirk@dps.ny.gov](mailto:jenny.quirk@dps.ny.gov) or at 518-474-8717.

By direction and delegation  
of the Commission,



Karen A. Geduldig  
Director  
Office of Telecommunications

cc: R. Kudan  
M. Rowley  
Central Operations

## ENCLOSURE 1

### INSTRUCTIONS FOR REPORTING MAJOR SERVICE OUTAGES/INTERRUPTIONS

9-1-1 Service Providers are responsible for constructing and maintaining their networks to be minimally susceptible to major service outages and interruptions. They are responsible for mitigating the impacts of major service interruptions by, for example, restoring service promptly, and notifying the public when service cannot be promptly restored. They are also responsible for promptly reporting major service outages to the Office of Telecommunications.

#### Major Service Outage Reporting Procedures

- Initial reporting of major service outages should always be made via direct telephone contact and not via voice or electronic mail. **The initial report should be made no more than one hour after the event is first recognized.**
- Regular status reports of an ongoing major service outage should be provided to Department staff consistent with the procedures on the following web page: <http://www3.dps.ny.gov/W/PSCWeb.nsf/All/F522DFDA235B1ADF85257687006F3963?OpenDocument>.
- The person who submits the initial and status reports should be fully prepared to provide the most complete and accurate information on an outage as possible. Each service provider should designate in advance who these individual(s) will be.

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. P-1586, Sub 0

**CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
AUTHORIZING THE PROVISION OF INTRASTATE LOCAL EXCHANGE  
AND EXCHANGE ACCESS TELEPHONE SERVICE**

**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION**

Know All Men By These Presents, That

**AIRBUS DS COMMUNICATIONS, INC**

**42505 Rio Nedo  
PO BOX 9007  
Temecula, CA 92590**

is hereby granted this

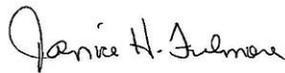
**CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

This Certificate is hereby granted to Airbus DS Communications, Inc. pursuant to N.C.G.S. 62-110 authorizing the provision of intrastate local exchange and exchange access telephone service as a Competing Local Provider in the State of North Carolina. This Certificate is hereby issued subject to all of the terms and conditions adopted by the North Carolina Utilities Commission in Docket No. P-100, Sub 133, Commission Rules and Regulations, and any further amendments and supplements thereto.

ISSUED BY ORDER OF THE COMMISSION.

This the 20<sup>th</sup> day of September, 2016.

NORTH CAROLINA UTILITIES COMMISSION



Janice H. Fulmore, Deputy Clerk

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

Public Meeting held June 30, 2016

Commissioners Present:

Gladys M. Brown, Chairman  
Andrew G. Place., Vice Chairman  
John F. Coleman, Jr.  
Robert F. Powelson  
David W. Sweet

Application of Airbus DS Communications, Inc. for approval to offer, render, furnish or supply telecommunications services as a Competitive Local Exchange Carrier to the public in the Commonwealth of Pennsylvania in all thirty-seven Incumbent Local Exchange Carrier service territories

A-2016-2537383

**ORDER**

**BY THE COMMISSION:**

On March 29, 2016, Airbus DS Communications, Inc. (Applicant) filed an Application seeking a Certificate of Public Convenience pursuant to the Telecommunications Act of 1996 (TA-96), (47 U.S.C. §§ 201, *et seq.*),<sup>1</sup> 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 a Competitive Local Exchange Carrier (CLEC) in all thirty-seven Incumbent Local Exchange Carrier (ILEC) service territories within the Commonwealth of Pennsylvania.

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<sup>1</sup> Market entry requirements, in light of the policy objectives of the TA-96, 47 U.S.C. §§ 201, *et seq.* (TA-96), for telecommunication service providers are set out in *Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (*Implementation Order*: June 3, 1996; and *Implementation Reconsideration Order*: September 9, 1996) (herein collectively, “TA-96 Implementation Orders”).

The Applicant was granted provisional authority to operate as a CLEC in the service territories of Verizon Pennsylvania LLC and Verizon North LLC<sup>2</sup> by our Secretarial Letter dated May 9, 2016, pursuant to its proposed tariff during the pendency of the application process. Also, as required by 52 Pa. Code § 5.14, the Application was published in the *Pennsylvania Bulletin*. The Applicant was granted a waiver concerning publishing notice of its Application in newspapers of general circulation. The protest period for this instant Application expired June 6, 2016, and the assigned utility code is 3118661.

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

Information concerning the Applicant is as follows:

- The Applicant is a California corporation with its principal place of business at 42505 Rio Nedo, Temacula, California 92590, telephone (951) 719-2100, facsimile (951) 296-2727.
- The Applicant complied with 15 Pa. C.S. § 412, relating to a foreign corporation.
- The Applicant's registered office provider within Pennsylvania is National Registered Agents, Inc., 116 Pine St., Suite 320, Harrisburg, Pennsylvania 17101.
- The Applicant's Pennsylvania Emergency Management Agency contact is Paula N. Pileggi, General Counsel & Chief Compliance Officer, telephone (951) 719-2120, facsimile (951) 296-2727 at company headquarters.

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<sup>2</sup> See Dockets P-2014-2446303 and P-2014-2446304 wherein Verizon Pennsylvania LLC and Verizon North LLC, respectively, were granted competitive reclassification of certain exchanges.

- Correspondence to resolve complaints may be directed to Paula N. Pileggi, General Counsel & Chief Compliance Officer, telephone (951) 719-2120, facsimile (951) 296-2727 at company headquarters.
- The Applicant will not be using a fictitious name.
- The Applicant is not currently operating as a public utility in any other states.<sup>3</sup>
- The Applicant has no active affiliates or predecessors doing business in Pennsylvania.
- The Applicant was formally known as Cassidian Communications, Inc., Plant Equipment Inc., and PlantCML.
- 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 offer 9-1-1 emergency services to government and quasi-government Public Safety Answering Points (PSAPs). The Applicant may eventually provide other local exchange telecommunications services and interexchange telecommunications services including, but not limited to, business resold and facilities-based local, interexchange, bundled interexchange, and wholesale or carrier-to-carrier 911 services, including bundles of data, voice and/or wireless services in support of 911 services. The Applicant will not provide residential telecommunication services and will obtain regulatory approvals from this Commission before offering interexchange services.<sup>4</sup> The Applicant may require the same sort of wholesale interconnection and co-

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<sup>3</sup> Airbus DS Communications, Inc. currently has applications pending in Maryland, Virginia, Florida, Texas, California, New York, and North Carolina.

<sup>4</sup> Amended Application, April 14, 2016, Sec. 10, at 4.

location made available to CLECs. Airbus also “seeks certification so that it may provide ‘telephone exchange service’ and ‘telecommunications service’ under applicable” provisions of TA-96 and in accordance with the Commission’s *Intrado Order*.<sup>5</sup>

Issues affecting CLECs have been addressed and are being addressed in a number of Commission proceedings.<sup>6</sup> A CLEC applicant is expected to adhere to the requirements relative to universal service programs, as initially set forth or as subsequently enlarged or modified.<sup>7</sup> Also, per federal rules, CLECs are required to ensure the efficient usage of their numbering resources and are required to report, on a semi-annual basis, their utilization and forecast data to the North American Numbering Plan Administrator. *See* 47 C.F.R. §§ 52.5, *et seq.* Any CLEC failing to comply with state and/or federal commission orders related to numbering may be subject to the reclamation of their numbering resources as well as fines pursuant to the Public Utility Code, 66 Pa. C.S. § 3301. *See Implementation of Numbering Conservation Measures Granted to Pennsylvania by the Federal Communications Commission in its Order released March 31, 2000 – NXX Code Reclamation*, Docket No. M-00001373 (Order entered August 22, 2000), 30 Pa. B. 4701 (September 2, 2000)(Commission established process for reclaiming NXX codes from carriers who have failed to activate them within six months of their availability for assignment to customers).

Further, Section 253(b) of the TA-96 permits a state Commission to impose, on a competitively neutral basis and consistent with the Universal Service Section, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunication services, and

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<sup>5</sup> Amended Application, April 14, 2016, Sec. 10 & Sec. 12, at 4-5, citing to *Application of Intrado Communications, Inc. for Approval to Offer, Render, Furnish or Supply Telecommunications Services as a Competitive Local Exchange Carrier to the Public in the Service Territories of Verizon Pennsylvania Inc.; Verizon North Inc.; The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania*, Docket Nos. A-2008-2027726, A-2008-2027733, A-2008-2027713, Order entered August 1, 2008 (*Intrado Order*).

<sup>6</sup> *See, e.g., MFS Intelenet, et al.*, Docket Nos. A-310203F0002, *et al.*, (Orders entered October 4, 1995; July 31, 1996; and August 7, 1997); *Pa. PUC v. Bell*, Docket No. R-00963578; *Pa. PUC v. GTE*, Docket No. R-00963666; *Global Order*, Docket Nos. P-00991648 and P-00991649; as well as other CLEC proceedings.

<sup>7</sup> *Universal Service Investigation*, Docket No. I-00940035 (Order entered January 28, 1997).

safeguard the rights of consumers. In response, we articulated explicit concerns relative to an applicant's financial fitness, tariff compliance, and rates.<sup>8</sup> In this case, the Applicant has provided financial information to support its Application. We conclude that the Applicant has demonstrated that it is financially capable of providing telecommunication services as a CLEC.

