

Instructions for the Application for a Communications Service Provider (CSP) Certificate of Territorial Authority and for a Notice of Change

Pursuant to I.C. 8-1-32.5, a Communications Service Provider that seeks to offer communications service to Indiana customers after June 30, 2009, must apply to the IURC for a certificate of territorial authority.

Definitions

Communications service provider (I.C. 8-1-32.5-4): A person or entity that offers communications service to customers in Indiana, without regard to the technology or medium used by the person or entity to provide the communications service. The term includes a provider of Commercial Mobile Radio service (CMRS) as defined in 47 U.S.C. 332.

Communications Service (I.C. 8-1-32.5-3) refers to any of the following:

- (1) Telecommunications service as defined in 47 U.S.C. 153(46)
- (2) Information service as defined in 47 U.S.C. 153(20).

The term includes:

- (1) Video service
- (2) Broadband service
- (3) Advanced services
- (4) Internet protocol enabled service

A communications service provider that has an existing Certificate of Territorial Authority (CTA), a Certificate of Franchise Authority (CFA), or a certificate of public convenience and necessity issued before July 1, 2009, and in effect on July 1, 2009, is not required to submit an application under this section for as long as the certificate remains in effect. However, if the CSP provides or plans to provide communications services, as defined above, other than those for which it holds an existing CTA, it should file with the IURC a Notice of Change updating the CTA. The Notice of Change should include the required information regarding the other service(s). (See Notice of Change Procedures on page 3 of this document.)

Exception

Pursuant to I.C. 8-1-32.5-6(e), a CSP that is only offering a service(s) described in I.C. 8-1-2.6-1.1 is only required to report and certify the accuracy of some of the information requested in this form. Not all portions of the form are applicable to such a CSP.

The following services are “described in I.C. 8-1-2.6-1.1”:

- (1) advanced services (as defined in 47 CFR 51.5);
- (2) broadband service, however defined or classified by the Federal Communications Commission;
- (3) information service (as defined in 47 U.S.C. 153(20));
- (4) Internet Protocol enabled retail services:
 - (A) regardless of how the service is classified by the Federal Communications Commission; and
 - (B) except as expressly permitted under I.C. 8-1-2.8;
- (5) commercial mobile service (as defined in 47 U.S.C. 332); or
- (6) any service not commercially available on March 28, 2006.

Providers offering ONLY a service(s) described in I.C. 8-1-2.6-1.1:

DO NOT have to complete the following sections:

- Part II •Part IV.2.a •Part IV.2.b
- Some portions of Part VI may also not apply.

ARE REQUIRED to complete the following sections, unless otherwise noted:

- Part I.A •Part I.D •Part IV.1
- Part I.B •Part I.E. •Part IV.3
- Part I.C •Part III •Part V
- Selected portions of Part VI

Requirements for the CSP CTA Application

An Application can be obtained from the IURC's website at <http://www.in.gov/iurc/2400.htm> and must include:

- complete responses to the questions on the application form (I.C. 8-1-32.5-8);
- a copy of the Applicant's Certificate of Authority from the Indiana Secretary of State, authorizing the applicant to do business within the State of Indiana. (A tax statement or other documentation from the Indiana Department of Revenue is *not acceptable*.)
 - Applicants that are units of a municipal government, or are owned by a municipal government entity, may submit their local authorizing ordinance in lieu of the Secretary of State's Certificate of Authority.
- the provider's most recent balance sheet or parent company's balance sheet if Indiana specific financial information is not available (*not required for CSPs that "only offer a service(s) described in I.C. 8-1-2.6-1.1."*);
- information attesting to the carrier's managerial and technical qualifications, such as biographies of corporate officers and/or personnel of the company who are key to Indiana operations (*not required for CSPs that "only offer a service(s) described in I.C. 8-1-2.6-1.1."*);
- a description of each service area for which the applicant proposes deployment of the communications services (*not required for CSPs that "only offer a service(s) described in I.C. 8-1-2.6-1.1."*);
- a statement signed, under penalty of perjury, by an officer or another person authorized to bind the provider, that affirms the provider has complied with, or agrees to comply with the criteria set forth under I.C. 8-1-32.5-6(b)(3); and
- a completed and signed Affidavit.

Applicant shall file an original and five (5) paper copies of its application. The Commission will assign a Cause Number to the application which will become the Certificate Number upon approval.

Confidential Treatment of Information

If the applicant believes that financial or other information required to be submitted with the CTA Application or Notice of Change form is confidential in accordance with 170 IAC 1-1.1-4, the applicant should include a sworn statement that describes (1) the nature of the confidential information; (2) the reasons why the information should be treated as confidential information pursuant to I.C. 8-1-2-29 and I.C. 5-14-3; and (3) the efforts the applicant has made to maintain the confidentiality of the information. The Commission will review the affidavit and issue a docket entry

concerning whether the information is entitled to confidential treatment on a preliminary basis. If a docket entry is issued finding the information is entitled to confidential treatment on a preliminary basis, one copy of the confidential financial information should be submitted on light green paper, in a sealed envelope clearly marked confidential. The information will be treated as confidential on a preliminary basis and excepted from public disclosure in accordance with Ind. Code § 5-14-3.

