

Control Number: 49452



Item Number: 8

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APPLICATION OF LUKSA
ENTERPRISES, LLC DBA LANDSTAR
TELECOM FOR A SERVICE
PROVIDER CERTIFICATE OF
OPERATING AUTHORITY

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PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILED
OF TEXAS

COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION

COMES NOW the Commission Staff of the Public Utility Commission of Texas (Commission), representing the public interest, and files this response to Order No. 3, Commission Staff's Recommendation on Final Disposition. Staff recommends that the application be approved. In support thereof, Staff shows the following:

I. BACKGROUND

On April 16, 2019, Luksa Enterprises, LLC d/b/a Landstar Telecom (Luksa) filed an application for approval of a SPCOA, pursuant to PURA¹ §§ 54.151-.159 and 16 Texas Administrative Code (TAC) § 26.111. Luksa filed an application requesting an SPCOA to provide facilities-based, data and resale telecommunications services throughout the State of Texas. Luksa has requested that the SPCOA be issued under the name "Luksa Enterprises, LLC."

Order No. 3, issued on May 21, 2019, established a deadline of May 31, 2019 for Staff to file a recommendation on final disposition. Therefore, this pleading is timely filed.

II. FINAL RECOMMENDATION

Staff has reviewed the application provided by Luksa, and, as supported by the attached memoranda of Gordon Van Sickle and Diane Hopingardner of the Competitive Markets Division, Staff has concluded that Luksa has provided the information required to demonstrate that it has met the requirements of PURA §§ 54.151-.159 and 16 TAC § 26.111 for an SPCOA. Therefore, Staff recommends approval of the application.

¹ Public Utility Regulatory Act Tex. Util. Code §§ 11.001-66.016 (PURA).

III. CONCLUSION

For the reasons specified above, Staff respectfully recommends that the application be approved.

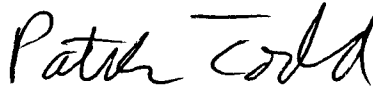
Dated: May 31, 2019

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Margaret Uhlig Pemberton
Division Director

Rachelle Nicolette Robles
Managing Attorney

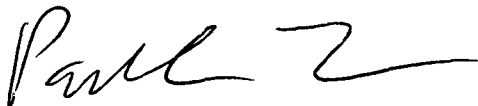


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DOCKET NO. 49452

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on May 31, 2019, in accordance with 16 TAC § 22.74.



Patrick D. Todd

Public Utility Commission of Texas

Memorandum

TO: Patrick Todd, Attorney, Legal Division

FROM: Diane Hoppingardner, Market Analyst, Competitive Markets Division

DATE: May 31, 2019

RE: Docket No. 49452, *Application of Luksa Enterprises, LLC dba Landstar Telecom for a Service Provider Certificate of Operating Authority*

Recommendation

Regarding Approval of Application for Service Provider Certificate of Operating Authority from a Financial Perspective

Application

On April 16, 2019, Luksa Enterprises, LLC dba Luksa Telecom filed an application for a Service Provider Certificate of Operating Authority (SPCOA) to provide facilities-based, data and resale telecommunications services throughout the State of Texas.

This recommendation addresses the financial qualification requirements of 16 Texas Administrative Code (TAC) §26.111(f)(1):

To obtain facilities-based certification, an applicant must demonstrate shareholders' equity of not less than \$100,000. To obtain resale-only or data-only certification, an applicant must demonstrate shareholders' equity of not less than \$25,000.

and 16 TAC §26.111(f)(3):

Shareholders' equity shall be documented by an audited or unaudited balance sheet for the applicant's most recent quarter. The audited balance sheet shall include the independent auditor's report. The unaudited balance sheet shall include a sworn statement from an executive officer of the applicant attesting to the accuracy, in all material respects, of the information provided in the unaudited balance sheet.

Conclusion

Luksa Enterprises, LLC has provided the balance sheet and affidavit for the most recent quarter as required pursuant to 16 TAC § 26.111(f)(3), and the balance sheet meets the shareholders' equity requirements of 16 TAC § 26.111(f)(1). Staff recommends that the application be approved from a financial perspective.

Public Utility Commission of Texas

Memorandum

TO: Patrick Todd – Attorney
Legal Division

FROM: Gordon H. Van Sickle – Senior Utility Analyst
Competitive Markets Division

DATE: May 31, 2019

SUBJECT: Docket No. 49452: *Application of Luksa Enterprises, LLC d/b/a Landstar Telecom for a Service Provider Certificate of Operating Authority*

FINAL RECOMMENDATION

On April 16, 2019, Luksa Enterprises, LLC d/b/a Landstar Telecom (Luksa) filed an application pursuant to PURA¹ §§ 54.151-.159 and 16 Texas Administrative Code (TAC) § 26.111 for a service provider certificate of operating authority (SPCOA). Luksa filed an application requesting an SPCOA to provide Facilities-based, Data and Resale telecommunications services for the exchanges of the following incumbent local exchange carriers (ILECs) within the State of Texas: AT&T Texas (COA No. 50038), Frontier Southwest Incorporated (COA No. 50039), Central Telephone Company of Texas, Inc. d/b/a Sprint (CCN No. 40096) and United Telephone Company of Texas, Inc. (CCN No. 40039). Luksa is requesting its SPCOA be issued under the name “Luksa Enterprises, LLC.”

Commission Staff (Staff) recommends that Luksa’s application for an SPCOA be approved as filed as a Facilities-based, Data and Resale telecommunications services provider for the exchanges of the following incumbent local exchange carriers (ILECs) within the State of Texas: AT&T Texas, Frontier Southwest Incorporated, Central Telephone Company of Texas, Inc. d/b/a Sprint and United Telephone Company of Texas, Inc. for the State of Texas under the name “Luksa Enterprises, LLC.”