The Commission requires that applicants seeking to provide local telecommunications services in Pennsylvania take steps to protect the public safety of consumers. One means of ensuring the public safety of consumers in the increasingly competitive telecommunications marketplace is to ensure that new entrants provide their consumers with access to a seamless communications infrastructure for emergency services, such as 911. Therefore, in accordance with the notarized Affidavit (item #22 in the Application), the Applicant avers that it has contacted each county or municipal authority by certified letter where it intends to provide CLEC telecommunications service and made the necessary arrangements for the provisioning of emergency 911 service.

We conclude that the Applicant has met the requirements for certification as a CLEC, consistent with this Order. Premised upon our review of the application and the proposed tariffs, and consistent with our Orders, the Code, our regulations and the TA-96, we conclude that the Applicant's proposed services do not raise concerns at this time regarding safety, adequacy, reliability, or privacy. Furthermore, consistent with our *Intrado Order* we find that Airbus will be engaging in the provision of "telecommunications service" and "telephone exchange service" as the terms are defined under federal law in TA-96, and public utility service under applicable Pennsylvania law.<sup>9</sup> We also find that Airbus is entitled to all rights and obligations under Sections 251 and 252 of TA-96, 47 U.S.C. §§ 251 and 252.<sup>10</sup> We note, however, deficiencies in the proposed tariff.

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<sup>8</sup> *Blue Ribbon*, Docket No. A-310442 (Orders entered April 25 and August 4, 1997).

<sup>9</sup> See 47 U.S.C. §§ 153 (46) and 153(47). See also *Intrado Order* at 9.

<sup>10</sup> *Intrado Order* at 9 and Ordering Paragraph No. 16 at 16.

We shall direct the Applicant to revise the proposed tariff in accordance with the changes noted in Appendix A of this Order.<sup>11</sup> The Applicant shall thereafter file its Initial Tariff reflecting the requested changes on or before sixty (60) days from the date of entry of this Order. The Applicant may file its Initial Tariff electronically, consistent with Commission Rules.<sup>12</sup> Copies of the Initial Tariff shall also be served upon the same entities receiving service of the original Application, including the ILECs. If the time required for such resolution and filing exceeds sixty (60) days, the Applicant may request an extension of an additional sixty (60) days with the Commission's Secretary. Thus, if the Initial Tariff is not filed within 60 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.

We note that the Commission will only approve tariff provisions regarding limitation of liability consistent with law. 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.

To the extent that the proposed tariff contains rates, the Initial Tariff may become effective on one (1) day's notice from the date upon which it is filed and served.

In addition, we note that no switched access tariff accompanied the instant Application. Therefore, the Applicant is not permitted to apply access charges, *e.g.*, originating and terminating access billed to interexchange carriers.

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<sup>11</sup> Regardless of the review process, any tariff provision(s) inconsistent with the provisions of the Code, the TA-96, or our regulations or Orders will be deemed inoperative and superseded.

<sup>12</sup> See *Final Rulemaking to Permit Electronic Filing*, Docket No. L-00070187 (Order entered May 23, 2008).

Carriers are required to provide telecommunications service to customers in Pennsylvania within one year of certification.<sup>13</sup>

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 the Commission orders implementing TA-96, 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.<sup>14</sup> This includes compliance with Section 1511(e) of Pennsylvania's Business Corporation Law, 15 Pa. C.S. § 1511(e),<sup>15</sup> 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 in the suspension or revocation of the utility's Certificate of Public Convenience, consistent with due process.

The Applicant represents in its Application that it will be providing both interstate and intrastate services in Pennsylvania. 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

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<sup>13</sup> 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 M-2011-2273119 (Order entered July 19, 2012).

<sup>14</sup> See generally *In re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Order entered June 3, 1996), 1996 WL 482990 (Order on Reconsideration entered September 9, 1996), 26 Pa.B. 4588 (1996), 1996 WL 482990.

<sup>15</sup> 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."

granted by the Commission's certification order.<sup>16</sup> Additional reporting of intrastate retail revenues also may be involved 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, consistent with due process.

### **Conclusion**

Accordingly, we shall grant the Application. Upon the approval of the Initial Tariff a Certificate of Public Convenience shall be issued evidencing the Applicant's authority to provide services as a CLEC in all 37 ILEC service territories in the Commonwealth of Pennsylvania, consistent with this Order, our *Intrado Order*, and our decisions in the *MFS Intelenet* and such other proceedings; **THEREFORE,**

#### **IT IS ORDERED:**

1. That the Application of Airbus DS Communications, Inc. at Docket No. A-2016-2537383, for authority to operate as a Competitive Local Exchange Carrier in all 37 Incumbent Local Exchange Carrier service territories within the Commonwealth of Pennsylvania, is granted, consistent with this Order.
  
2. That the Applicant shall either eFile or submit an original copy 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. **The Applicant is directed to identify any changes made to the proposed Initial Tariff that are in addition to the changes noted in Appendix A.** The Applicant 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.

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<sup>16</sup> 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 can also utilize. See generally 52 Pa. Code §§ 63.31(3) and 63.32(c).

3. That an Initial Tariff shall be labeled on its face according to the respective authority as a “Competitive Local Exchange Carrier Tariff.”

4. That the Applicant 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 but not limited to: Docket Nos. A-310203F0002, *et al.*, *MFS Intelenet, et al.*; I-00940035 *Universal Service Investigation*; P-00991648, *et al.*, *Global Order*; and M-00001373 *NXX Code Reclamation*.

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

6. That the Applicant maintains accurate accounting records that segment its CLEC revenues in the state.

7. That in accordance with Commission Orders entered on October 5, 2005, at M-00041857 and on August 21, 2006, at L-00050176, the Applicant shall follow the reporting requirements outlined at the following website:  
[www.puc.pa.gov/telecom/docs/Reporting\\_Requirements.docx](http://www.puc.pa.gov/telecom/docs/Reporting_Requirements.docx).

8. That the Applicant shall file such affiliated interest agreements as may be necessary relative to any transactions with affiliates within thirty (30) days of entry of this Order.

9. That the Applicant shall make 711 abbreviated dialing available to access Telecommunications Relay Service and to arrange its switching equipment to translate these calls to the assigned toll-free number, (888) 895-1197, in order to route calls to the Telecommunications Relay Service Provider, in accordance with the Commission’s Order entered on February 4, 2000, at Docket No. M-00900239.

10. That in the event that the Applicant 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-2016-2537383 shall be dismissed and the authority granted herein revoked without further Commission Order.

11. That upon the approval of the Initial Tariff a Certificate of Public Convenience shall be issued authorizing the Applicant to furnish services as a Competitive Local Exchange Carrier in all thirty-seven Incumbent Local Exchange Carrier service territories 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.\_\_\_\_.

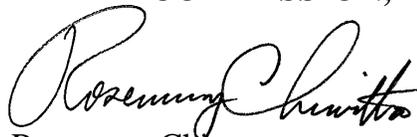
13. That the Applicant shall add its Pennsylvania tariff to its website within thirty (30) days of the filing of its Initial Tariff and mark it "Pending." Within thirty (30) days of receipt of its Certificate of Public Convenience, the Applicant shall make any required modifications to the tariffs on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

14. The Applicant shall contact Cyndi Page ((717) 787-5722; [cypage@state.pa.us](mailto:cypage@state.pa.us)) of the Commission's Communications Office to create a link from the Commission's website to the Applicant's website.

15. That if the Applicant 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 and the PEMA (Pennsylvania Emergency Management Agency) Bureau of 9-1-1 Programs.

**BY THE COMMISSION,**

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

Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: June 30, 2016

ORDER ENTERED: June 30, 2016

**Airbus DS Communications, Inc.**  
Docket No. A-2016-2537383  
Proposed tariff

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

**Tariff deficiencies noted – CLEC Local Tariff A-2016-2537383, Tariff No. 1**

1. Correct the Title to read:

Airbus DS Communications, Inc.  
COMPETITIVE LOCAL EXCHANGE CARRIER  
Regulations and Schedule of Charges  
For Business and Enterprise Customers Only

2. Title Page: Change Original Page One to Title Page and start page numbering (Original Page One) on the following page. Be sure to revise the table of contents accordingly.
3. All Pages: Enter issued and effective dates as per ordering paragraph.
4. All Pages: Add, Competitive Local Exchange Carrier, in the center of the header.
5. Page 2 & Various Pages, Tariff Exchange Area Boundaries: Correct the names of the incumbent local exchange carriers to reflect their current/correct legal names: Verizon Pennsylvania LLC; Verizon North LLC; The United Telephone Company of Pennsylvania d/b/a CenturyLink, and Consolidated Communications of Pennsylvania Company.
6. Pages 5-7, Check Sheet: Add, “\* indicates new or revised tariff page.” to the bottom of the check sheet (above the footer). When filing future tariff supplements an asterisk will be placed next to the pages being revised.
7. Pages 20-28, Section 2: The limitations of liability tariff provisions should be generally consistent with the Commission’s relevant Policy Statement at 52 Pa. Code § 69.87 and the Commission Order under Docket No. M-00981209.
8. Page 32, Section 2.8.2: Revise the address for the Bureau of Consumer Services to Pennsylvania Public Utility Commission, Secretary’s Bureau, Commonwealth Keystone Building, 2<sup>nd</sup> Floor, 400 North Street, Harrisburg, Pennsylvania 17120.

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 2016-313-C - ORDER NO. 2016-870

DECEMBER 15, 2016

IN RE: Application of Airbus DS Communications, Incorporated for a Certificate of Public Convenience and Necessity to Provide Facilities-Based Local Exchange Service and Intrastate Interexchange Telecommunications Services in the State of South Carolina	)	ORDER GRANTING CERTIFICATE AND APPROVING FLEXIBLE AND ALTERNATIVE REGULATION
	)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Application of Airbus DS Communications, Inc. (“Airbus” or the “Company”) for a Certificate of Public Convenience and Necessity to provide facilities-based and resold local exchange service and intrastate interexchange telecommunications in the State of South Carolina. In addition, the Company requests that the Commission regulate its local telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C, alternative regulation of its long-distance business service offerings, and waivers of certain Commission regulations. The Company’s Application was filed pursuant to S.C. Code Ann. § 58-9-280 and the rules and regulations of the Commission.

The Commission’s Clerk’s Office instructed Airbus to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Company’s Application and of the manner and time in which to file the appropriate

pleadings for participation in the proceeding. Airbus complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was filed by the South Carolina Telephone Coalition (“SCTC”). Subsequent to the intervention, Airbus and SCTC reached a Stipulation, a copy of which is attached as Order Exhibit 1. The South Carolina Office of Regulatory Staff (“ORS”) is automatically a party to this proceeding pursuant to S.C. Code Ann. § 58-4-10(B). On September 30, 2016, counsel for ORS filed a letter with the Commission stating that it had reviewed the Application and does not oppose the Commission granting the Application. ORS also sought to be permitted to be excused from the hearing in the Docket. Airbus did not object to ORS’s request, and the Hearing Examiner granted ORS’s request to be excused from the hearing by Directive dated October 11, 2016.

A hearing was convened on November 15, 2016, at 10:30 a.m. in the offices of the Commission in Columbia, South Carolina before F. David Butler, Hearing Examiner. Airbus was represented by Benjamin P. Mustian, Esquire, and Mitchell Willoughby, Esquire. SCTC did not appear at the hearing.

Larry Short, Vice President – Services, Next Generation, and Network for Airbus, appeared by video conferencing and testified in support of the Application. The record reflects that Airbus is a corporation organized in the state of California on September 19, 1968, and holds a Certificate of Incorporation and Authority to Transact Business in the State of South Carolina. Mr. Short testified that the Company proposes to offer 9-1-1 emergency services to government and quasi-government Public Safety Answering Points (“PSAPs”). Specifically, Mr. Short explained that Airbus intends to offer “niche” services

specifically for 9-1-1 Emergency PSAPs, including Internet Protocol (IP) based 9-1-1 call routing, database services, database management, and network services to promote advancement and migration of the PSAP networks to the Next Generation 9-1-1 architecture. Mr. Short testified that the Next Generation 9-1-1 services Airbus intends to provide will enhance emergency number services to create a faster, more resilient system that allows digital information (e.g., voice, photos, videos, text messages) to flow seamlessly from the public, through the 9-1-1 network and eventually, directly to first responders. It will also enable 9-1-1 call centers to transfer 9-1-1 calls to other call centers, and help them deal with call overload, disasters, and day-to-day transfer of 9-1-1 calls to other jurisdictions.

In order to meet the needs of the PSAPs, Airbus may provide other local exchange telecommunications services and interexchange telecommunications services. These additional services may include business resold and facilities-based local, inter-exchange, wholesale or carrier-to-carrier Next Generation 9-1-1 services, including data, voice, and/or wireless services as deemed necessary and in support of Next Generation 9-1-1 service. Airbus does not intend to provide residential telecommunications service. The Company seeks statewide authority and has entered into a Stipulation with SCTC with respect to providing service in rural areas.

Mr. Short also presented testimony regarding the Company's services, operations, and marketing procedures, as well as its technical, financial, and managerial resources to provide the services for which it seeks authority. Specifically, Mr. Short testified that Airbus has sufficient financial resources to provide and maintain the requested

telecommunications services in South Carolina and that the Company's senior management team has a strong background in telecommunications. Mr. Short also testified that the Company will meet the service standards of the Commission and agrees to abide by and comply with the Commission's rules, regulations, and orders governing its operations in South Carolina. Mr. Short further stated that the Application will not adversely impact the availability of affordable local exchange service and will serve the public interest by offering increased competitive choices in the state.

The Company requested a waiver of the requirement set forth in 10 S.C. Code Ann. Regs. 103-610 that its books and records be maintained in South Carolina on the basis that its records are maintained at its headquarters in Temecula, California. Airbus also requested a waiver from any requirement that its financial records be maintained in conformance with the Uniform System of Accounts ("USOA") in that it maintains its books and records in accordance with Generally Accepted Accounting Principles ("GAAP"). The Company further requested a waiver from the requirement of 10 S.C. Code Ann. Regs. 103-631 that it publish a local directory. Finally, Airbus requested in its Application that the Commission waive any reporting requirements which are not applicable to competitive providers such as the Company. As reflected in the testimony of Mr. Short, however, Airbus has withdrawn this request.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Airbus is incorporated under the laws of the State of California and is authorized to do business in South Carolina by the Secretary of State.

2. Airbus desires to operate as a provider of facilities-based and resold local exchange service and intrastate interexchange telecommunications in the State of South Carolina. Specifically, Airbus proposes to offer 9-1-1 emergency services to government and quasi-government PSAPs. In order to meet the needs of the PSAPs, Airbus may provide other local exchange telecommunications services and interexchange telecommunications services including business resold and facilities-based local, inter-exchange, wholesale or carrier-to-carrier Next Generation 9-1-1 services. Airbus does not intend to provide residential telecommunications service.

3. The Commission finds that Airbus possesses the managerial experience and capability to operate as a provider, on a facilities-basis or through resale, of both local and interexchange services in South Carolina.

4. The Commission finds that, based on the financial statements submitted by the Company and the testimony at the hearing, that Airbus possesses sufficient financial resources to provide the services as described in its Application and testimony.

5. The Commission finds that the issuance of a Certificate of Public Convenience and Necessity to Airbus to operate as a facilities-based and/or reseller of local exchange telecommunications and interexchange services in South Carolina would be in the best interest of the citizens of South Carolina by increasing competition in South Carolina, by providing an alternative source for telecommunications services and

technologies, and by creating incentives for lower prices and more innovative services. The services also will facilitate and enhance 9-1-1 services in the State of South Carolina and will increase the efficiency, reliability, diversity, and redundancy of emergency 9-1-1 services.

6. Airbus maintains its headquarters, books, and records in California and requests a waiver of 10 S.C. Code Ann. Regs. 103-610. The Commission finds the Company's requested waiver reasonable, to be in the public interest, and understands the difficulty presented to Airbus should the waiver not be granted. The Commission also finds that exemption from the policies that would require the Company to keep its records under USOA is reasonable. The Commission further finds that a waiver of the requirement to publish a local exchange directory pursuant to 10 S.C. Code Ann. Regs. 103-631 is reasonable and in the public interest.

7. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. § 58-9-280(B)(1).

8. The Commission finds that the services to be provided by Airbus will meet the service standards of the Commission. S.C. Code Ann. § 58-9-280(B)(2).

9. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. § 58-9-280(B)(3).

10. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280(B)(4).

11. The Commission finds that the provision of local exchange service by the Company “does not otherwise adversely impact the public interest.” S.C. Code Ann. § 58-9-280(B)(5).

12. As a consequence of the execution of a Stipulation by SCTC and Airbus, SCTC does not oppose the Company’s Application.

13. ORS was permitted to be excused from the hearing and the fact that it did not oppose the granting of the Application herein is duly noted.

#### **CONCLUSIONS OF LAW**

1. The Commission concludes that the Company possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that the Company will participate in the support of universally available telephone service at affordable rates to the extent that the Company may be required to do so by the Commission.

3. The Commission concludes that the Company will provide services that will meet the service standards of the Commission.

4. The Commission concludes that approval of the Company’s Application to provide facilities-based and resold local exchange service and intrastate interexchange telecommunications in the State of South Carolina will serve the public interest by increasing competition in South Carolina, by providing an alternative source for telecommunications services and technologies, and by creating incentives for lower prices and more innovative services. The public interest also will be served as the services will

facilitate and enhance 9-1-1 services in the State of South Carolina and will increase the efficiency and greater reliability, diversity, and redundancy of emergency 9-1-1 services.

5. The Commission concludes that the provision of telecommunications service by the Company will not adversely impact the public interest.

6. The Commission concludes that the issuance of the authority to provide facilities-based and resold local exchange service and intrastate interexchange telecommunications in the State of South Carolina as requested by the Company and as set forth in its Application and Mr. Short's testimony is in the best interests of the citizens of the State of South Carolina.

7. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to the Company to provide facilities-based and resold local exchange service and intrastate interexchange telecommunications services to business customers in the State of South Carolina.

8. The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing. An investigation of the tariff filing may be instituted within thirty (30) days of the tariff filing, in which case the tariff filing would be suspended

pending further Order of the Commission. If an investigation is instituted on a particular tariff filing, notice of the investigation will be provided to the person or entity making the tariff filing and to the Commission. The notice is timely if dated within thirty (30) days of the filing date. Further, any such tariff filings will be subject to the same monitoring process as similarly situated local exchange carriers.

9. The Commission concludes that the Company's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 96-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this alternative regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the

flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven (7) days, the tariff filing will be suspended until further order of the Commission.