FAILURE TO INCLUDE THE SWORN STATEMENT OR SEAL THE CONFIDENTIAL INFORMATION SEPARATE FROM THE APPLICATION MAY RESULT IN DENIAL OF CONFIDENTIAL TREATMENT.

IURC Review

A summary of the CSP application will be posted on the IURC's website on the first Monday (or first business day if Monday is a legal Holiday) after the application is filed. If it is evident that the application is not complete, the IURC has the option to not post the application summary and send written correspondence to the applicant enumerating the deficiencies. The applicant can amend the application or withdraw it and re-file. If the applicant re-files an updated application it will be considered a new application.

Once the application summary is posted, it will be assigned to a communications analyst with the IURC Communications Division for a more detailed review to ensure completeness, accuracy and the adequacy of the information filed. Notice of the application shall be posted on the Commission website for 30 days. The Commission will issue an order after completion of the 30-day posting period if a formal hearing is not requested and once any questions from the Commission are answered.

Hearings

The Commission shall hold an evidentiary hearing if one is requested during the 30-day posting period by one of the following parties¹:

- the communications service provider;
- a facilities-based local exchange carrier offering service in a service area identified in the provider's application under I.C. 8-1-32.5-6(a)(4) of this chapter;
- the OUCC created by 8-1-1.1-2; or
- the Commission on its own motion.

When an evidentiary hearing is requested by one of the parties listed above, the IURC will conduct a hearing, subject to the requirements for hearing under I.C. 8-1-2 for public utilities. Ex Parte communication rules pursuant to 170 IAC 1-1.5 apply to this process.

Notice of Change Procedures

Pursuant to I.C. 8-1-32.5-12, the filing of a Notice of Change in Certificate of Territorial Authority is required if there are subsequent changes to the Certificate of Territorial Authority, such as: 1) a change in ownership operation, control or corporate organization of the provider, including merger, acquisition or reorganization; 2) changes to the name of the certificated entity or adoption of, or change to, an assumed business name or Indiana d/b/a; 3) a change in the provider's principal business address; 4) any sale, lease, or transfer of the CTA to another CSP pursuant to I.C. 8-1-32.5-

¹ The FCC determines market entry of CMRS providers pursuant to 47 CFR Chapter 1 Part 13.

10²; 5) a relinquishment of the CTA; 6) a change in communications services provided in one or more of the service areas identified in the providers application for Certificate of Territorial Authority (not applicable to CMRS providers); or 7) change in one or more of the service areas identified in the provider's CTA application that would increase or decrease the territory within the service area.³

How to File a Notice of Change Form

The Notice of Change form can be found on the Commission's website at <http://www.in.gov/iurc/2400.htm> and must include complete responses to the questions on the form regarding the applicable change(s) and a copy of the Certificate of Authority from the Indiana Secretary of State in the case of a change in legal or assumed name.

Applicant shall file an original and two (2) paper copies of its Notice of Change or use the Commission's Electronic Filing System ("EFS")⁴. (See <https://myweb.in.gov/IURC/efs/>). The notice must be filed with the Commission at least thirty (30) days prior to the effective date of the change.

The Communications Division shall assign the notice a tracking number and process the filing as a non-docketed case. A summary of the Notice of Change shall be posted on the Commission's website until 30 days from the date the notice was received. The Communications Division shall acknowledge the notice after completion of the posting period if a formal hearing is not requested and once any questions from the Communications Division are answered.

A CTA Application or a Notice of Change should be submitted to:

Indiana Utility Regulatory Commission
Communications Division
PNC Center
101 West Washington Street
Suite 1500 East
Indianapolis, IN 46204

Please note that the electronic filing system may be used for an original Notice of Change. The IURC is not able to accept CTA applications via the electronic filing system; however, *amendments* to a CTA application form that has already been assigned a cause number can be filed electronically.

Notice of the receipt of an Application or Notice of Change will be posted to the Commission website at: <http://www.in.gov/iurc/2337.htm>.

Questions should be directed to the Communications Division at (317) 232-5559.

² A CSP must have an Indiana CTA to acquire a CTA from another CSP. If the acquiring company does not have a current Indiana CTA it may file Attachment A, Application for Transfer of a Certificate of Territorial Authority for Communications Service Providers, along with the Notice of Change Form.

³ Telecommunications Providers of Last Resort must comply with I.C. 8-1-32.4 *et seq.*

⁴ Instructions and additional information about the EFS are available at the following link: <http://www.in.gov/iurc/2522.htm>