

Decision No. C14-1362

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0948T

IN THE MATTER OF APPLICATION FILED BY TALK AMERICA SERVICES, LLC FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES AND FOR A LETTER OF RESIGTRATION TO PROVIDE EMERGING COMPETITIVE TELECOMMUNICATIONS SERVICES.

**DECISION GRANTING
APPLICATION WITH CONDITIONS**

Mailed Date: November 14, 2014
Adopted Date: November 12, 2014

I. BY THE COMMISSION

A. Statement

1. On September 19, 2014, Talk America Services, LLC (TAS), filed an Application for a Certificate of Public Convenience and Necessity (CPCN) to provide local exchange telecommunications and bundled services to residential customers and a Letter of Registration to provide emerging competitive telecommunications services pursuant to Rule 2103 of the Rules Regulating Telecommunications Providers, Services, and Products, 4 *Code of Colorado Regulations* 723-2.

2. TAS is a newly created company that is unable to provide audited financial information. TAS will be funded through new debt to be issued in the public markets.

3. On October 3, 2014, PAETEC Communications, Inc.; McLeodUSA Telecommunications Services, LLC; Talk America, Inc. (TAI); Windstream Communications, Inc. (WCI), Windstream Norlight, Inc., Windstream NTI, Inc., Windstream NuVox, Inc.,

(collectively, Windstream Companies); and TAS filed an application to execute a transfer of residential customers to TAS in Colorado, in related pending Proceeding No. 14A-1000T.

4. On October 8, 2014, in response to a letter sent by the Staff of the Commission, TAS submitted a supplement to its CPCN application that also included a statement that it agrees to provide financial assurance as a condition of obtaining its telecommunications authority. TAS will resell local, toll, and broadband services through a resale agreement with the Windstream Companies including WCI.

5. On October 15, 2014, in response to additional questions asked by the Staff of the Commission, TAS identified 1,633 residential customers that will be transferred from the Windstream Companies.

B. Discussion

6. We find that the application contains all of the information required by applicable Commission rules and is therefore deemed complete.

7. No party has filed an intervention opposing the application. We therefore find that the application is unopposed and will consider it without a formal hearing pursuant to § 40-6-109(5), C.R.S.

8. Pursuant to § 40-15-503.5, C.R.S., the Commission may require a regulated telecommunications provider to post a bond or provide other security as a condition of obtaining a certificate, registration, or operating authority. Commission Staff reviewed the financial information provided in the application and identified specific concerns regarding the financial information provided by the applicant. We agree with these concerns and determine that financial assurance in the form of either a bond or a letter of credit shall be required to be posted with the Commission under the terms and conditions specified in the Attachments to this Decision.

9. We find that TAS's application is consistent with the legislative policy statements contained in §§ 40-15-101, 40-15-501, and 40-15-502, C.R.S., and is not contrary to the public interest. Therefore, we grant TAS's application for a CPCN to provide local exchange telecommunications services.

10. Before providing local exchange telecommunications services TAS must: (1) have effective tariffs for its services on file with the Commission; (2) file a bond or letter of credit consistent with the terms and conditions in the Attachments to this Decision; and (3) comply with all statutory and regulatory requirements applicable to telecommunications providers pursuant to Rule 2103(a)(XV).

II. ORDER

A. The Commission Orders That:

1. The application filed on September 19, 2014, by Talk America Services, LLC (TAS) is deemed complete.

2. TAS is granted a Certificate of Public Convenience and Necessity (CPCN) to provide local exchange telecommunications services with the conditions included herein. A detailed description of the applicant's service territory will be delineated in the exchange maps or maps incorporated by reference and the local calling areas in the TAS tariff.

3. The TAS local exchange telecommunications services will be regulated according to the regulatory scheme it selected under Rule 2203(d), 4 *Code of Colorado Regulations* 723-2, Option 2.

4. TAS is granted a Letter of Registration (LOR) to provide the following emerging competitive telecommunications services throughout Colorado: Advance Features; Premium Services; and IntraLATA Toll.

5. TAS shall serve customers in its service territory on a non-discriminatory basis. “Service territory” shall be defined as that portion of Colorado included in the local exchange maps provided or incorporated by reference in the applicant’s tariff. However, TAS shall not be required to extend service to customers where the underlying facilities-based provider has no facilities.

6. Before commencing operations under this CPCN to provide local exchange telecommunications services or LOR to provide emerging competitive telecommunications services, TAS shall file an Advice Letter and accompanying tariff, on not less than 30 days’ notice, to be effective within 1 year from the Mailed Date of this Decision. The proposed tariff shall contain all the information required under Rule 2122. TAS may also file a separate price list in addition to its proposed tariff under Rule 2123.

7. If TAS fails to file an Advice Letter and accompanying proposed tariff that is effective within one year from the Mailed Date of this Decision, this CPCN to provide local exchange telecommunications services shall be deemed null and void without further action of the Commission. For good cause shown, and if a proper request is filed within one year of the Mailed Date of this Decision, the Commission may grant TAS additional time within which to file a tariff.

8. Concurrent with the filing of an Advice Letter and accompanying tariff, TAS shall file a bond or letter of credit consistent with the terms and conditions attached to this Decision.

9. In accordance with the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, TAS will be required to maintain its books of accounts and records using Generally Accepted Accounting Principles.

10. Consistent with terms and conditions established in previous Commission decisions, TAS will be required to contribute for all of its intraLATA services, to the

Public Utilities Commission’s Fixed Utilities Fund, the Colorado High Cost Support Mechanism, the 911 Fund, the Telephone Relay Service Fund, and other financial support mechanisms that may be created in the future by the Commission to implement §§ 40-15-502(4) and (5), C.R.S.

11. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

12. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
November 12, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners