

7812.0300 LOCAL FACILITIES-BASED SERVICE CERTIFICATION.

Subpart 1. **Scope of certificate.** A certificate to provide local facilities-based service authorizes the provision of telecommunications services in Minnesota within the area identified in the applicant's petition. This includes authority to provide local service through the resale of a local exchange carrier's services, the purchase and recombination of a local exchange carrier's network elements, or the use of the local service provider's own facilities.

Subp. 2. **Filing requirements.** A petition for authority to provide local facilities-based service must include the following information:

A. the applicant's full legal name and address, including the address of the applicant's place of business; if a corporation, the names, addresses, telephone numbers, and business experience of its officers; if a partnership or limited liability partnership, the names, addresses, telephone numbers, and business experience of persons authorized to bind the partnership; or, if a limited liability company, the names, addresses, and telephone numbers of its managers;

B. a description of the applicant's organizational structure, including documentation identifying the petitioner's legal status, for example, sole proprietorship, partnership, limited liability partnership, company, limited liability company, corporation, and so forth; a copy of its articles of incorporation; and, a list of shareholders, partners, or members owning ten percent or more of the interest in the business;

C. a list of the applicant's affiliates, subsidiaries, and parent organizations, if any;

D. the nature of the applicant's business, including a list of the services it provides;

E. a description of the applicant's business history, including:

(1) the date the business was first organized, the dates of subsequent reorganizations, and the date the applicant started providing telephone or other telecommunications services; and

(2) the applicant's experience providing telephone company services or telecommunications services in Minnesota and other jurisdictions, including the types of services provided, the dates and nature of state or federal authorization to provide those services, the length of time it has provided those services, and pending or completed criminal, civil, or administrative action taken against the applicant by a state or federal authority, including any settlements, in connection with the applicant's provision of telephone company services or telecommunications services;

F. for the most recent fiscal year, a financial statement of the applicant, consisting of a balance sheet, an income statement, notes to the financial statement, and, if available, an annual report;

G. a list and description of the types of services the applicant seeks authority to offer:

(1) including the classes of customers the applicant intends to serve;

(2) indicating the extent to which it intends to provide service through use of its own facilities, the purchase of unbundled network elements, or resale;

(3) identifying the types of services it seeks authority to provide by reference to the general nature of the service, for example, voice, custom calling, signaling, information, data, and video; and

(4) listing the technology that will be used to deliver the service, for example, fiber-optic cable, digital switches, or radio;

H. a proposed price list or tariff setting forth the rates, terms, and conditions of each service offering, unless the applicant is seeking a conditional certificate under subpart 4 and has not yet developed the information listed in this item;

I. a service area map providing the information required under part 7810.0500, subpart 2, and narrative description of the area for which the applicant is seeking certification, except that if the applicant does not have the necessary agreements or tariffs to serve the entire area for which certification is sought, a map providing the information required under part 7810.0500, subpart 2, and a narrative delineating specifically those areas in which the applicant is currently prepared to provide service;

J. the date by which the applicant expects to offer local service to the entire service area for which the applicant is seeking certification, including the applicant's estimated timetable for providing at least some of its services through use of its own network facilities;

K. a description of the applicant's policies, personnel, and equipment or arrangements for customer service and equipment maintenance, including information demonstrating the applicant's ability to respond to customer complaints and inquiries promptly and to perform maintenance necessary to ensure compliance with the quality requirements set forth in the commission's rules;

L. a copy of the applicant's certificate to conduct business from the Minnesota Secretary of State;

M. a description of the applicant's facilities and the location or proposed location of those facilities; and

N. other information needed to demonstrate that the applicant has the managerial, technical, and financial ability to provide the services it intends to offer consistent with the requirements of this chapter and applicable law.

Subp. 3. **Decision criteria.** A certificate to provide local facilities-based service must not be granted unless the applicant establishes that it has the financial, technical, and managerial capability to provide the services described in its petition consistent with the public interest, including the requirements of this chapter, Minnesota Statutes, section 237.16, and all other applicable laws, rules, and commission orders. The decision to grant a certificate under this part must be based on the following criteria:

A. the applicant's experience providing telecommunications service in Minnesota or other jurisdictions, including the extent to which that experience is comparable to the service plans outlined in the certification petition;

B. the applicant's personnel, staffing, equipment, and procedures, including the extent to which these are adequate to ensure compliance with the commission's rules and orders relating to service requirements, service quality, customer service, engineering, accounting, and other relevant areas;

C. the extent to which the applicant has had any civil, criminal, or administrative action taken against it in connection with the applicant's provision of telecommunications services;

D. the applicant's cash reserves and the extent to which those reserves or cash equivalent are adequate to meet the petitioner's start-up costs and expenses;

E. the applicant's business or owner equity, which must be positive;

F. the nature and location of the applicant's proposed or existing facilities, including the extent to which those facilities are capable of providing the services identified in the applicant's filing under this part;

G. the applicant's plan and facilities for receiving and responding to customer inquiries and complaints, which must include a toll-free telephone number giving customers access to the applicant's place of business during regular business hours; and

H. any other factors relevant to determining the applicant's technical, managerial, and financial capability to provide the reasonably adequate services, as described in its petition, consistent with the public interest, including the requirements of this chapter, Minnesota Statutes, section 237.16, and all other applicable laws, rules, and commission orders.

Subp. 4. **Conditional certificate.** The commission may grant a conditional certificate pending submittal and commission approval of the tariffs and intercompany agreements necessary for providing the services contemplated in the applicant's petition

for certification. The filings necessary to make the conditional certificate operational must include any related changes to every service area map filed under subpart 2, item I. The maps must distinguish clearly between operational areas and nonoperational areas. Failure to offer service in the nonoperational areas by the deadline under part 7812.0200, subpart 4, results in the automatic revocation of the local service provider's certificate with respect to those nonoperational areas as provided in part 7812.0200, subparts 4 and 5.

Subp. 5. **Amended certificate for change in service area.** A local service provider (LSP) shall not provide local service in an area for which it does not have a valid certificate under this part or acquire ownership or control of another LSP without first obtaining an amended certificate from the commission applicable to the area into which the LSP proposes to expand. A petition to modify a local service provider's service area must include a revised map and descriptive narrative as provided in subpart 2, item I, indicating the petitioner's proposed service area changes. The petition must be served on the parties identified in part 7812.0200, subpart 6. An amended certificate under this subpart is deemed approved within 20 days of the petition's service date unless:

A. the petition involves an acquisition under Minnesota Statutes, section 237.23, in which case a certificate must not be granted until the acquisition is approved under that section; or

B. an objection to the petition is filed within 20 days of the petition's service date, in which case the commission shall determine whether to grant the petition in an expedited proceeding under Minnesota Statutes, section 237.61. An objection must identify the reasons for opposing the petition, including a statement of why the proposed service area revisions would not be consistent with the public interest.

When an objection is filed under item B, the petitioner has the burden of proving that it has the technical, managerial, and financial resources to provide local service in the service area into which it proposes to expand, consistent with this chapter and applicable rules, commission orders, and laws.

Subp. 6. **Changes in terms and conditions.** An LSP shall file and obtain approval of tariffs to reflect any changes in terms and conditions of service. The LSP filing for a tariff change under this subpart shall demonstrate that the change is consistent with the provider's certificate and applicable commission orders, rules, or laws.

Statutory Authority: *MS s 216A.05; 237.10; 237.16*

History: *22 SR 46*

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