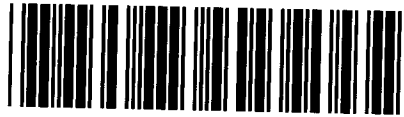


Control Number: 39814



Item Number: 12

Addendum StartPage: 0

**Donna L. Nelson**  
Chairman

**Kenneth W. Anderson, Jr.**  
Commissioner

**Rolando Pablos**  
Commissioner

**Brian H. Lloyd**  
Executive Director



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## *Public Utility Commission of Texas*

TO: Jean L Kiddoo  
Danielle Burt  
Bingham McCutchen LLP  
2020 K Street NW  
Washington, DC 20006

Infrastructure and Reliability Division  
Legal Division

RE: **Docket No. 39814 – Application of Alpheus Communications, LP for an Amendment to its Service Provider Certificate of Operating Authority**

### NOTICE OF APPROVAL

This Notice addresses the application of Alpheus Communications, LP (Alpheus or Applicant) for an amendment to its Service Provider Certificate of Operating Authority (SPCOA) No. 60112<sup>1</sup>. The amendment will reflect a change in (1) ownership/control whereby Alpheus will become a subsidiary of Gores AC Holdings, LLC; and (2) provider type to include data services. The docket was processed in accordance with applicable statutes and Public

<sup>1</sup> Application of Waller Creek Communications, Inc. for Approval of a Service Provider Certificate of Operating Authority, Docket No. 17255, Order (Jun. 27, 1997), Application of Waller Creek Communications, Inc. for Approval to its Service Provider Certificate of Operating Authority, Docket No. 23410, Notice of Approval (Jan. 29, 2001) and Correction to Notice of Approval (Feb. 13, 2001), Application of El Paso Networks, LLC for an Amendment to its Service Provider Certificate of Operating Authority, Docket No. 23878, Order No. 2, Granting Discontinuance of Retail Local Service (May 29, 2001) and Order No. 3, Providing Clarification and Amending Order No. 2 (Jun. 7, 2001), Application of Fiber America, Inc. for an Amendment to its Service Provider Certificate of Operating Authority, Docket No. 24220, Notice of Approval (Jul. 17, 2001), Application of El Paso Networks, LLC for an Amendment to its Service Provider Certificate of Operating Authority, Docket No. 29622, Order No. 2, Granting Administrative Approval (May 24, 2004), Application of El Paso Networks, LLC for an Amendment to its Service Provider Certificate of Operating Authority, Docket No. 30075, Order No. 4, Granting Administrative Approval (Sep. 17, 2004), and Application of Alpheus Communications, LP for an Amendment to its Service Provider Certificate of Operating Authority, Docket No. 34967, Notice of Approval (Dec. 7, 2007).

12

Utility Commission of Texas (Commission) rules. The Commission provided notice to interested parties. More than 15 days have passed since the completion of notice. No protests, motions to intervene, or requests for hearing were filed. Applicant and Commission Staff are the only parties to this proceeding. Commission Staff recommended approval of the application. The application is approved.

**Statutory Findings**

1. Alpheus is a Delaware limited partnership established on March 31, 2004, and registered with the Texas Secretary of State as in existence.
2. Applicant is a wholly-owned subsidiary of Alpheus Data Services, LLC.
3. Gores AC Holdings, LLC is not registered with the Texas Secretary of State because it is a holding company; therefore, registration is not required.
4. Alpheus holds SPCOA No. 60112; Alpheus Data Services, LLC holds Interexchange Carrier (IXC) No. IX070025.
5. Applicant is currently a facilities-based and resale telecommunications service provider for the entire State of Texas. Alpheus requested a change in provider type to include data services. Applicant intends to provide Business Only: POTS, ADSL, ISDN, HDSL, SDSL, RADSL, VDSL, Optical, T1-Private Line, Frame Relay, Fractional T1, Wireless, and Long Distances, and Other - Ethernet Services.
6. Alpheus will continue to provide at least one customer service representative per 2,500 customers during normal business hours.
7. Any equipment provided by Applicant will be 911 compliant and local number portability capable.
8. Alpheus has established a toll-free customer service number, an office number, a fax number, a website address, and an email address.
9. Applicant does not request a change in its existing service area which is the entire State of Texas.
10. Alpheus was required to provide clarifying and supplemental technical information regarding the registration of a name change with the Texas Secretary of State. On

November 9, 2011, Applicant filed the supplemental information and withdrew the requested name change as part of the amendment in this docket.

11. To demonstrate financial ability, Applicant provided unaudited balance sheets for the most recent quarter supported by the required affidavit under protective order consistent with P.U.C. SUBST. R. 26.111.
12. Combined management consists of key personnel that have accumulated over 37 years of telecommunications experience.
13. The application complies with PURA<sup>2</sup> §§ 54.154-54.159.
14. Applicant is not precluded by PURA §§ 54.152 or 54.201 from providing service under its SPCOA.
15. Pursuant to PURA §§ 54.154(b) and 54.155(b), Applicant is entitled to approval of this application, having demonstrated the required financial and technical qualifications to continue to provide existing telecommunications services and continuation of the necessary quality of service to its customers.
16. Applicant is in compliance with its 2011 CLEC Annual Report and Alpheus Data Services, LLC is in compliance with its 2011 IXC Annual Report.

