

TO BE RESCINDED

4901:1-6-10 **Telephone company certification.**

- (A) Any telephone company desiring to offer telecommunication services, other than commercial mobile radio service, in the state of Ohio shall file an application for certification (ACE) with the commission using the telecommunications application form. The form which is available from the commission's web site, serves to identify the specific types of telecommunication services the applicant wishes to offer, and to verify the applicant's commitment to comply with all applicable commission rules and regulations. The telecommunications application form must be signed by an officer of the applicant, must be notarized, and must identify any agents or employees authorized to make filings on behalf of the applicant before the commission.
- (B) An applicant's ACE application must include a complete tariff in conformance with paragraph (B)(1) of rule 4901:1-6-06 of the Administrative Code. An ACE application filed without a completed telecommunications application form, as well as a completed tariff, and all exhibits in paragraphs (D) and (E) of this rule, as applicable, may be subject to immediate dismissal pursuant to paragraph (A)(3) of rule 4901:1-6-06 of the Administrative Code.
- (C) The commission's docketing division will assign a tariff filing (TRF) docket number, and the applicant will be informed of that number within fourteen days of filing so that the applicant may finalize its tariff and price lists prior to the automatic approval date of the ACE. Failure to file all necessary tariff revisions requested by staff prior to the thirtieth day from initial filing of the ACE application will result in suspension or dismissal of the application. Final tariffs must be filed in the ACE case as well as in the applicant's TRF docket no later than ten days after the automatic approval date, and posted on its website, if applicable.
- (D) Minimum requirements to be filed by all applicants seeking certification as a telephone company include:
- (1) Certificate of good standing and certificate to operate as an out-of-state entity issued by the Ohio secretary of state and, if applicable, fictitious name authorization.
 - (2) Full address and telephone number, and if available, e-mail address and web site.
 - (3) Verification of compliance with any applicable affiliate transaction requirements.

- (4) Verification that the applicant will maintain accounting records pursuant to generally accepted accounting principles.
 - (5) Documentation attesting to the applicant's satisfactory technical expertise relative to the proposed service offering(s).
 - (6) Documentation indicating the applicant's satisfactory corporate structure, managerial expertise, and ownership.
 - (7) Information pertaining to any similar operations provided by the applicant in other states.
 - (8) Evidence of notice to the Ohio department of taxation, public utilities tax division, of its intent to provide service.
 - (9) Any waivers sought by the applicant, submitted pursuant to rule 4901:1-6-02 of the Administrative Code.
 - (10) Documentation attesting to the applicant's financial viability including, at a minimum, an actual and pro forma income statement and balance sheet.
- (E) Additional requirements to be submitted by a competitive local exchange carrier (CLEC) seeking certification:
- (1) Proposed end user tariffs, including a full description of proposed services and operations as well as all relevant terms and conditions for all tier 1 and tier 2 services except detariffed tier 2 services. If tariffs are not required, a list of the types of services the company plans to offer should be provided. Tariffs may incorporate by reference the exchanges of an incumbent local exchange carrier (ILEC) if the applicant is proposing to mirror the ILEC's serving and/or local calling areas in its entirety. If an applicant is a facilities-based CLEC it must provide a carrier-to-carrier tariff, which at a minimum includes an access tariff.
 - (2) A list of the ILEC exchanges which the applicant intends to serve. If the applicant is not mirroring the entire ILEC serving and/or local calling areas, the CLEC shall specifically define their service and local calling areas in commission-approved tariffs.
 - (3) A notarized affidavit signed by an authorized employee and accompanied by the bona fide request for interconnection letter sent to the ILEC which verifies

that the applicant has entered into negotiations to establish an interconnection and/or transport and termination agreements with, at a minimum, the ILEC(s) serving the geographic area(s) where the applicant will be providing its services. If the agreements(s) have already been filed with the commission for approval, the specific case numbers should be stated. To the extent the agreements have not been filed, the applicant should state the estimated timeframe for such filing. An applicant which intends to provide service to customers by solely reselling the retail services of an underlying facilities-based CLEC is exempt from this requirement. A CLEC shall not start providing service before it files with the commission, for the commission's approval, an interconnection and/or transport and termination agreement with the ILEC and/or a resale agreement with another CLEC as required pursuant to this rule.

(F) Scope of operating authority

- (1) The commission shall grant providers of competitive telecommunication services (CTS) statewide operating authority provided the company meets the associated requirements.
- (2) The commission shall grant operating authority on an exchange basis to all companies seeking certification as a CLEC.
- (3) A notice to amend a CLEC certificate to add additional exchanges, subsequent to certification, shall be filed as a zero-day notice to amend certificate (AAC). A CLEC must include with its AAC notice filing an affidavit signed by an authorized employee verifying that the CLEC has an interconnection and/or transport and termination traffic agreement with the ILEC serving the exchange area into which the CLEC intends to expand and identifying the specific case numbers in which the agreements were filed.

(G) Nothing precludes the staff of the commission from requiring additional information consistent with this chapter.

(H) Certificate timeline

- (1) Interested entities who can show good cause why such application should not be granted must file with the commission a written statement detailing the reasons, as well as a motion to intervene, within fifteen calendar days after the application is docketed. The applicant shall respond to any motion to intervene within seven calendar days after the filing and service of the motion.

- (2) Absent full or partial suspension, applications seeking certification as a telephone company will be approved in accordance with the thirty-day automatic approval process described in rule 4901:1-6-08 of the Administrative Code.

(I) Conditions of approval

It is the applicant's responsibility to satisfy the commission that the requirements of section 4905.24 of the Revised Code, have been met. Section 4905.24 of the Revised Code, conditions the approval of multiple entities providing service upon a finding by the commission that such operations are proper and necessary for the public convenience. For a provider of basic local exchange service, such determination shall include a review of the applicant's financial, managerial, and technical ability to provide the proposed service.

(J) Hearing

A hearing to review the application for certification may be ordered.

(K) Revocation of certificate

Nothing contained within these rules precludes the commission from revoking the certification of a CLEC or CTS provider upon a demonstration that the company has engaged in a pattern of conduct in violation of Ohio law. This includes the failure to comply with the rules and regulations of the commission, including the failure to file the requisite annual reports and the failure to pay all corresponding assessments.

Replaces: 4901:1-6-09, 4901:1-6-10
Effective: 01/20/2011
R.C. 119.032 review dates: 11/05/2010

CERTIFIED ELECTRONICALLY

Certification

01/10/2011

Date

Promulgated Under: 111.15
Statutory Authority: 4901.13
Rule Amplifies: 4901.13, 4927.03
Prior Effective Dates: 4/8/03, 9/18/07