



## Filing Receipt

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**DOCKET NO. 53233**

<b>APPLICATION OF DRAUPNIR</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>INFRASTRUCTURE GROUP, LLC</b>	<b>§</b>	
<b>FOR A CERTIFICATE OF OPERATING</b>	<b>§</b>	<b>OF TEXAS</b>
<b>AUTHORITY</b>	<b>§</b>	

**COMMISSION STAFF’S FINAL RECOMMENDATION**

On February 15, 2022, Draupnir Infrastructure Group, Inc. (Draupnir) filed an application for approval of a certificate of operating authority (COA), pursuant to Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 54.101-.111 (PURA) and 16 Texas Administrative Code (TAC) § 26.111. Draupnir filed an application requesting an COA to provide facilities-based, data, and resale telecommunication services throughout Texas. Draupnir is requesting a COA be issued under the name “Draupnir Infrastructure Group, Inc.” Draupnir filed supplemental information on April 4, 2022, April 20, 2022, May 5, 2022 and May 9, 2022.

On May 13, 2022, the administrative law judge (ALJ) filed Order No. 5, requiring Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation on final disposition by May 24, 2022. This pleading is therefore timely filed.

**I. FINAL RECOMMENDATION**

Staff has reviewed the supplemented application and, as supported by the attached memorandum of Kenneth Ford, Customer Protection Division, recommends that the amended application be denied.

**II. CONCLUSION**

For the reasons discussed above, Staff respectfully requests the entry of an order consistent with the above recommendation.

Dated: May 24, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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**CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on May 24, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Mildred Anaele  
Mildred Anaele

# Public Utility Commission of Texas

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## Memorandum

**TO:** Mildred Anaele, Attorney  
Legal Division

**FROM:** Kenneth Ford, License and Permit Specialist  
Customer Protection Division

**DATE:** May 24, 2022

**RE:** Docket No. 53233: *Application of Draupnir Infrastructure Group, LLC for a Certificate of Operating Authority*

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### TECHNICAL RECOMMENDATION

On February 15, 2022, Draupnir Infrastructure Group, LLC (Draupnir) filed an application under Public Utility Regulatory Act (PURA), Tex. Util. Code Ann. §§ 54.101-.111 and 16 Texas Administrative Code (TAC) § 26.111 for a certificate of operating authority (COA). Draupnir filed an application requesting a COA to provide facilities-based, data, and resale telecommunications services throughout the State of Texas.

On April 4, 2022 and April 20, 2022, Draupnir filed amended applications to cure deficiencies that were identified during a preliminary review of its application.

#### Analysis

Under 16 TAC § 26.111(d)(2), an application for a COA must be made on a form approved by the Commission, verified by oath or affirmation, and signed by an executive officer of the applicant. I have reviewed Draupnir's application for a COA and have determined that Draupnir's application was submitted in a Commission-approved format, verified by oath or affirmation, and signed by an executive officer of Draupnir.

Under 16 TAC § 26.111(e), the Commission will grant a COA to an applicant that demonstrates that it is eligible under 16 TAC § 26.111(c), and that it has the technical and financial qualifications specified in this section, that it has the ability to meet the Commission's quality of service requirements to the extent required by PURA, 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 will consider whether the applicant satisfactorily provided all of the information required in the application for a COA. Draupnir provided all of the required information under 16 TAC § 26.111(e).

However, question 4(a) of the application requires Applicants to provide a detailed description of the telecommunications services to be provided upon COA certification. Draupnir seeks certification to build and own telecommunications infrastructure and act as a middle mile service provider exclusively. Draupnir will *not* provide end user service, only dark and lit fiber circuits between other telecommunications service providers or large enterprise customers. Additionally, question 4(b) of the application requires Draupnir to indicate with a “yes” or “no” response the types of services that they intend to provide in *addition* to COA services upon being granted a COA. Draupnir’s response specified that it does *not* intend to provide services that are related to a COA certification. Draupnir indicated that it will not provide plain old telephone services (POTS). Though POTS is the only service listed in question 4(b) that qualifies for COA certification. The information that Draupnir provided in its application demonstrates a business plan designed with the intent to provide services that do not fall under a Commission issued COA certification. Further, in response to question 10(a) of Draupnir’s application, Draupnir asserted that it is not a municipality, however, question 10(b) of its application indicated that Draupnir intends to enable a municipality or municipal electric system to offer for sale to the public, directly or indirectly, the proposed services that are provided under a COA certification such as local exchange telephone service, basic local telecommunications service, and switched access service, if desired by a jurisdiction. It is Commission Staff’s (Staff) understanding that to do so will be in direct violation of PURA § 54.202 (a)(1). Additionally, a certificate holder is projected to be the sole provider of COA services to its customers under its own COA. Therefore, I recommend that Draupnir is not suitable for COA certification.

