

CAPTION SHEET

CASE MANAGEMENT SYSTEM

1. REPORT DATE: 00/00/00 :
 2. BUREAU: FUS :
 3. SECTION(S) : :
 5. APPROVED BY: : 4. PUBLIC MEETING DATE:
 DIRECTOR: : 00/00/00
 SUPERVISOR: :
 6. PERSON IN CHARGE: : 7. DATE FILED: 06/02/04
 8. DOCKET NO: A-310915 F0005 : 9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: PAETEC COMMUNICATIONS INC

RESPONDENT/APPLICANT: CAPSULE COMMUNICATIONS, INC

COMP/APP COUNTY: UTILITY CODE: 310915

ALLEGATION OR SUBJECT

JOINT APPLICATION OF PAETEC COMMUNICATIONS, INC., AND COVISTA, INC., AND CAPSULE COMMUNICATIONS, LLC, FOR APPROVAL OF THE TRANSFER OF CERTAIN PENNSYLVANIA ASSETS FROM COVISTA AND CAPSULE TO PAETEC, INCLUDING CUSTOMER ACCOUNTS.. DOCKET NUMBERS: A-310743F0007 PAETEC COMMUNICATIONS; A-310640F0003 COVISTA INC AND A-310915F0005 FOR CAPSULE COMMUNICATIONS.

DOCUMENT FOLDER

DOCKETED

JUN 22 2004

ORIGINAL
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116

TELEPHONE (202) 424-7500
FACSIMILE (202) 424-7647
WWW.SWIDLAW.COM

GRACE R. CHIU
DIRECT DIAL: (202) 424-7753
FAX: (202) 424-7647
E-MAIL: GRCHIU@SWIDLAW.COM

NEW YORK OFFICE
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NY 10174
(212) 973-0111 FAX (212) 591-9595

A-310915 F0005

June 2, 2004

VIA OVERNIGHT DELIVERY

RECEIVED

James McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

DOCUMENT
FOLDER

JUN 02 2004

PA PUBLIC UTILITY COMMISSIC
SECRETARY'S BUREAU

Re: EXPEDITED CONSIDERATION REQUESTED

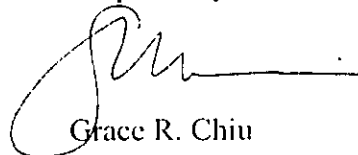
Application of PAETEC Communications, Inc. and Covista, Inc. and
Capsule Communications, Inc. for Approval to Transfer Certain
Pennsylvania Assets, Including Customer Accounts

Dear Mr. McNulty:

Enclosed for filing on behalf of PAETEC Communications, Inc., Covista, Inc. and Capsule Communications, Inc. ("Applicants"), please find an original and three (3) copies of the above-referenced Application. Applicants respectfully request expedited treatment and approval of this Application as soon possible but no later than July 31, 2004.

Please date-stamp the enclosed extra copy of this filing and return it in the self-addressed, postage paid envelope provided. Should you have any questions, please do not hesitate to contact me.

Respectfully submitted,



Grace R. Chiu

Counsel for PAETEC Communications, Inc.

Enclosure
cc via email:

Frank Pazera (Covista, Capsule)
Lance J.M. Steinhart (for Covista, Capsule)
Mary O'Connell (PAETEC)
JT Ambrosi (PAETEC)

ORIGINAL

RECEIVED

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JUN 02 2004

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Joint Application of)
)
PAETEC COMMUNICATIONS, INC.)
)
and)
)
COVISTA, INC. and CAPSULE)
COMMUNICATIONS, INC.)
)
For Approval to Transfer Certain Pennsylvania)
Assets, Including Customer Accounts)

Docket No. A.310743 F _____

Docket No. A.310640 F _____

Docket No. A.310915 F 0005

DOCUMENT
FOLDER

APPLICATION

PAETEC Communications, Inc. ("PAETEC") and Covista, Inc. ("Covista") and Capsule Communications, Inc. ("Capsule," together with Covista, the "Covista Companies") (PAETEC and the Covista Companies, collectively, "Applicants"), by the undersigned counsel and pursuant to Section 1102(a)(3) of Title 66 of the Pennsylvania Consolidated Statutes, 66 Pa. Cons. Stat. Ann. § 1102(a)(3), hereby request authorization for the Covista Companies to transfer to PAETEC certain of their Pennsylvania assets (the "COVISTA Assets"), which include certain commercial long distance customer accounts, as described herein. The Covista Companies are wholly owned subsidiaries of Covista Communications, Inc. Each holds a Certificate of Convenience and Necessity ("Certificate") to provide intrastate interexchange toll services in the Commonwealth of Pennsylvania. PAETEC also holds a Certificate to provide intrastate interexchange toll services in Pennsylvania.