10. The Commission concludes that Airbus' request for waiver of 10 S.C. Code Ann. Regs, 103-610 should be granted, since strict compliance with the regulation potentially causes undue hardship on the Company. We also grant exemption from the policies requiring the use of USOA and grant a waiver of S.C. Code Ann. Regs. 103-631.

11. The Stipulation between SCTC and Airbus should be approved.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to the Company to provide facilities-based and resold local exchange service and intrastate interexchange telecommunications to business customers in the State of South Carolina.

2. The regulatory treatment adopted for the Company's services shall conform to the design described above.

3. If it has not already done so, the Company shall file its tariff utilizing the Commission's e-filing system for tariffs within thirty (30) days of the issuance of this Order. The tariff should be electronically filed in a text searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to [etariff@psc.sc.gov](mailto:etariff@psc.sc.gov) to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariff should be made using the ETariff

System. The tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

4. The Company shall resell the services of only those local exchange carriers or interexchange carriers authorized to do business in South Carolina by this Commission.

5. The Company shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, the Company shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than April 1<sup>st</sup>.

6. Commission gross receipts forms are due to be filed with the Commission and ORS no later than August 31<sup>st</sup> of each year. The proper form for filing gross receipts information can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov), and the appropriate form is entitled "Gross Receipts Form."

7. Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund ("USF") worksheet, which may be found on the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). This worksheet provides ORS information required to determine each telecommunications company's

liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than July 1<sup>st</sup> with the Commission and ORS.

8. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests, and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. The Company shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at [www.psc.sc.gov/reference/forms.asp](http://www.psc.sc.gov/reference/forms.asp); this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

9. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

10. The Company requested a waiver of 10 S.C. Code Ann. Regs. 103-610, which requires that records required by the Commission’s Rules and Regulations be maintained in South Carolina. The Commission finds the Company’s requested waiver reasonable and understands the potential difficulty presented to the Company should the waiver not be granted. The Commission therefore grants the requested waiver. However, the Company shall make available its books and records at all reasonable times upon

request by ORS, and the Company shall promptly notify the Commission and ORS if the location of its books and records changes. The Company also requested a waiver of 10 S.C. Code. Ann. Regs. 103-631. In light of the services Airbus intends to provide, the Commission finds this request reasonable and grants the requested waiver. Further, the Commission acknowledges that the Company shall maintain its financial records in conformance with GAAP.

11. The Stipulation with SCTC is hereby approved and incorporated as part of this Order.

12. This Order shall remain in full force and effect until further order of the Commission.

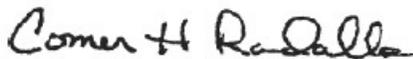
BY ORDER OF THE COMMISSION:



---

Swain E. Whitfield, Chairman

ATTEST:



---

Comer H. Randall, Vice Chairman

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
Docket No. 2016-313-C

Re: Application of Airbus DS Communications, )  
Inc. for Authority to Provide Facilities Based )  
Local Exchange Service and for Intrastate ) **STIPULATION**  
Interexchange Telecommunications Services )  
within the State of South Carolina )  
\_\_\_\_\_ )

The South Carolina Telephone Coalition (“SCTC”) (see attachment “A” for list of companies) and Airbus DS Communications, Inc. (“Applicant”) hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Applicant’s Application. SCTC and Applicant stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Applicant, provided the South Carolina Public Service Commission (“Commission”) makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Applicant stipulates and agrees that any Certificate which may be granted will authorize Applicant to provide service only to customers located in non-rural local exchange company (“LEC”) service areas of South Carolina, except as provided herein.

3. Applicant stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Applicant stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Applicant provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise

all rights afforded it under Federal and State law. Also, Applicant acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Applicant stipulates and agrees that, if Applicant gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Applicant will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Applicant acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Applicant, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Applicant agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Applicant hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

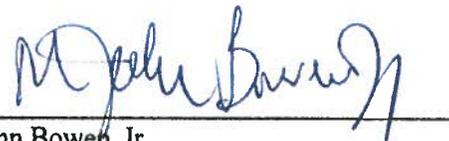
10. Notwithstanding any provision contained herein, the terms, conditions and limitations of the Stipulation apply only in those instances where a rural telephone company's federal rural exemption under 47 U.S.C. § 251(f)(1) is implicated.

AGREED AND STIPULATED to this 3 day of October,  
2016.

Airbus DS Communications, Inc.

  
Benjamin P. Mustian  
Willoughby & Hooper  
Attorney for Airbus

South Carolina Telephone Coalition

  
M. John Bowen, Jr.  
Margaret M. Fox  
McNair Law Firm, P.A.  
Post Office Box 11390  
Columbia, South Carolina 29211  
(803) 799-9800  
[jbowen@mcnair.net](mailto:jbowen@mcnair.net)  
[pfox@mcnair.net](mailto:pfox@mcnair.net)

Attorneys for the South Carolina Telephone  
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies  
for Purposes of Local Service Stipulation

Chesnee Telephone Company  
Chester Telephone Company, d/b/a TruVista  
Comporium, Inc. (f/k/a Rock Hill Telephone Company)  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company, d/b/a Comporium  
Home Telephone ILEC, LLC d/b/a Home Telecom  
Lancaster Telephone Company, d/b/a Comporium  
Lockhart Telephone Company, d/b/a TruVista  
McClellanville Telephone Company (TDS)  
Norway Telephone Company (TDS)  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
PBT Telecom, d/b/a Comporium  
Ridgeway Telephone Company, d/b/a TruVista  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company (TDS)  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company (TDS)



Control Number: 45836



Item Number: 18

Addendum StartPage: 0

**Donna L. Nelson**  
Chairman

**Kenneth W. Anderson, Jr.**  
Commissioner

**Brandy Marty Marquez**  
Commissioner

**Brian H. Lloyd**  
Executive Director



**Greg Abbott**  
Governor

2016 JUN 29 PM 2:58

PUBLIC UTILITY COMMISSION  
FILING CLERK

## *Public Utility Commission of Texas*

TO: Wesley K. Wright  
Keller and Heckman L.L.P.  
1001 G Street NW, Suite 500 West  
Washington, D.C. 20001

Infrastructure and Reliability Division  
Legal Division

RE: **Docket No. 45836 – Application of Airbus DS Communications, Inc. for a Service Provider Certificate of Operating Authority**

### NOTICE OF APPROVAL

This Notice addresses the application of Airbus DS Communications, Inc. for a service provider certificate of operating authority (SPCOA). Commission Staff recommended approval of the application. The application, as amended, is approved.

#### I. Findings of Fact

##### Background

1. On April 8, 2016, Airbus applied for a SPCOA authorizing the company to provide facilities-based, data, and resale telecommunication services throughout the State of Texas. Airbus amended the application on April 22, 2016.
2. On April 19, 2016, Order No. 2 was issued, deeming Airbus eligible to obtain a SPCOA and finding the requested name "Airbus DS Communications, Inc." distinctive and acceptable.
3. On May 6, 2016, Order No. 3 was issued, deeming this application sufficient for further review.
4. On May 6, 2016, Commission Staff recommended approval of this application.

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5. On June 21, 2016, Commission Staff provided clarification and an amended recommendation for approval of this application.
6. No protests, motions to intervene, or requests for hearing were filed.
7. The only parties to this proceeding are Airbus and Commission Staff.

Notice

8. Notice of the application was published in the *Texas Register* on April 22, 2016.
9. Airbus provided notice of this application to the Texas Commission on State Emergency Communications (CSEC) within 5 days of submitting the application.
10. More than 15 days have passed since the completion of notice.

Information

11. Airbus has provided all of the information required by 16 Tex. Admin. Code § 26.111 (TAC) to be granted a facilities-based, data, and resale SPCOA for the entire state of Texas.
12. The requested name of “Airbus DS Communications, Inc.” has been deemed distinctive and acceptable.
13. Airbus is a California corporation authorized by the Texas Secretary of State (SoS) to transact business in Texas as a foreign for-profit corporation as of September 9, 2009.
14. Airbus’ status with the Texas SoS is “in existence.”
15. Airbus’ Franchise Tax Account status with the Texas Comptroller’s Office is “active.”
16. Airbus’s requested business plan is: Business and Residential – Other (E911 Selective Routing Services, ALI database services and NG Core Services).
17. Airbus is a wholly-owned direct subsidiary of Plant Holdings, Inc., a Delaware corporation, which is an indirect wholly-owned subsidiary of Airbus Group SE, a European company.
18. Airbus does not hold a certificate of convenience and necessity, a certificate of operating authority, or a SPCOA for any part of the service area covered by this application.

19. Airbus has no affiliates that are currently certified as public utilities or are providing telecommunications services in Texas or other states.
20. Airbus has principals, consultants or permanent employees in managerial position whose combined experience in the telecommunications industry equals or exceeds five years.
21. Airbus will not provide prepaid calling services.
22. The Commission's Customer Protection Division complaint database does not that any complaints had been filed against Airbus in the 60 months.
23. Commission Staff stated that there are no outstanding Notices of Violation against Airbus.
24. Commission Staff stated that Airbus is not currently under any investigation for violation of any deceptive trade or consumer protection laws or regulation.

## II. Conclusions of Law

1. The Commission has jurisdiction over this matter pursuant to PURA<sup>1</sup> §§ 14.001, 54.154-.159.
2. Notice of the application was provided in compliance with 16 TAC § 26.111 and 16 TAC §§ 22.54-.55.
3. The application complies with PURA §§ 54.154-54.159.
4. Airbus is not precluded by PURA §§ 54.201 or 54.152 from providing service under a SPCOA.
5. Airbus is entitled to approval of this application, having satisfied the requirements of PURA §§ 54.154(b) and 54.155(b) and 16 TAC § 26.111.
6. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

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<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016 (West 2007 & Supp. 2015) (PURA).

### III. Ordering Paragraphs

1. The application, as amended, is approved. Airbus is granted SPCOA No. 60962, in the name "Airbus DS Communications, Inc." to provide facilities-based, data and resale telecommunications services throughout the entire State of Texas.<sup>2</sup>
2. Airbus shall comply with pertinent provisions of the Federal Telecommunications Act of 1996,<sup>3</sup> including the procedural requirements of FTA § 251(f)(1)(B), when seeking interconnection, services, or network elements from a rural telephone company.
3. The applicant shall establish an access line account and submit quarterly reports in compliance with 16 TAC § 26.467.
4. Airbus is bound by the requirements of 16 TAC § 26.111. The applicant will provide service exclusively under the name approved by the Commission.
5. A SPCOA holder that has not provided service for a period of 12 consecutive months after initially having begun providing service must provide a sworn affidavit to the Commission on an annual basis attesting that they continue to possess the technical and financial resources necessary to provide the level of service proposed in the initial application. Unless subject to an exception under 16 TAC § 26.433(c), a SPCOA holder that has not provided service within 24 months of being granted the certificate by the Commission, may have its certificate suspended or revoked, as defined by 16 TAC § 26.111, after due process, or undergo certification re-qualification. Airbus shall comply with the above requirements.
6. Airbus shall file, electronically, any future changes in address, contact representative, and/or telephone numbers in an annual report with the Commission between January 1st and April 30th of each year pursuant to 16 TAC § 26.111(k)(2). If Airbus has any change during the year in the information requested in Section One of the annual report form, the company shall file an updated form correcting the information in Section One within 30 days of the change.

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<sup>2</sup> Administrative approval of this uncontested application has no precedential value in a future proceeding.

<sup>3</sup> Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of 15 and 47 U.S.C.) (FTA).

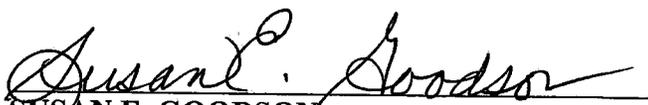
7. Airbus shall provide a copy of its application and/or the Commission's Notice of Approval, in accordance with the individual entity's requirements, to all affected CSEC (9-1-1) entities prior to providing service to those entities.
8. Airbus's provision of local telephone service to end-users, whether by its own facilities, flat-rate resale, or usage sensitive loop, must also include 9-1-1 emergency telephone service at a level required by the applicable regional plan followed by local telephone service providers under Chapters 771 and 772 of the Texas Health and Safety Code, Tex. Health & Safety Code Ann. §§ 771.001 et seq. (West 2010 & Supp. 2012) (the Code) or other applicable law, and any applicable rules and regulations implementing those chapters. Airbus shall diligently work with the Commission on State Emergency Communications, local 9-1-1 entities, and any other agencies or entities authorized by Chapters 771 and 772 of the Code to ensure that all 9-1-1 emergency services, whether provided through the certificate holder's own facilities, flat-rate resale, or usage sensitive loop, are provided in a manner consistent with the applicable regional plan followed by local telephone service providers under Chapters 771 or 772 of the Code or other applicable law and any applicable rules and regulations implementing those chapters. Airbus shall diligently work with the 9-1-1 entities to pursue, in good faith, the mutually agreed goal that the local 9-1-1 entities and emergency service providers experience no increase in their current level of rates and, to the extent technically feasible, no degradation in services as a result of the certification granted herein and the involvement of the certificate holder in the provision of 9-1-1 emergency service.
9. Airbus shall notify all affected 9-1-1 administrative entities at least 30 days prior to activating or using a new NXX in a rate center or upon the commencement of providing local telephone service in any rate center in compliance with 16 TAC § 26.433(d)(3).
10. Airbus shall execute a separate service agreement with each 9-1-1 entity and remit the required 9-1-1 emergency service fee to the 9-1-1 entity pursuant to such agreement in compliance with 16 TAC § 26.435(e)(4).
11. Airbus stated it will comply with all regulations and certifications that apply to the type of services the company proposes to offer and has committed to and is bound by the

portions of the quality of service requirements set forth in the Commission's Quality of Service Questionnaire that the company believes are applicable to the type of services it proposes to provide. The underlying incumbent local exchange carriers (ILECs) continue to be bound by the quality of service requirements contained in 16 TAC § 26.54. Approval of Airbus' SPCOA application does not expand the scope of an underlying ILEC's obligation to its own customers.

12. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS on the 29<sup>th</sup> day of June 2016.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
**SUSAN E. GOODSON**  
**ADMINISTRATIVE LAW JUDGE**

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, JULY 26, 2016

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DOCUMENT CONTROL CENTER

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APPLICATION OF

AIRBUS DS COMMUNICATIONS OF VIRGINIA, INC.

CASE NO. PUC-2016-00019

For certificates of public convenience and necessity to provide local exchange and interexchange telecommunications services in the Commonwealth of Virginia

FINAL ORDER

On April 15, 2016, Airbus DS Communications of Virginia, Inc. ("Airbus" or "Company"), completed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity ("Certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia ("Application"). Airbus requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia ("Code"). Airbus also filed a motion for confidential treatment of certain information contained in the Application pursuant to 5 VAC 5-20-170 of the Commission's Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* ("Motion").

On April 28, 2016, the Commission issued an Order for Notice and Comment ("Scheduling Order") which, among other things, directed Airbus to provide notice to the public of its Application and directed the Staff of the Commission ("Staff") to conduct an investigation and file a report ("Staff Report"). On May 25, 2016, Airbus filed proof of service and proof of publication in accordance with the Scheduling Order.

On June 30, 2016, the Staff filed its Staff Report finding that the Company's Application is in compliance with the Rules Governing the Certification and Regulation of Competitive Local

Exchange Carriers ("Local Rules"), 20 VAC 5-417-10 *et seq.*, and the Rules Governing the Certification of Interexchange Carriers ("Interexchange Rules"), 20 VAC 5-411-10 *et seq.* Based upon its review of the Application, the Staff determined it would be appropriate to grant Airbus Certificates subject to the following condition: Airbus should notify the Division of Communications no less than 30 days prior to the cancellation or lapse of its bond and should provide a replacement bond at that time. This requirement should be maintained until such time as the Commission determines it is no longer necessary.

The Scheduling Order provided an opportunity for Airbus to file a response to the Staff Report on or before July 11, 2016. Airbus did not file a response to the Staff Report.

NOW THE COMMISSION, having considered the Application and the Staff Report, finds that it should grant Airbus Certificates. Having considered § 56-481.1 of the Code, the Commission finds that Airbus may price its interexchange telecommunications services competitively. The Commission also finds that the Company's Motion is no longer necessary; therefore, the Motion should be denied.<sup>1</sup>

Accordingly, IT IS ORDERED THAT:

(1) Airbus hereby is granted Certificate No. T-747 to provide local exchange telecommunications services subject to the restrictions set forth in the Local Rules, § 56-265.4:4 of the Code, and the provisions of this Final Order.

(2) Airbus hereby is granted Certificate No. TT-293A to provide interexchange telecommunications services subject to the restrictions set forth in the Interexchange Rules, § 56-265.4:4 of the Code, and the provisions of this Final Order.

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<sup>1</sup> The Commission has not received a request to review the information that the Company designated confidential. Accordingly, we deny the Motion as moot but direct the Clerk of the Commission to retain the confidential information to which the Motion pertains under seal.

(3) Pursuant to § 56-481.1 of the Code, Airbus may price its interexchange telecommunications services competitively.

(4) Prior to providing telecommunications services pursuant to the Certificates granted by this Final Order, Airbus shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations. If the Company elects to provide retail services on a non-tariffed basis, it shall provide written notification pursuant to 20 VAC 5-417-50 A.

(5) Airbus shall notify the Division of Communications no less than thirty (30) days prior to the cancellation or lapse of its bond and shall provide a replacement bond at that time. This requirement shall be maintained until such time as the Commission determines it is no longer necessary.

(6) The Company's Motion hereby is denied; however, the Commission directs the Clerk of the Commission to retain the confidential information to which the Motion pertains under seal.

(7) This case is dismissed from the Commission's docket of active cases, and the papers filed herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:  
Wesley K. Wright, Esquire, Keller and Heckman LLP, 1001 G Street NW, Suite 500 West,  
Washington, D.C. 20001; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division  
of Consumer Counsel, Office of the Attorney General, 202 North Ninth Street, Richmond, Virginia  
23219. A copy also shall be delivered to the Commission's Office of General Counsel and  
Divisions of Communications and Public Service Taxation.

Decision 18-07-030 July 26, 2018

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Vesta Solutions, Inc. for a certificate of public convenience and necessity to provide: (i) resold and partial facilities-based competitive local exchange service within the service territories of Pacific Bell Telephone Company, Frontier California Inc., Consolidated Communications of California Company, and Citizens Telecommunications Company of California, Inc.; and (ii) resold and partial facilities-based interexchange services on a statewide basis.