#### **Compliance History**

17. The Texas Comptroller's Office determined that Applicant and Alpheus Data Services, LLC are in good standing not for dissolution or withdrawal through May 15, 2012, regarding compliance with its rules and statutes.
18. Because Gores AC Holdings, LLC is a holding company it is not required to register with the Texas Comptroller's Office.

#### **Complaint History**

19. The Commission's Customer Protection Division complaint database revealed no complaints against Alpheus, Alpheus Data Services, LLC, or Gores AC Holdings, LLC subsidiaries for the past 60 months.

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<sup>2</sup> Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001 – 66.016 (Vernon 2007 & Supp. 2011) (PURA).

20. Applicant and its future affiliate filed their number of customers as 223 and 2,835, respectively, for the past 60 months.
21. The complaint-to-customer ratio is below six percent; therefore, no further investigation is required.
22. Applicant is committed to continue meeting the quality of service standards as applicable.

**Ordering Paragraphs**

1. Alpheus Communications, LP's request to amend SPCOA No. 60112 is approved.<sup>3</sup> SPCOA No. 60112 is amended to reflect a change in (1) ownership/control to Gores AC Holdings, LLC; and (2) change in provider type to include data services. The name on SPCOA No. 60112 will remain Alpheus Communications, LP.
2. Applicant shall be bound by the requirements of P.U.C. SUBST. R. 26.111. Service under the certificate shall be provided exclusively in the name under which the certificate was granted by the Commission.
3. The Applicant shall file any future changes in address, contact representative, and/or telephone numbers in an annual report with the Commission by June 30<sup>th</sup> of each year *Annual Information Reporting Requirements for a Service Provider Certificate of Operating Authority and/or a Certificate of Operating Authority*, Project No. 27357. If the SPCOA holder has any changes during the year in the information requested in Section One of the annual report form, then an updated form shall be filed correcting the information in Section One within 30 days of the change.
4. The Applicant shall provide a copy of this application and/or the Commission's Notice of Approval, in accordance with the entity's requirements, to all affected Commission on State Emergency Communications (9-1-1) entities prior to providing service to those entities.
5. The Applicant's provision of local telephone service to end-users, whether by its own facilities, flat-rate resale, or usage sensitive loop, must also include "9-1-1" emergency telephone service at a level required by the applicable regional plan followed by local

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<sup>3</sup> Administrative approval of this uncontested application has no precedential value in a future proceeding.

telephone service providers under Chapters 771 and 772 of the Texas Health and Safety Code, TEX. HEALTH & SAFETY CODE ANN. §§ 771.001 *et seq.* (Vernon 2010) (the Code) or other applicable law, and any applicable rules and regulations implementing those chapters. The Applicant shall diligently work with the Commission on State Emergency Communications, local “9-1-1” entities, and any other agencies or entities authorized by Chapters 771 and 772 of the Code to ensure that all “9-1-1” emergency services, whether provided through the certificate holder’s own facilities, flat-rate resale, or usage sensitive loop, are provided in a manner consistent with the applicable regional plan followed by local telephone service providers under Chapters 771 or 772 of the Code or other applicable law and any applicable rules and regulations implementing those chapters. The Applicant shall diligently work with the “9-1-1” entities to pursue, in good faith, the mutually agreed goal that the local “9-1-1” entities and emergency service providers experience no increase in their current level of rates and, to the extent technically feasible, no degradation in services as a result of the certification granted herein and the involvement of the certificate holder in the provision of “9-1-1” emergency service.

6. The Applicant shall notify all affected 9-1-1 administrative entities at least 30 days prior to activating or using a new NXX in a rate center or upon the commencement of providing local telephone service in any rate center in compliance with P.U.C. SUBST. R. 26.433(d)(3).
7. The Applicant shall execute a separate service agreement with each 9-1-1 entity and remit the required 9-1-1 emergency service fee to the 9-1-1 entity pursuant to such agreement in compliance with P.U.C. SUBST. R. 26.435(e)(4).
8. The Applicant has committed to and is bound by the quality of service requirements set forth in the Quality of Service Questionnaire. The underlying incumbent local exchange companies (ILECs) continue to be bound by the quality of service requirements contained in P.U.C. SUBST. R. 26.54. Approval of this SPCOA application does not expand the scope of the underlying ILEC’s obligation to its own customers.
9. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

SIGNED AT AUSTIN, TEXAS the 28<sup>th</sup> day of November 2011.

**PUBLIC UTILITY COMMISSION OF TEXAS**

  
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**ANDREW KANG**  
**ADMINISTRATIVE LAW JUDGE**

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