

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE: February 1, 2000	2. BUREAU AGENDA NO.: JAN-2000-FUS-0428*
3. BUREAU: Fixed Utility Services	5. PUBLIC MEETING DATE: February 10, 2000
4. SECTION(S): Telecommunications	6. APPROVED BY: Director: Rosenthal 3-8242 Manager: Wagner 3-6175 Legal Review by: Walker Davis 7-1827
7. PERSONS IN CHARGE: Barrett/Peyton: 7-5155/7-3665	8. DOCKET NO.: A-310872

DOCKETED

FEB 17 2000

DOCUMENT FOLDER

9. (a) **CAPTION** (abbreviate if more than 4 lines)
 (b) **Short summary of history & facts, documents & briefs**
 (c) **Recommendation**

- (a) Application of MVX.COM Communications Inc., for approval to offer, render, furnish or supply telecommunication services as a Competitive Local Exchange Carrier (CLEC) in the Commonwealth of Pennsylvania.
- (b) On September 10, 1999 the subject application was filed. No protests were filed and no hearings were held.
- (c) The Bureau of Fixed Utility Services recommends that the Commission adopt the proposed draft Order approving the Application, consistent with the Order.

Order Doc. #169736

Calendar Doc. # 169875

10. MOTION BY: Commissioner Chm. Quain

Commissioner Brownell - Yes

Commissioner Wilson - Yes

SECONDED: Commissioner Bloom

Commissioner Fitzpatrick - Yes

CONTENT OF MOTION: Staff recommendation adopted.

SRB



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

A-310872

FEBRUARY 16, 2000

LANCE J M STEINHART ESQUIRE
6455 EAST JOHNS CROSSING STE 285
DULUTH GA 30097

Application of MVX.COM Communications Inc. for approval to offer, render, furnish or supply telecommunications services as a Competitive Local Exchange Carrier to the public in the Commonwealth of Pennsylvania.

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on February 16, 2000 in the above-entitled proceeding has adopted an Order.

DOCKETED

An Order has been enclosed for your records.

FEB 22 2000

Very truly yours,

James J. McNulty,
Secretary

smk
Enclosure
cert. mail

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**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265**

Public Meeting held February 10, 2000

Commissioners Present:

John M. Quain, Chairman
Robert K. Bloom, Vice Chairman
Nora Mead Brownell
Aaron Wilson, Jr.
Terrance J. Fitzpatrick

Application of MVX.COM Communications Inc.
for approval to Offer, Render, Furnish, or Supply
Telecommunication Services as a Competitive
Local Exchange Carrier to the public in the
Commonwealth of Pennsylvania.

Docket Number:
A-310872

ORDER

BY THE COMMISSION:

On September 10, 1999, MVX.COM Communications Inc. ("Applicant"), filed, an Application seeking a Certificate of Public Convenience pursuant to the Telecommunication Act of 1996, 47 U.S.C. §§201, *et seq.*, (TA-96)¹ and to Chapter 11 and 30 of the Public Utility Code (Code) (66 Pa. C.S. §1101, *et seq.*, and §§3001, *et seq.*) evidencing authority to provide telecommunication services as a Competitive Local Exchange Carrier (CLEC) to residential and business customers in the Commonwealth of Pennsylvania.

DOCKETED

FEB 22 2000

¹ Market entry requirements, in light of the policy objectives of the TA-96, for telecommunication service providers are set out in *In Re: Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Implementation Order: June 3, 1996; and Implementation reconsideration Order: September 9, 1996).

**DOCUMENT
FOLDER**

This application complied with section 5.14 of our regulations, 52 Pa Code §5.14. relating to applications requiring notice. No protests were filed. No hearings were held.

The Applicant requests authority to provide competitive local exchange services on a resale basis throughout the service territory of Bell Atlantic-Pennsylvania, GTE North and Sprint. Applicant certified that the Application was served upon the ILECs. Applicant proposes to market its services to residential customers and business customers. The applicant asserts that it will not be a rural telephone company.

The Applicant is a California corporation with its principal place of business at 100 Rowland Way, Suite 145, Novato, California 94945. Correspondence to resolve complaints may be directed to Jeffery G. Richards, Secretary, 100 Rowland Way, Suite 145, Novato, CA 94945.

