

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

Public Meeting held February 3, 2005

Commissioners Present:

Wendell F. Holland, Chairman
Robert K. Bloom, Vice Chairman
Glen R. Thomas
Kim Pizzingrilli

Application of Hotwire Communications, Ltd. for approval to offer, render, furnish or supply telecommunication services as a Reseller of Interexchange Toll Services to the Public in the Commonwealth of Pennsylvania.

Docket Number
A-311205

Application of Hotwire Communications, Ltd. for approval to offer, render, furnish or supply telecommunication services as a Competitive Local Exchange Carrier to the Public in the Commonwealth of Pennsylvania.

Docket Number
A-311205F0002

Application of Hotwire Communications, Ltd. for approval to offer, render, furnish or supply telecommunication services as a Competitive Access Provider to the Public in the Commonwealth of Pennsylvania.

Docket Number
A-311205F0003

Application of Hotwire Communications, Ltd. for approval to offer, render, furnish or supply telecommunication services as a Facilities-based Interexchange Toll Services Carrier to the Public in the Commonwealth of Pennsylvania

Docket Number
A-311205F0004

ORDER

BY THE COMMISSION:

On July 12, 2002, Hotwire Communications, Ltd. (“Hotwire” or “Applicant”) filed an Application seeking Certificates of Public Convenience pursuant to the Telecommunications Act of 1996, 47 U.S.C. §§201, *et seq.*, (TA-96)¹ and to Chapter 11 of the Public Utility Code (Code) (66 Pa. C.S. §1101, *et seq.*) evidencing authority to provide the following telecommunication services to the public in the Commonwealth of Pennsylvania:

- (1) As a Reseller of intra and interLATA Interexchange Toll Services (IXC) throughout the Commonwealth of Pennsylvania,
- (2) As a Competitive Local Exchange Carrier (CLEC) in the service territories of Verizon Pennsylvania and Sprint/United Telephone Companies within the Commonwealth of Pennsylvania,
- (3) As a Competitive Access Provider (CAP) throughout the Commonwealth of Pennsylvania, and
- (4) As a Facilities-based intra and interLATA Interexchange toll services Carrier (IXC) throughout the Commonwealth of Pennsylvania.

The Applicant complied with notice requirements set forth in our Implementation Orders² by serving a copy of its application upon Verizon Pennsylvania Inc., and Sprint/United Telephone Company of Pennsylvania. No protests were filed. No hearings were held.

¹ Market entry requirements, in light of the policy objectives of the TA-96, for telecommunication service providers are set out in *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).

² *Id.*

The Applicant is a Pennsylvania Corporation with its principal place of business at 300 E. Lancaster Ave, Suite 208, Wynnewood, PA 19096, Telephone (610) 642-9767, and fax (610) 642-9812. Correspondence to resolve complaints may be directed to Ms. Diane Teti, at company headquarters; Phone (610) 642-9767 Ext. 116. The Applicant complied with 15 Pa. C.S. §8511, relating to a Domestic limited partnership. The Applicant will not be using a fictitious name. 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.

The Applicant has no affiliates doing business in Pennsylvania or predecessors which have done business in Pennsylvania. Furthermore, the Applicant has been doing business in Pennsylvania as a public utility under Provisional Authority since July 2002.

The Applicant offers basic local and toll telecommunications services and other local exchange services inclusive of various vertical services and features. Proposed tariffs accompanied the Application for IXC and CLEC authorities, including a Switched Access Tariff. However, the Applicant failed to include a proposed tariff for its CAP services. Therefore, provisional CAP authority shall be revoked until the Applicant complies with the filing of an Initial CAP Tariff. The Applicant may continue through the process to receive a certificate without provisional authority.