Application 18-03-013

**DECISION GRANTING VESTA SOLUTIONS, INC. A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE COMPETITIVE PARTIAL FACILITIES-BASED LOCAL EXCHANGE SERVICE AND RESOLD COMPETITIVE LOCAL EXCHANGE SERVICE AND INTEREXCHANGE SERVICE ON A STATEWIDE BASIS**

**Summary**

Pursuant to Public Utilities Code Section 1001, we grant Vesta Solutions, Inc. a Certificate of Public Convenience and Necessity to provide competitive partial facilities-based and resold competitive local exchange telecommunications services and interexchange service in California subject to the terms and conditions set forth in the Ordering Paragraphs.

This proceeding is closed.

## 1. Background

On March 27, 2018, Vesta Solutions Inc. (Vesta or Applicant),<sup>1</sup> a California corporation, filed an application for a Certificate of Public Convenience and Necessity (CPCN) to provide (i) resold and partial facilities-based competitive local exchange service within the service territories of Pacific Bell Telephone Company, Frontier California Inc., Consolidated Communications of California Company, and Citizens Telecommunications Company of California Inc. and resold and partial facilities-based interexchange services on a statewide basis.<sup>2</sup>

Notice of the application appeared on the Commission's daily calendar on March 30, 2018. No protests or responses to the application were filed. A prehearing conference (PHC) was held on June 13, 2018. The only attendees at the PHC were representatives of Vesta. The Scoping Memo and Ruling (Scoping Memo) was issued on July 2, 2018.

Vesta intends to offer 911 emergency services (E-911) to government and quasi-government Public Safety Answering Points (PSAPs) and may also provide other local exchange telecommunications services and interexchange telecommunications services including, but not limited to, business resold and limited facilities-based local, interexchange, bundled interexchange, and

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<sup>1</sup> Vesta was incorporated in the State of California on September 9, 1968. Applicant was formerly known as Airbus DS Communications (Airbus). On March 7, 2018, Motorola Solutions Inc. (Motorola) acquired Plant Holdings Inc., (Plant) which is Vesta's parent company. On the same day, Applicant filed a Certificate of Amendment of Articles of Incorporation with the California Secretary of State, changing its name to Vesta Solutions Inc.

<sup>2</sup> On May 25, 2017, Decision (D.) 17-05-022 granted Airbus a Certificate of Public Convenience and Necessity (CPCN) to provide precisely the same services for which Vesta seeks in this application. Airbus never commenced public utility service and relinquished the CPCN pursuant to Advice Letter Number 4, date March 6, 2018.

wholesale or carrier-to-carrier Next Generation 911 services,<sup>3</sup> including bundles of data, voice and/or wireless services in support of Next Generation 911 service. Vesta will not provide residential telecommunications services.

Vesta's principal place of business is located at 42505 Rio Nedo, Temecula, California 92590.

## **2. Jurisdiction**

Public Utilities Code (Pub. Util. Code) Section 216(a) defines the term "public utility" to include a "telephone corporation," which in turn is defined in Pub Util. Code § 234(a) as "every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state."

Vesta will utilize the facilities of incumbent local exchange carriers and other facilities-based carriers. As such, Vesta will not be constructing or extending any facilities. Vesta will provide an E-911 routing and location identification service that is an important component of the E-911 system. Vesta's solution permits landline, mobile, and voice over internet protocol service providers to transmit call routing and caller location information to PSAPs in an efficient and reliable manner. This solution is a critical link in ensuring that customers who use current and future landline, mobile and internet protocol based services obtain reliable E-911 services. Vesta is a telephone corporation and a public utility subject to our jurisdiction.

Vesta provided certification that it is a Common Carrier as defined by § 153 of the 1934 Communications Act, as amended by the 1996

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<sup>3</sup> Next Generation 9-1-1 refers to efforts aimed at updating the 9-1-1 service infrastructure to improve public emergency communications in a growingly wireless mobile society.

Telecommunications Act (47 U.S.C. 251) (Act) eligible to interconnect with the public switched telephone network pursuant to § 251 and § 252 of the Act, and that if granted a CPCN, it will operate as a telephone corporation under Pub. Util. Code § 234(a), and comply with the Pub. Util. Code and all Commission rules, decisions, and orders applicable to telephone corporations operating in California.

### **3. Limited versus Full Facilities-Based CPCN**

The treatment of Application 18-03-013 as a request for a partial facilities-based CPCN does not preclude Vesta from filing an application at a later date to pursue a full facilities-based CPCN. Vesta must not begin construction of facilities beyond those authorized by this decision until further approval is granted.

### **4. California Environmental Quality Act (CEQA)**

Pursuant to the California Environmental Quality Act (CEQA)<sup>4</sup> and Rule 2.4 of the Commission's Rules of Practice and Procedure, the Commission acts as the designated lead agency to consider the environmental consequences of projects that are subject to our approval in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible. Since Vesta states that it does not intend to construct any facilities other than equipment to be installed in existing buildings or structures, it can be seen with certainty that there is no possibility that granting this application will have an adverse impact upon the environment. Before it can construct facilities other than equipment to be installed in existing

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<sup>4</sup> Public Resources Code § 21000 *et seq.*

buildings or structures, Vesta must file for additional authority, and submit to any necessary CEQA review.

Vesta shall not perform any full facilities-based construction activities without first obtaining a Notice to Proceed from the Commission's Energy Division or authorization by the Commission after the requisite environmental review.

We have previously determined that the public convenience and necessity require that competition be allowed in the provision of competitive local exchange service.<sup>5</sup> Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

## **5. Financial Qualifications**

To be granted a CPCN to provide competitive limited-facilities based and resold local exchange and interexchange services, an applicant must demonstrate that it has a minimum of \$100,000 cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up expenses.<sup>6</sup> An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers and/or interexchange carriers in order to provide the proposed service.<sup>7</sup> In the application, Vesta provided the requisite

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<sup>5</sup> Rulemaking 95-04-043/Investigation 95-04-044.

<sup>6</sup> The financial requirement for Competitive Local Exchange Carriers (CLEC) is contained in D.95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIEC) is contained in D.91-10-041.

<sup>7</sup> The requirement for Competitive Local Carrier (CLC) applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers (LEC) and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

documentation that \$100,000 would be available to Vesta for one year following certification.<sup>8</sup> Since Vesta has provided documentation that it possesses a minimum of \$100,000 that is reasonably liquid and available, it has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement. Vesta's financial documentation will be subject to verification and review by the Commission for one year to ensure that such funds are available.

Vesta provided documentation to establish that it is financially sound and capable of financing its proposed operations and although the application did not specify if any deposits would be required to other carriers, Vesta contends that it can meet any deposits that may be required to other carriers. Therefore, no additional resources are required at this time to cover deposits.

## **6. Technical Qualifications**

To be granted a CPCN for authority to provide competitive local exchange and interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.<sup>9</sup> Vesta supplied biographical information on its management in Exhibit E to its application that demonstrates it has sufficient expertise and training to operate as a telecommunications provider.

In its application, Vesta verified that no one associated with or employed by Vesta as an affiliate, officer, director, partner, or owner of more than ten percent of Vesta has: (a) held one of these positions with a company that

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<sup>8</sup> Vesta is a wholly owned subsidiary of Motorola Solutions, which is traded on the New York Stock Exchange as MSI. Vesta provided a letter guarantee from its parent company.

<sup>9</sup> D. 95-12-056 at Appendix C, Rule 4.A.

filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000, *et seq.*, §§ 17200, *et seq.*, or §§ 17500, *et seq.*, of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general; or (i) is being, or has been investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.<sup>10</sup>

For the above reasons, we find that Vesta is in compliance with the requirements of D.95-12-056.

## **7. Tariffs**

Commission staff reviewed Vesta's draft tariffs for compliance with Commission rules and regulations. The deficiencies are noted in Attachment A

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<sup>10</sup> These certifications are required by D.13-05-035, Ordering Paragraph 14.

to this decision. In its compliance tariff submission, Vesta shall correct these deficiencies as a condition of our approval of the application.

### **8. Map of Service Territory**

To be granted a CPCN for authority to provide competitive local exchange service, an applicant must provide a map of the service territories it proposes to serve.<sup>11</sup> In its application, Vesta provided a map of the location of its proposed service territory, in compliance with this requirement.

### **9. Rule 3.1(i) Statement**

Rule 3.1(i) sets forth the requirement that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding General Order (GO) 104-A, Section 2. Vesta states that it is not aware of any reportable matters pursuant to GO 104-A, Section 2 and that it therefore, has nothing to report under this rule.

On a going forward basis, though, Vesta must file all reports required of a public utility under Commission jurisdiction.

### **10. Expected Customer Base**

Vesta provided its estimated customer base for the first and fifth years of operation in Part 13 of its application. Therefore, Vesta has complied with this requirement.

### **11. Safety Considerations**

With the adoption of the *Safety Policy Statement of the California Public Utilities Commission* on July 10, 2014, the Commission has, among other things, heightened its focus on the potential safety implications of every proceeding. We

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<sup>11</sup> D.95-12-056 at Appendix C, Rule 4.E.

have considered the potential safety implications here. We are satisfied that Vesta will meet the Commission's minimum safety goals and expectations of CLECs because: (1) Vesta has taken steps to meet the financial requirements as set forth in this decision for a partial facilities-based CLEC, and (2) Vesta is a public utility that is required pursuant to Pub. Util. Code § 451 to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

## **12. Conclusion**

We conclude that Vesta's application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant Vesta a CPCN to provide competitive partial facilities-based and resold competitive local exchange telecommunications service in the service territories of Pacific Bell Telephone Company, Frontier of California Inc., Consolidated Communications of California Company, and Citizens Telecommunications Company of California and resold and partial facilities-based interexchange services on a statewide basis.