Analysis

Pursuant to 16 TAC § 26.111(d)(2), an application for SPCOA certification shall be made

¹ Public Utility Regulatory Act Tex. Util. Code §§ 11.001-66.016 (PURA).

on a form approved by the Commission, verified by oath or affirmation, and signed by an executive officer of the applicant. Staff has reviewed Luksa's application for an SPCOA and has determined that the application was submitted in a Commission-approved format, verified by oath or affirmation and signed by an executive officer of the applicant.

Pursuant to 16 TAC § 26.111(e), the Commission may grant an SPCOA to an applicant that demonstrates that it is eligible under 16 TAC § 26.111(c), has the technical and financial qualifications specified in this section, has the ability to meet the Commission's quality of service requirements, and shows that it and its executive officers and principals do not have a history of violations of rules or misconduct such that granting the application would be inconsistent with the public interest. In determining whether to grant a certificate, the Commission shall consider whether the applicant satisfactorily provided all of the information required in the application for an SPCOA. As demonstrated in the following paragraphs, Luksa meets the requirements of 16 TAC § 26.111(e).

Pursuant to 16 TAC § 26.111(g)(1), an applicant for Facilities-based, Data and Resale certification must have principals, consultants, or permanent employees in managerial positions whose combined experience in the telecommunications industry equals or exceeds five years. The information provided by Luksa demonstrates that the experience of its management staff exceeds this requirement.

Pursuant to 16 TAC § 26.111(g)(3)(A), an applicant must include its complaint history, disciplinary record, and compliance record for the 60 months immediately preceding the filing of an application. Luksa stated that neither its company nor its officers had any previous or ongoing investigations and had not been assessed any penalties. Luksa also stated that none of its officers has been convicted of a felony. A search of the Commission's consumer protection database did not reveal any complaints, investigations, or penalties assessed against Luksa in the past 60 months.

Pursuant to 16 TAC § 26.111(g)(3)(B), an applicant must provide a history of any insolvency, bankruptcy, dissolution, merger, or acquisition of the applicant or any predecessors in interest during the 60 months immediately preceding the application. Luksa stated that there is no history of insolvency, bankruptcy, dissolution, merger or acquisition of the applicant or any predecessors in interest during the 60 months preceding Luksa's application.

Pursuant to 16 TAC § 26.111(g)(3)(C)-(D), the Company must file a statement indicating whether the applicant or the applicant's principals are currently under investigation or have been

penalized by the attorney general or any state/federal regulatory agency for violation of any deceptive trade or consumer protection laws or regulations. Also, the applicant must provide disclosure of whether the applicant or applicant's principals have been convicted or found liable for fraud, theft, larceny, deceit, or violations of any securities laws, customer protection laws, or deceptive trade laws in any state. Luksa stated in its application that none of these issues have occurred.

Pursuant to 16 TAC § 26.111(g)(4), the applicant must affirm that it will meet the Commission's applicable quality-of-service standards as listed on the quality-of-service questionnaire. Also, the applicant must affirm that it is aware of and will comply with the applicable customer protection rules and disclosure requirements as set forth in Chapter 26, Subchapter B, relating to Customer Service and Protection. Luksa met this requirement by affirming that it will meet all applicable quality-of-service standards listed on the quality-of-service questionnaire. Luksa has also affirmed that it will meet applicable customer protection rules and disclosure requirements as set forth in Chapter 26, Subchapter B, relating to Customer Service and Protection.

Pursuant to 16 TAC § 26.111(h), all local exchange telephone service, basic local telecommunications services, and switched access service provided under an SPCOA must be provided in the name under which certification was granted by the commission. The Commission shall grant the SPCOA certificate in only one name. Additionally, the applicant is required to provide certain information, such as form of business being registered, any assumed names, certification or file number and the date the business was registered. MBI requested that the SPCOA be issued in the name of "Luksa Enterprises, LLC." Luksa is registered with the Texas Secretary of State (SoS) under file number 801463543 and with the Texas Comptroller's Office under tax identification number 32044824129. The assumed name of Landstar Telecom is not registered with the Texas SoS; therefore, it is not acceptable for use as a certificated name. Staff concludes that the requested certificate name of "Luksa Enterprises, LLC" is registered with the State of Texas and acceptable.

Staff concludes that Luksa is technically qualified to be granted an SPCOA to be a Facilities-based, Data and Resale telecommunications provider for the exchanges of the following incumbent local exchange carriers (ILECs) within the State of Texas: AT&T Texas, Frontier Southwest Incorporated, Central Telephone Company of Texas, Inc. d/b/a Sprint and United Telephone Company of Texas, Inc.

Upon certification, Luksa will be required to provide local exchange services as described in 16 TAC § 26.5(13 & 134) within 24 months as required by 16 TAC § 26.111(j)(2) and 16 TAC § 26.111(o)(1).

Conclusion

Based on Staff's review of Luksa's application, Staff concludes that Luksa has met the technical and managerial requirements of 16 TAC § 26.111(e)-(h) necessary to be granted an SPCOA. Staff recommends that Luksa's SPCOA application for a Facilities-based, Data and Resale provider for the telecommunications services for the exchanges of the following incumbent local exchange carriers (ILECs) within the State of Texas: AT&T Texas, Frontier Southwest Incorporated, Central Telephone Company of Texas, Inc. d/b/a Sprint and United Telephone Company of Texas, Inc. be approved as filed.

If you have any questions please contact Mr. Gordon Van Sickle at (512) 936-7343.