Issues affecting CLECs have been addressed and are being addressed in a number of Commission proceedings.³ A CLEC Applicant is expected to adhere to the

³ See, e.g., *MFS, Intelenet, et al.*, Docket Nos. A-310203, F0002, *et al.*, (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.

requirements relative to Commission Orders, as initially set forth or as subsequently enlarged or modified.⁴ Also, per federal rules, CLECs are required to ensure the efficient usage of their numbering resources and are required to semi-annually report 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 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 6 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 safeguard the rights of consumers. In response, we articulated explicit concerns relative to an applicant's financial fitness, tariff compliance, and rates.⁵

The Commission requires that Applicants seeking to provide local telecommunications services in Pennsylvania take steps to protect the public safety of consumers.⁶ One means of ensuring the public safety of consumers in the increasingly competitive telecommunications marketplace is to ensure that new entrants provide their

⁴ *Universal Service Invest.*, Docket No. I-00940035 (January 28, 1997).

⁵ *Blue Ribbon*, Docket No. A-310442 (April 25 and August 4, 1997).

⁶ See 47 U.S.C. §253(b)

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 where it intends to provide CLEC telecommunications service and made the necessary arrangements for the provisioning of emergency 911 service.

Prior to approving an application for authority to provide local telecommunications services in Pennsylvania, the Commission seeks to ensure the financial fitness of the Applicant. In this case, the Applicant was asked on September 28, 2004, to provide upgraded financial information to support its Application. We therefore conclude, based on the latest financial data received January 4, 2005, that the Applicant has demonstrated that it is financially capable of providing telecommunication services as a CLEC, an IXC reseller, a CAP, and a facilities-based IXC carrier. Nonetheless, the Applicant's provisional CAP authority shall be revoked until the Applicant complies with the filing of an Initial Cap Tariff.

We conclude that the Applicant has met the requirements for certification as a CLEC, an IXC Reseller, a CAP⁷, and as a facilities-based IXC, consistent with this Order. Premised upon our review of the Applications 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. We note, however deficiencies in the proposed tariffs. See Appendix A.

⁷ CAP authority may not be used to access the Public Switched Network or toll calling. If a utility with CAP authority wishes to provide access to the Public Switched Network or to provide local or IXC (intraLATA or interLATA) calling services to its customers, the utility must also have been granted CLEC and/or IXC authority by this Commission. Nonetheless, the Applicant's provisional CAP authority shall be revoked until the Applicant complies with the filing of an Initial Cap Tariff.

We shall direct the Applicant to revise the proposed tariffs in accordance with the changes noted in Appendix A of this Order.⁸ The Applicant shall thereafter file its Initial Tariffs reflecting the requested changes on or before sixty (60) days from the date of entry of this Order. Copies of the Initial Tariffs shall also be served upon the same entities receiving service of the original Application(s), 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 Tariffs are not filed within 60 days (120 days including the extension) of the entry of this Order, the Applications will be dismissed and the authority granted herein will be revoked without further Commission Order. To the extent that the proposed tariffs contain rates, the Initial Tariffs may become effective on one (1) day's notice from the date upon which they are filed and served.

Conclusion

Accordingly, we shall grant the Applications. The Applicant has had provisional authority under our *Implementation Order* (p. 7, para. B.1.c.4) and our *Implementation Reconsideration Order* (p. 5) to provide the proposed IXC reseller, CLEC, CAP and facilities-based IXC services pursuant to its proposed tariffs during the pendency of the application process. Nonetheless, the Applicant's provisional CAP authority shall be revoked until the Applicant complies with the filing of an Initial Cap Tariff. Upon the establishment of filed rates and the approval of the Initial Tariffs, a Certificate of Public Convenience shall be issued evidencing the Applicant's authority to provide services as an IXC and as a CAP in the Commonwealth of Pennsylvania, and as a CLEC in the

⁸ [John Matchik, 717-783-6163](mailto:John.Matchik@puc.pa.gov), is the contact in the PUC's Bureau of Fixed Utility Services. 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. (52 Pa. Code §64.213).

service territories of Verizon Pennsylvania Inc., and Sprint/United Telephone Company of Pennsylvania, consistent with this Order and our decisions in the *MFS* and such other proceedings; **THEREFORE,**

IT IS ORDERED:

1. That the Application of Hotwire Communications, Ltd. at Docket No. A-311205, for authority to operate as a Reseller of Interexchange Toll Services throughout the Commonwealth of Pennsylvania is granted, consistent with this Order.

2. That the Application of Hotwire Communications, Ltd. at Docket No. A-311205F0002, for authority to operate as a Competitive Local Exchange Carrier within the service territories of Verizon Pennsylvania, Inc., and Sprint/United Telephone Company of Pennsylvania is granted, consistent with this Order.

3. That the Application of Hotwire Communications, Ltd. at Docket No. A-311205F0003, for authority to operate as a Competitive Access Provider throughout the Commonwealth of Pennsylvania is granted, consistent with this Order. However, pending the filing of its Initial CAP Tariff, the Company's provisional CAP Authority is hereby revoked.

4. That the Application of Hotwire Communications, Ltd. at Docket No. A-311205F0004 for authority to operate as a Facilities-based Interexchange Toll Services Carrier throughout the Commonwealth of Pennsylvania is granted, consistent with this Order.

5. That the Applicant is directed to revise its proposed tariffs to reflect the changes noted in Appendix A of this Order. **The Applicant is directed to identify any changes made to the proposed initial tariffs that are in addition to the changes noted in Appendix A.**

6. That the Applicant shall file its Initial Tariffs consistent with the requisite changes noted in Appendix A of this Order, within sixty (60) days after the date of entry of this Order. The Applicant shall serve copies of its Initial Tariffs on each Commonwealth of Pennsylvania agency receiving a copy of the original Applications and also the competing incumbents Verizon Pennsylvania, Inc. and Sprint/United Telephone Company of Pennsylvania. The Initial Tariffs may become effective on or after one (1) day's notice from the date upon which they are filed and served. The Initial Interexchange Tariff shall be labeled "Interexchange Facilities-based and Reseller Toll Tariff." The Initial Competitive Local Exchange Carrier Tariff shall be labeled "Competitive Local Exchange Carrier Tariff." The Initial Switched Access Tariff shall be labeled "Competitive Local Exchange Carrier Switched Access Tariff". The Initial Competitive Access Provider Tariff shall reflect on its face that it is a "Competitive Access Provider Tariff."

7. 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: the *MFS Intelenet, et al.*, Docket Nos. A-310203F0002, *et al.*; the *Universal Service Investigation*, Docket No. I-00940035; the *Global Order*, Docket No. P-00991648, *et al.*, and the *NXX Code Reclamation*, Docket No. M-00001373.

8. That if the Applicant expands its local service into new counties in its currently authorized area of Verizon Pennsylvania, Inc. and Sprint/United Telephone Company of Pennsylvania, the Applicant shall contact the appropriate 911 coordinators via certified letter, complete an Application for 911 Service for each, and provide the service list to said 911 coordinators with its tariff revisions as verification that arrangements are underway for the provisioning of Emergency 911 service in the additional exchanges.

9. That if the Applicant should desire to expand its Competitive Local Exchange Carrier service territory to that of additional incumbent local exchange carriers, Applicant shall file an Application to amend its Certificate of Public Convenience and comply with all the requirements of the Application including the completion of the affidavit and requirements thereto concerning Emergency 911 service.

10. 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.

11. That the Applicant maintain separate accounting systems for its IXC, CLEC and CAP operations.

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

13. 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 Commission's Order entered on February 4, 2000 at Docket No. M-00900239.

14. 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 Applications at Docket Nos. A-311205, A-311205F0002, A-311205F0003, and A-311205F0004 may be dismissed and the authority granted herein revoked without further Commission Order.

15. That upon the establishment of filed rates and the approval of the Initial Tariffs, a Certificates of Public Convenience shall be issued authorizing the Applicant to furnish services as a Reseller of Interexchange Toll Services within the Commonwealth

of Pennsylvania; to furnish services as a Competitive Local Exchange Carrier within the service territories of Verizon Pennsylvania Inc. and Sprint/United Telephone Company of Pennsylvania; to furnish services as a Competitive Access Provider within the Commonwealth of Pennsylvania; and to furnish services as a Facilities Based Interexchange Toll Services within the Commonwealth of Pennsylvania, consistent with this Order.

16. That changes and/or additions made to the approved, filed tariffs 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.____.

17. That the Applicant shall add its Pennsylvania tariffs to its website, if it has one. If the Applicant does not maintain a website, the PA Public Utility Commission will host its tariffs on the Commission's website.

- a. Within 30 days of the filing of its initial tariffs, the Applicant shall add the tariffs to its website and mark them “Pending.”
- b. Within 30 days of receipt of its Certificates 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 its tariffs on file with the Commission.
- c. The Applicant shall contact Cyndi Page (717-787-5722; cypage@state.pa.us) of the Commission’s Communications Office, to create a link from the Commission’s website to the Applicant’s website.

- d. If the Applicant does not maintain a website, the Applicant shall contact Cyndi Page to have its tariffs added to the Commission's website and to update the tariffs upon subsequent approval of supplemental revisions to the tariffs.

18. 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.

BY THE COMMISSION,

James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: February 3, 2005

ORDER ENTERED: February 4, 2005

HOTWIRE COMMUNICATIONS, LTD.

Docket Nos. A- 311205; A-311205F0002; A-311205F0003; A-311205F0004

Proposed tariff for Reseller and Facilities-based Interexchange Carrier Services;
Proposed tariffs for Reseller and Facilities Based Competitive Local Exchange Carrier including
Switched Access services;
And Proposed tariff for Competitive Access Provider

Hotwire Communications, Ltd. (Hotwire) is seeking a Certificate of Public Convenience to provide telecommunications services as delineated above. Hotwire filed proposed initial tariffs for CLEC with accompanying Switched Access service; and a proposed initial tariff for both IXC Reseller and Facilities-based services; however, the tariff for CAP services was not included with the original Application. The proposed tariffs contain certain deficiencies that are discussed herein. These deficiencies must be addressed by the Company before the tariffs can be approved and the Certificates of Public Convenience issued.

Please submit a copy of this Appendix with your revised compliance tariff. On that copy please note the page/sheet of the compliance tariff where the required revision is located for each item below.

Tariff deficiencies noted – IXC Reseller (A-311205) and IXC Facilities-based (A-311205F0004) – Tariff No. 2

1. The Title Page should read as follows:

REGULATIONS AND SCHEDULE OF CHARGES

Applicable to

INTEREXCHANGE RESELLER SERVICES

And

INTEREXCHANGE FACILITIES-BASED SERVICES

Provided by

Hotwire Communications Ltd.

P.O. Box 298

Wynnwood, PA 19096

Phone: (610) 642-8570

In

The Commonwealth of Pennsylvania

2. The type of service “IXC Reseller and Facilities-based” should be placed in the center of the upper margin of every tariff page.

3. The Issued Date in the lower left corner of every tariff page shall be the date the Initial tariff is filed.

4. The Effective Date in the lower right corner of every tariff page shall be on or one day after the date upon which the initial tariff is filed and served after the date upon which the initial tariff is filed and served.

Tariff deficiencies noted – CLEC Reseller/Facilities Based (A-311205F0002) – Tariff No. 1

1. The Title Page should read as follows listing either the appropriate counties to be served or a reference to a section within the Tariff that lists the counties to be served.

REGULATIONS AND SCHEDULE OF CHARGES

Applicable to

COMPETITIVE LOCAL EXCHANGE CARRIER SERVICES

Provided by
Hotwire Communications Ltd.
P.O. Box 298
Wynnwood, PA 19096
Phone: (610) 642-8570

In
The Commonwealth of Pennsylvania

In
The territories serviced by Verizon Pennsylvania Inc and Sprint/United Telephone Company of
Pennsylvania

2. The Issued Date in the lower left corner of every tariff page shall be the date the Initial tariff is filed.

3. The Effective Date in the lower right corner of every tariff page shall be on or one day after the date upon which the initial tariff is filed and served after the date upon which the initial tariff is filed and served.