The CPCN granted by this decision provides benefits to Vesta and corresponding obligations. Vesta receives authority to operate in the prescribed service territory, and this authority enables Vesta, pursuant to § 251 of the 1934 Communications Act, as amended by the 1996 Telecommunications Act

(47 U.S.C. 251), to interconnect with telecommunications carriers.<sup>12</sup> This authority also enables Vesta to obtain access to public rights-of-way in California as set forth in D.98-10-058, subject to the CEQA requirements set forth in this decision.

In return, Vesta is obligated to comply with all Public Utilities Code provisions, Commission rules, General Orders, and decisions applicable to telephone corporations providing approved services. The applicable statutes, rules, GOs, and decisions include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, Vesta is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in Appendix B of this decision, to comply with CEQA, and to adhere to Pub. Util. Code § 451 which states that every public utility “...shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in § 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”

Vesta must obtain a performance bond of at least \$25,000 in accordance with D.13-05-035. The performance bond must be a continuous bond (*i.e.* there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its CPCN authority, Vesta must submit a Tier-1 advice letter to the Communications

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<sup>12</sup> The California Public Utilities Code uses the term “telephone corporation.” Its counterpart in federal law is a “telecommunications carrier.”

Division, containing a copy of the executed bond, and submit a Tier-1 advice letter annually, but not later than March 31, with a copy of the executed bond.

Vesta must not allow its performance bond to lapse during any period of its operation. Pursuant to D.13-05-035, the Commission may revoke a CPCN if Vesta is more than 120 days late in providing the Communications Division a copy of its executed performance bond and has not been granted an extension of time by the Director of the Communications Division.

The corporate identification number assigned to Vesta, U-7348-C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

### **13. Categorization and Need for Hearings**

In Resolution ALJ 176-3415 dated April 26, 2018, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were necessary. No protests were received. Since no protests were filed, it was determined that hearings were not necessary. This change to the preliminary determination was made in the Scoping Memo, issued on July 2, 2018, and is affirmed herein.

### **14. Comments on Draft Decision**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to § 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

### **15. Assignment of Proceeding**

Clifford Rechtschaffen is the assigned Commissioner and Gerald F. Kelly is the assigned ALJ.

### **Findings of Fact**

1. Notice of the application appeared on the Commission's Daily Calendar on March 30, 2018. No protests have been filed. A hearing is not required.

2. Vesta is a telephone corporation and a public utility as defined in Pub. Util. Code § 234(a) and § 216(a).

3. Vesta will not construct any facilities other than equipment to be installed in existing buildings or structures.

4. Vesta has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.

5. Vesta has sufficient additional cash or cash equivalent to cover deposits that may be required by other telephone corporations in order to provide the proposed service.

6. Vesta's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.

7. No one associated with or employed by Vesta as an affiliate, officer, director, partner, agent, or owner of more than 10 percent of Vesta has: (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000, *et seq.*, §§ 17200, *et seq.*, or §§ 17500, *et seq.*, of the California Business & Professions Code, or of any other statute,

regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general; or (i) been or is being investigated by the Federal Communications Commission or any law enforcement or regulatory agency for failure to comply with any law, rule or order.

8. Except for the deficiencies identified in Attachment A to this decision, Vesta's draft tariffs comply with the Commission's requirements.

9. Vesta provided a map of the location of its proposed service territory.

10. Vesta provided an estimate of its customer base for the first and fifth year of operation.

### **Conclusions of Law**

1. Vesta should be granted a CPCN to provide competitive partial facilities-based and resold competitive local exchange telecommunications service in the service territories of Pacific Bell Telephone Company, Frontier California, Consolidated Communications of California Company and Citizens Telecommunications Company of California, and resold and partial facilities-based interexchange service in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. Vesta should be granted competitive limited facilities-based authority and may not construct any facilities other than equipment to be installed in existing buildings or structures.

3. Vesta, once granted a CPCN, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

4. Vesta's initial tariff filing should correct the tariff deficiencies shown in Attachment A to this decision.

## **O R D E R**

### **IT IS ORDERED** that:

1. A Certificate of Public Convenience and Necessity is granted to Vesta Solutions, Inc. to provide competitive partial facilities-based and resold competitive local exchange telecommunications services in the territories of Pacific Bell Telephone Company, Frontier California, Consolidated Communications of California Company and Citizens Telecommunications Company of California and interexchange service in California, subject to the terms and conditions set forth below.

2. The utility identification number assigned to Vesta Solutions, Inc., U7348C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

3. Vesta Solutions, Inc.'s initial tariff filing shall correct the tariff deficiencies shown in Attachment A to this decision.

4. Vesta Solutions, Inc. must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this decision. Written acceptance filed in this docket does not reopen the proceeding.

5. The certificate granted by this decision will expire if not exercised within 12 months of the effective date of this decision.

6. Vesta Solutions, Inc. must notify the Director of the Communications Division in writing at [cdcompliance@cpuc.c.gov](mailto:cdcompliance@cpuc.c.gov) of the date that local exchange

service is first rendered to the public, no later than five days after service first begins

7. Vesta Solutions, Inc. must submit to the Communications Division through an Advice Letter tariff within 12 months of the effective date of this decision, or its certificate will be cancelled.

8. Vesta Solutions, Inc. (Vesta) must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Vesta must submit a Tier-1 advice letter to the Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 advice letter annually, but not later than March 31, with a copy of the executed bond.

9. Vesta Solutions, Inc. must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Director of the Communications Division.

10. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachment B, C, and D to this decision, Vesta Solutions, Inc. is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission Rules, decisions, General Orders, and statutes that pertain to California public utilities.

11. Vesta Solutions, Inc. must pay the public purpose surcharges specified in Attachment B, and the Combined California Public Utilities Commission Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.

12. Vesta must pay an annual minimum user fee of \$100 or 0.33 percent of gross intrastate revenue, whichever is greater. Under Public Utilities Code Section 405, carriers that are in default of reporting and submitting user fees for a period of 30 days or more will be subject to penalties including suspension or revocation of their authority to operate in California.

13. Prior to initiating service, Vesta Solutions, Inc. must provide the Commission's Consumer Affairs Branch with the name(s), address(es), and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name(s), address(es), or telephone number(s) change, or at least annually.

14. Prior to initiating service, Vesta Solutions, Inc. must provide the Commission's Communications Division with the name(s), address(es), and telephone number(s) of its designated regulatory/official contact person(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at <http://www.cpuc.ca.gov/communications>. This information must be updated if the name or telephone number changes, or at least annually.

15. Vesta Solutions, Inc. must submit an affiliate transaction report to the Director of the Communications Division at [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov), in compliance with Decision 93-02-019, on a calendar year basis using the form contained in Attachment D.

16. Vesta Solutions, Inc. must submit an annual report to the Director of the Communications Division at [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov), in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

17. Vesta Solutions, Inc. must not construct any facilities other than equipment installed in existing buildings or structures.

18. Application 18-03-013 is closed.

This order is effective today.

Dated July 26, 2018, at Sacramento, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners

**ATTACHMENT A**

List of deficiencies in tariff filed by Vesta Solutions. (U-7348-C) in A.18-03-013 to be corrected in its tariff compliance filing.

1. General Order 96-B Section 9.1.3 requires “A utility that serves California customers under tariffs shall provide a telephone number at which a caller may (1) ask questions regarding the utility's tariffs, (2) order copies of the tariffs, and (3) find out times and places at which the caller may inspect or copy the tariffs”. No company phone number listed; revise tariff to include contact phone number.
2. General Order 96-B Section 9.5.1 requires identifying “U” number of the utility. Revise tariff to include U-number.
3. General Order 96-B Section 9.5.6 states “if a utility has no such contract or other deviation then in effect, a statement of this fact shall be provided instead of this list.” Revise tariff to include either a list of contracts/deviations or a statement indicating there are none.
4. General Order 96-B Section 9.5.7 (4) statement “when a contract will be required for service” is missing. Revise tariff to include statement compatible with General Order 96-B Section 9.5.7 (4).
5. General Order 96-B Section 9.5.7 (6) “Establishment and Re-establishment of Credit” is missing. Revise tariff to include statement compatible with General Order 96-B Section 9.5.7 (6).
6. General Order. 96-B Sect. 9.5.7 (11) “Discontinuance and Restoration of Service”. Information is incomplete in tariff, revise the tariff to include requirements of General Order 96-B Sec 9.5.7 Rule 11 and include information compliant with D.95-07-054 App B, Rule 6 B 2.
7. General Order. 96-B Sect. 9.5.7 (12) requires “Information on Services and Promotional Offerings - How to get information on services (including types of services, rate plans, conditions on eligibility, other terms and conditions) and promotional offerings available from the utility. Rule shall include office hours, telephone number, and (if applicable) e-mail address for contacting utility with requests for such information”. Information is incomplete in tariff, revise the tariff to include requirements of General Order 96-B Sec 9.5.7 Rule 12.

8. D.95-07-054, App B, Rule 1 “CLC information required to be provided to applicant upon request”. Information is missing, revise tariff to include information compliant with D.95-07-054, App B, Rule 1.
9. D.95-07-054, App B, Rule 2, Initiation of Service must include “information regarding the Universal Lifeline program and its availability”. Revise tariff to include information compliant with D.95-07-054, App B, Rule 2.
10. D.95-07-054, App B, Rule 4 (credit establishment) is missing. Revise the tariff to include language compliant with D.95-07-054, App B, Rule 4.
11. D.95-07-054, App B, Rule 5 (deposits and interest on deposits). CLC tariff says that company does not collect deposits. Revise tariff to be compliant with D.95-07-054, App B, Rule 5.
12. D.95-07-054, App B, Rule 9 requires that the tariff include language regarding bills past due. Revise the tariff to include language compliant with D.95-07-054, App B, Rule 9.
13. D.95-07-054, App B, Rule 10 requires that the tariff include language regarding discontinuance of service. Revise the tariff to include language compliant with D.95-07-054, App B, Rule 10.
14. D.95-07-054, App B, Rule 10C states that for “residence services disconnected for nonpayment, the CLC must continue to provide access to 911 services to the customer”. Revise the tariff to include language compliant with D.95-07-054, App B, Rule 10C.
15. D.95-07-054, App B, Rule 12 refers to rules regarding establishment of credit or payment of deposit; information is missing from tariff. Revise the tariff to include language compliant with D.95-07-054, App B, Rule 12.
16. D.95-12-057 OP 16 Liability of CLC - CLC must adopt either Pacific/ATT or GTEC/Verizon language. Maximum liability of \$10K. This is missing from tariff, revise tariff to include this information.
17. D.96-10-066 App B. 4.B.10 & 11 require both a free directory listing and free copy of white pages directory. Tariff is missing the “directory listing” component. Revise tariff to comply with section 10 of D.96-10-066 App B. 4.B.

18. Non-published service is referenced in the Definitions section (1.4.38) but is not included as a tariff item. Revise tariff to include non-published number information in compliance with D.96-02-072 Appendix E.8.J.
19. General Order 153 Section 3.3 requires that the tariff contain language regarding filings of Universal Lifeline Telephone Service (ULTS) Offerings. Revise tariff to include language compliant with G.O. 153 Section. 3.3.
20. D.95-07-054 App A, Section E.7 requires that CLCs file tariffs in accordance with PU Code 876 (file a schedule of rates and charges providing a class of lifeline telephone service). Revise tariff to include language compliant with D. 95-07-054 App. A Section E.7.
21. Resolution T-16901 requires that the tariff contain language regarding surcharges and taxes. Revise the tariff to reflect current surcharge and user fee information listed on the CPUC's website (<http://www.cpuc.ca.gov/General.aspx?id=1124>).

**(END OF ATTACHMENT A)**

**ATTACHMENT B**

**REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS**

1. Applicant must file, in this docket with reference to this decision number,<sup>13</sup> a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.
2. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months of the date of this decision.
3. Applicant is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in Exhibit E to Decision (D.) 00-10-028, the Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.
  - a. The Universal Lifeline Telephone Service Trust Administrative Committee Fund (Pub. Util. Code § 879);
  - b. The California Relay Service and Communications Devices Fund (Pub. Util. Code § 2881; D.98-12-073);
  - c. The California High Cost Fund-A (Pub. Util. Code § 739.3; D.96-10-066, at 3-4, App. B, Rule 1.C);
  - d. The California High Cost Fund-B (D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);
  - e. The California Advanced Services Fund (D.07-12-054);
  - f. The California Teleconnect Fund (D.96-10-066, at 88, App. B, Rule 8.G).

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<sup>13</sup> Written acceptance filed in this docket does not reopen the proceeding.

- g. The User Fee provided in Pub. Util. Code §§ 431-435. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (dba AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. Current and historical surcharge rates can be found at <http://www.cpuc.ca.gov/General.aspx?id=1124>.

- i. Carriers must report and remit CPUC telephone program surcharges online using the CPUC Telecommunications and User Fees Filing System (TUFFS). Information and instructions for online reporting and payment of surcharges are available at <http://www.cpuc.ca.gov/General.aspx?id=1010>. To request a user ID and password for TUFFS online filing and for questions, please e-mail [Telco\\_surcharges@cpuc.ca.gov](mailto:Telco_surcharges@cpuc.ca.gov).
- ii. Carriers must submit and pay the PUC User Fee (see Item 3.g above) upon receiving the User Fee statement sent by the Commission. Instructions for reporting and filing are available at <http://www.cpuc.ca.gov/General.aspx?id=1009>. Please call (415) 703-2470 for questions regarding User Fee reporting and payment.

4. If Applicant is a competitive local exchange carrier (CLC), the effectiveness of its future tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

5. If Applicant is a non-dominant interexchange carrier (NDIEC), the effectiveness of its future NDIEC tariffs is subject to the requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

6. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in Item 3 above.

7. Applicant must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (i.e., there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Applicant must submit a Tier-1 advice letter to the Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 advice letter annually, but not later than March 31, with a copy of the executed bond.

8. Applicant must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Director of the Communications Division.

9. Applicants providing local exchange service must submit to the Communications Division a service area map as part of their initial tariff.

10. Prior to initiating service, Applicant must provide the Commission's Consumer Affairs Branch with the name(s), address(es), and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name or telephone number changes, or at least annually.

11. In addition, Applicant must provide the Commission's Communications Division with the name(s), address(es), and telephone number(s) of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at <http://www.cpuc.ca.gov/communications>. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually.

12. Applicant must notify the Director of the Communications Division in writing at [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov), no later than five days after service first begins, of the date that local exchange service is first rendered to the public.

13. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.

14. In the event Applicant's books and records are required for inspection by the Commission or its staff, it must either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to its office.

15. Applicant must submit an annual report to the Director of the Communications Division at [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov), in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

16. Applicant must submit an affiliate transaction report to the Director of the Communications Division at [cdcompliance@cpuc.ca.gov](mailto:cdcompliance@cpuc.ca.gov), in compliance with D.93-02-019, on a calendar-year basis using the form contained in Attachment D.

17. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

18. Within 60 days of the effective date of this order, Applicant must comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Communications Division in writing at [cdcompliance@cpuc.c.gov](mailto:cdcompliance@cpuc.c.gov) of its compliance.

19. If Applicant is 90 days or more late in submitting an annual report, or in remitting the surcharges and fee listed in #3 above, and has not received written permission from the Communications Division to file or remit late, the Communications Division must prepare for Commission consideration a resolution that revokes Applicant's CPCN.

20. Applicant is exempt from Rule 3.1(b) of the Commission Rules of Practice and Procedure

21. Applicant is exempt from Pub. Util. Code §§ 816-830.

22. Applicant is exempt from the requirements of Pub. Util. Code § 851 for the transfer or encumbrance of property whenever such transfer or encumbrance serves to secure debt.

23. If Applicant decides to discontinue service or file for bankruptcy, it must immediately notify the Communications Division's Bankruptcy Coordinator.

24. Applicant must send a copy of this decision to concerned local permitting agencies no later than 30 days from the date of this order.

**(END OF ATTACHMENT B)**

## ATTACHMENT C

### ANNUAL REPORT

An original and a machine readable, copy using Microsoft Word or compatible format must be submitted to the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than March 31st of the year following the calendar year for which the annual report is submitted.

Failure to submit this information on time may result in a penalty as provided for in Pub. Util. Code §§ 2107 and 2108.

Required information:

1. Exact legal name and U # of the reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (*e.g.*, corporation, partnership, sole proprietorship, etc.).

If incorporated, specify:

- a. Date of filing articles of incorporation with the Secretary of State.
  - b. State in which incorporated.
6. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
  7. Date operations were begun.
  8. Description of other business activities in which the utility is engaged.
  9. List of all affiliated companies and their relationship to the utility. State if affiliate is a:
    - a. Regulated public utility.
    - b. Publicly held corporation.

10. Balance sheet as of December 31st of the year for which information is submitted.
11. Income statement for California operations for the calendar year for which information is submitted.
12. Cash Flow statement as of December 31<sup>st</sup> of the calendar year for which information is submitted, for California operations only.

For answers to any questions concerning this report, call (415) 703-2883.

**(END OF ATTACHMENT C)**

## ATTACHMENT D

### CALENDAR YEAR AFFILIATE TRANSACTION REPORT

**An original and a machine readable, copy using Microsoft Word and Excel, or compatible format must be submitted to with the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than May 1st of the year following the calendar year for which the annual report is submitted.**

1. Each utility must list and provide the following information for each affiliated entity and regulated subsidiary that the utility had during the period covered by the Annual Affiliate Transaction Report.

- Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
- Brief description of business activities engaged in;
- Relationship to the utility (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
- Ownership of the utility (including type and percent ownership)
- Voting rights held by the utility and percent; and
- Corporate officers.

2. The utility must prepare and submit a corporate organization chart showing any and all corporate relationships between the utility and its affiliated entities and regulated subsidiaries in #1 above. The chart must have the controlling corporation (if any) at the top of the chart, the utility and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart, and all secondary subsidiaries and affiliates (*e.g.*, a subsidiary that in

turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary must be clearly noted.

3. For a utility that has individuals who are classified as “controlling corporations” of the competitive utility, the utility must only report under the requirements of #1 and #2 above any affiliated entity that either (a) is a public utility or (b) transacts any business with the utility filing the annual report excluding the provision of tariff services.

4. Each annual report must be signed by a corporate officer of the utility stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

5. Any required material that a utility is unable to provide must be reasonably described and the reasons the data cannot be obtained, as well as the efforts expended to obtain the information, must be set forth in the utility’s Annual Affiliate Transaction Report and verified in accordance with Section I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must submit, in lieu of the annual transaction report, an annual statement to the Commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

**(END OF ATTACHMENT D)**