The Applicant is not currently doing business in Pennsylvania and has no affiliates or predecessors doing business in Pennsylvania.

The Applicant has no affiliates providing service to or rendering service from the applicant.

Issues affecting CLECs have been addressed and are being addressed in a number of Commission proceedings.² A CLEC applicant is expected to adhere to the requirements relative to universal service and lifeline programs, as

² See, e.g., *MFS*, Docket Nos. A-310203, F0002, *et al.*, (October 4, 1995; July 31, 1996; and August 7, 1997); *Pa. PUC v. Bell*, Docket No. R-00963578; *Pa. PUC v. GTE*, Docket No. R-0093666; *Global Order*, Docket Nos. P-00991648 and P-00991649; as well as other CLEC proceedings.

initially set forth or as subsequently enlarged or modified.³ Further, Section 253(b) of the TA-96 permits a state commission to impose, on a competitively neutral basis and consistent with the Universal Service Section, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunication services, and safeguard the rights of consumers. In response, we articulated explicit concerns relative to an applicant's financial fitness, tariff compliance, and rates.⁴

The Applicant has provided financial information to support its Application. We, therefore, conclude that the Applicant has demonstrated that it is financially capable of providing CLEC services to the public.

We conclude that the Applicant has met the requirements for certification as a CLEC, consistent with this Order. Premised upon our review of the Application and the proposed tariff, and consistent with our Orders, the Code, our Regulations and the TA-96, we conclude that the Applicant's proposed services do not raise concerns at this time regarding safety, adequacy, reliability, or privacy as contemplated by Section 3009(b)(4) of the Code. We note, however, deficiencies in the proposed tariff. See Appendix A.

We shall direct the Applicant to revise the proposed tariff in accordance with the changes noted in Appendix A of this Order.⁵ The Applicant shall thereafter file its Initial CLEC Tariff reflecting the requested changes on or before sixty (60) days from the date of entry of this Order. Copies of the Initial

³ *Universal Service Invest.*, Docket No. I-00940035 (January 28, 1997).

⁴ *Blue Ribbon*, Docket No. A-310442 (April 25 and August 4, 1997).

⁵ Leonard Peyton, 717-787-3665, is the FUS contact. Regardless of the review process, any tariff provision(s) inconsistent with the provisions of the Code, the TA-96, or our Regulations or Orders will be deemed inoperative and supersede. (52 Pa. Code §64.213).

Tariff shall also be served upon the same entities receiving service of the original Application, including the ILECs. If the time required for such resolution and filing exceeds sixty (60) days, the Applicant may request an extension of an additional sixty (60) days with the Commission's Secretary. Thus, if the Initial Tariff is not filed within 60 days (120 days including the extension) of the entry of this Order, the Application will be dismissed and the authority granted herein will be revoked without further Commission Order. To the extent that the proposed tariff contains rates, the Initial Tariff may become effective on one (1) day's notice from the date upon which it is filed and served.

Conclusion

Accordingly, we shall grant the Application. The Applicant has had provisional authority under our Implementation Order (p.7, para. B.1.c.4) and our Implementation Reconsideration Order (p. 5) to provide the proposed services pursuant to its proposed tariff during the pendency of the application process. Upon the establishment of filed rates and the approval of Initial Tariffs, a certificate of public convenience shall be issued evidencing the Applicant's authority to provide services as a Competitive Local Exchange Carrier in the Commonwealth, consistent with this Order and our decisions in the *MFS* and such other proceedings:

THEREFORE,

IT IS ORDERED:

1. That the Application of MVX.COM Communications Inc., at Docket No. A-310872, for authority to operate as a Competitive Local Exchange

Provider within the Commonwealth of Pennsylvania is granted, consistent with this Order.

2. That the Applicant is directed to revise its proposed tariff to reflect the changes noted in Appendix A of this Order.

3. That the Applicant shall file its initial Competitive Local Exchange Carrier Tariff, consistent with the requisite changes noted in Attachment A, within sixty (60) days after the date of entry of this Order. The Applicant shall serve a copy of its Initial Tariff on each entity receiving a copy of the original Application. to the extent the Initial Tariff contains rates the Initial Tariff may become effective on or after one (1) day's notice from the date upon which they are filed and served.