4. In the Table of Contents, correct the page numbers to correspond with the actual pages in the Tariff.

5. Section 2.6.2 – Billing and Collection of Charges – Page 26 – Add another paragraph explaining that if the Customer is unable to resolve any dispute with the Company, then the Customer may file a complaint with the Bureau of Consumer Services of the Pennsylvania Public Utility Commission. The Bureau address is:

Bureau of Consumer Services
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pa. 17105 – 3265

The Bureau of Consumer Services’ Toll-Free Telephone Number is (800) 782-1110.

6. Section 2.6.2 – Billing – Page 23 – The Tariff should contain the following statement: “The Company complies with the requirements of Chapter 64 in Title 52 regarding billing standards and practices for residential customers. In instances where sections of this tariff may conflict with Chapter 64 regulations, the regulations of Chapter 64 will prevail.”

7. Section 2.6.4 – Deposits – Page 24 – Delete the last sentence that incorrectly reads “The Commission shall notify the Company in January of the interest rate prevailing for that year.”

8. Section 2.6.5 - Discontinuance of Service – Page 29 – Clarify that written notice must be provided a Customer at least seven (7) before a suspension (64.71 of 52 Pa. Code); and that termination can occur only after ten (10) days have passed since suspension of service (64.121 of 52 Pa. Code).

9. Section 6.5 – Pennsylvania Telecommunications Relay Service – Page 70 – Correct the Surcharge rates as follows:

Per residence access line, per month: from \$0.06 to \$0.07

Per business access line, per month: from \$0.12 to \$0.13

10. Section 8.6 – Lifeline Service – Pages 88 – 92 – Delete the “C” symbols in the margin since these initial pages are to be originals. Also on Page 90 – Item (k) – Use the Company name, Hotwire, in place of the word, “Company”.

11. Section 8.8 – Calling Area Maps – Page 93 – Provide a reference to whichever telephone company’s (ILEC’s) maps are applicable.

12. Bureau of Consumer Services of the Commission reference – Page 93 – Include the toll-free telephone number 1-800-782-1110.

13. General Statements – The tariff should contain the following statement: “Any portions of this tariff which are inconsistent with 52 Pa. Code will be deemed inoperative.”

Tariff deficiencies noted – Switched Access Tariff No. 3

1. The Title Page should include the territories to be served as follows:

REGULATIONS AND SCHEDULE OF CHARGES

Applicable to

ACCESS SERVICES ILLUSTRATIVE TARIFF

Provided by
Hotwire Communications Ltd.

P.O. Box 298
Wynnwood, PA 19096
Phone: (610) 642-8570

In
The Commonwealth of Pennsylvania

In
The territories serviced by Verizon Pennsylvania Inc and Sprint/United Telephone Company of
Pennsylvania

2. The Issued Date in the lower left corner of every tariff page shall be the date the Initial tariff is filed.

3. The Effective Date in the lower right corner of every tariff page shall be on or one day after the date upon which the initial tariff is filed and served after the date upon which the initial tariff is filed and served.

4. Explanation of Symbols – Original Sheet 5 – Use only the following symbols (53.22 of 52 Pa. Code):

| | | |
|--------|-------------------|-----|
| Symbol | Increase in rates | (I) |
| | Decrease in rates | (D) |
| | Change | (C) |

5. Section 1 - Definitions – Original Sheet 11 – Correct the acronym “VA SCC” to “PA PUC”.

6. Section 7 – Miscellaneous Charges – Item 7.1 – IntraLATA PIC Change Charge – Original Sheet 55 – As this item appears in the CLEC Tariff No. 1 on Page 78, the Company may delete it from either Tariff No. 1 or Tariff No. 3. However, if retained in Tariff No. 3, rates must be added.

Tariff deficiencies noted – CAP (A-311205F0003)

- 1. This Tariff was not included with the Application package. Therefore, it must be included as part of the compliance tariffs submittal.**