Under 16 TAC § 26.111(g)(1)-(2), to obtain a facilities-based certification, an applicant must have principals, consultants, or permanent employees in managerial positions whose combined experience in the telecommunications industry equals or exceeds five years. Accordingly, Draupnir provided resumes setting forth the qualifications of its key personnel. The information that Draupnir provided regarding the experience of its key personnel satisfies the five-year requirement under this section.

Under 16 TAC § 26.111(g)(3)(A), an applicant must include in its application any complaint history, disciplinary record, and compliance record during the 60 months immediately preceding the filing of an application. Draupnir indicated in its application that there have been no regulatory complaints filed against Draupnir in the past 60 months. A search of the Commission's database did not reveal any complaints against Draupnir in the past 60 months.

Under 16 TAC § 26.111(g)(3)(C) and (D), an applicant must include in its application 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 or federal regulatory agency for violation of any deceptive trade or consumer protection laws or regulations; and 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. Draupnir indicated in its application that, except for the items that have been disclosed in its application, and to the best of its knowledge, no other officers, members, directors, or owners are currently under investigation or have been convicted of a felony. I have reviewed the information that Draupnir disclosed in its application and did not find any areas of concern. A search of the Commission's database did not reveal any penalties or investigations against Draupnir.

Under 16 TAC § 26.111(g)(4)(A) and (B), the applicant must affirm that it will meet the Commission's applicable quality-of-service standards as listed on the Service Quality Questionnaire contained in the application. 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). Draupnir affirmed that it will meet some of the quality of service standards listed on the Service Quality Questionnaire, but not all. Draupnir also affirmed that it will meet applicable customer protection rules and disclosure requirements as set forth in Chapter 26, Subchapter B. However, Draupnir's affirmation is only valid as it pertains to the provisioning of COA services which Draupnir has failed to demonstrate that it will provide. Other types of services, specifically those that Draupnir indicated it would provide upon certification, do not fall under a Commission issued COA certification. Therefore, I recommend that Draupnir's affirmed Service Quality Questionnaire is invalid under this section.

Under 16 TAC § 26.111(h), all local exchange telephone service, basic local telecommunications services, and switched access service provided under a COA must be provided in the name under which certification is granted by the Commission. The Commission will grant the COA certificate in only one name. Applicants must provide certain information, such as form of business being registered, any assumed names, certification/file number, and the date the business was registered with the Texas Secretary of State's Office (SoS). Draupnir provided the required information in its application. Therefore, Draupnir has satisfied this requirement.

Under 16 TAC § 26.111(h)(2), business names must not be deceptive, misleading, inappropriate, confusing, or duplicative of existing name currently in use or previously approved for use by a certified telecommunications provider. Draupnir requested that its COA be issued in the name of "Draupnir Infrastructure Group, Inc." On February 23, 2022, Order No. 2 deemed Draupnir's requested name distinctive and acceptable. I have also confirmed that Draupnir's requested name is registered and in good standing with the SoS under Filing No. 804405946 and the Texas Comptroller's Office under Tax Id. No. 32082901474. Therefore, Draupnir has satisfied this requirement.

### **Conclusion**

From a technical perspective, I have reviewed Draupnir's application for a COA to provide facilities-based, data, and resale telecommunications services throughout the State of Texas. I have determined that Draupnir provided all of the required information under 16 TAC § 26.111. However, the contemplated scope and purpose of a Commission issued COA certification, as stated under 16 TAC § 26.111(a), is for certification of persons and entities to provide local exchange telephone service, basic local telecommunications service, and switched access service. Draupnir specified that it only intends to provide services that are *not* related to a COA certification. Draupnir also indicated that it will not provide POTS, which is the only type of service that qualifies for COA certification. Draupnir's quality of service questionnaire is invalid, because the Service Quality Questionnaire only applies to certification of persons and entities that plan to provide COA services, which Draupnir has demonstrated it will *not* provide. Additionally, Draupnir asserted that it is not a municipality, however, question 10(b) of its application indicated that Draupnir intends to enable a municipality or municipal electric system to offer for sale to the public, directly or indirectly, the proposed COA services that are provided under a COA

certification, which Staff understands to be in violation of PURA § 54.202 (a)(1). For all of these reasons, I recommend that Draupnir's application for a COA be denied.