4. That the Applicant shall comply with all the provisions of the Public Utility Code, as now exist or as may be hereafter amended, and with all pertinent rules, regulations, and Orders of the Pennsylvania Public Utility Commission, now in effect or as may be prescribed by the Pennsylvania Public Utility Commission, including but not limited to; the *MFS Intelnet, et al*, Docket Nos. A-310203F0002, *et al*; and the *Universal Service Investigation*, Docket No. I-00940035; and the *Global Order*, Docket No. P-00991648 and P-00991649.

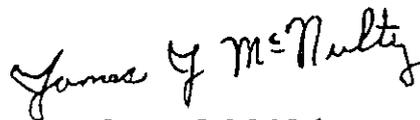
5. That the authority granted herein, to the extent that it duplicates authority now held by or subsequently granted to the Applicant, shall not be construed as conferring more than one operating right to the Applicant.

6. That the Applicant contact each county or municipal authority where it intends to provide telecommunication service and make the necessary arrangements for the provisioning of Emergency 911 service.

7. That in the event that the Applicant has not, on or before sixty (60) days (120 days including an approved extension) from the date of entry of this Order, complied with the requirements set forth herein, the Application at Docket No. A-310872 may be dismissed and the authority granted herein revoked without further Commission Order.

8. That, upon the establishment of filed rates and the approval of an Initial Tariff, a Certificate of Public Convenience shall be issued authorizing the Applicant to furnish services as a Competitive Local Exchange Carrier within the Commonwealth of Pennsylvania consistent with this Order.

BY THE COMMISSION,



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: February 10, 2000

ORDER ENTERED: **FEB 16 2000**

APPENDIX A

MVX.COM Communications Inc. is seeking a Certificate of Public Convenience to provide Telecommunication services as a Competitive Local Exchange Carrier in Pennsylvania. MVX.COM has filed a proposed tariff along with its application.

The following issues should be addressed before this tariff is approved:

1. Tariff should be titled Tariff Telephone Pa. P.U.C. No.
1.
2. Carriers are required to provide in their tariffs, maps of all exchanges, giving, details of its locations and demarcating their boundaries.
3. The following symbols shall be used in the tariff.
 - (I) To signify increased rates
 - (D) To signify decreased rates
 - (C) To signify all other changes
4. Tariff must contain issued and effective dates.
5. Original Page 30 Section 2.5.2.5 Billing and Collection Charges - Tariff must contain a specific amount for the return check charge.
6. Original Page 32 Section 2.5.5.1 Deposits - §64.36 provides the method of making deposits for residential telephone customers. The amount of cash deposit required from an applicant may not exceed the estimated average 2-month bill for basic service plus the average 2-month toll charge for existing residential customers in the applicant's exchange during the immediately preceding 12-month period.
7. Original Page 33 Section 2.5.5.5 Deposits from New or Existing Residential Customers 62 Years of Age or Older. - This section should be removed.

8. Original Page 35 Section 2.5.6.1 Discontinuance of Service - §74.71 provides that the carrier shall mail or deliver written notice to the customer at least 7 days before the date of suspension.

9. Original Page 38 Section 2.5.6.9 Discontinuance of Service -Termination of service to residential customer should follow a two step process, whereby, the carrier shall mail or deliver written notice to the customer at least 7 days before the date of suspension. §64.71. When at least 10 days have passed since the suspension of service, the company may terminate service for failure to pay a reconnection fee and to remedy the original grounds for suspension due to the following reasons: 1) failure to make satisfactory arrangements to pay arrearages, 2) failure to post a deposit, 3) failure to meet the requirements of a payment agreement, and 4) failure to give adequate assurance that an unauthorized use or practice will cease. §§56.91, 64.121.

10. Original Page 44 Section 2.10 - Flexible Pricing - This section should be removed.

11. Link-up America. Link-up America programs provides 50% off the regular one-time charge to connect a phone line. (Commission Order at Docket No. I-00940035)

12. Attached is a copy of proposed language for IntraLATA Toll Presubscription. See Attachment A

13. Late payment charge. Tariff should include language identifying late payment charge for residential customers as 1.25% per month and 15% annually and 1.5% per month and 18% annually for business customers. §§64.16, 56.22