DOCKETED

JUN 22 2004

The proposed transaction involves neither the transfer nor abandonment of any Certificate granted to Covista or Capsule nor does it involve any plan by Covista to discontinue

service to Pennsylvania customers.¹ Following consummation of the transaction, the Covista Companies will each retain the Certificate granted to it and Covista will continue providing services to that portion of its Pennsylvania customer base that will not be transferred to PAETEC.

Applicants respectfully request expedited treatment and consideration of this Application. Expeditious approval of this Application will allow PAETEC to promptly assume responsibility for the provision of long distance services to the Pennsylvania customers to be transferred, and thereby more speedily bring to Pennsylvania consumers the benefits that will inure from permitting PAETEC to acquire the COVISTA Assets. Applicants therefore respectfully request that approval of this Application be granted on an expedited basis and not later than July 31, 2004.

Applicants respectfully submit the following information in support of this Application:

I. THE PARTIES

A. PAETEC Communications, Inc. ("PAETEC")

PAETEC Communications, Inc. is a privately held Delaware corporation with headquarters located at One PAETEC Plaza, 600 Willowbrook Office Park, Fairport, New York. PAETEC is a wholly owned subsidiary of PAETEC Corp., a privately held Delaware corporation, whose principal business is telecommunications.² PAETEC is authorized to provide telecommunications services to the public in Pennsylvania as a reseller of toll services, a competitive local exchange carrier, a competitive access provider, and an interexchange carrier, pursuant to the Certificates granted by the Commission in Dockets No. A-310743,

¹ Capsule does not currently serve any customers in the Commonwealth of Pennsylvania.

² PAETEC Corp., a holding company, holds no regulatory licenses from this or any other regulatory commission.

A-310743F0002, A-310743F0003, and A-310743F0004, respectively (Mar. 4, 1999). Further information concerning PAETEC's technical, managerial and financial qualifications to provide service was submitted with its applications for certification and is, therefore, a matter of public record. PAETEC respectfully requests that the Commission take official notice of that information and incorporate it by reference herein.

B. The Covista Companies

The Covista Companies are wholly owned operating subsidiaries of Covista Communications, Inc. ("CCI"), a publicly traded New Jersey corporation (NASDAQ symbol: CVST) whose principal business is telecommunications.

1. Covista, Inc. ("Covista")

Covista is a New Jersey corporation with principal offices located at 721 Broad Street, Suite 200, Chattanooga, Tennessee. Covista is authorized to operate as a facilities-based provider of interexchange toll services to the public in Pennsylvania pursuant to the Certificate issued by the Commission in Docket No. A-310640 (Aug. 7, 2003).

2. Capsule Communications, Inc. ("Capsule")

Capsule is a Delaware corporation with principal offices also located at 721 Broad Street, Suite 200, Chattanooga, Tennessee. Capsule is authorized to provide competitive local exchange and interexchange toll services to the public in Pennsylvania pursuant to the Certificates issued by the Commission in Docket No. A-310915.

II. DESIGNATED CONTACTS

Correspondence, notices and communications regarding this Application should be directed to Applicants' respective counsel of record:

For PAETEC:

Grace R. Chiu
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007
Tel: (202) 424-7500
Fax: (202) 424-7647
Email: GRChiu@swidlaw.com

and

For Covista:

Lance J.M. Steinhart
Lance J.M. Steinhart, P.C.
1720 Windward Concourse, Suite 250
Alpharetta, GA 30005
Tel: (770) 232-9200
Fax: (678) 775-1194
Email: LSteinhart@telecomcounsel.com

III. DESCRIPTION OF THE PROPOSED ASSET TRANSFER

PAETEC has determined that the acquisition of the COVISTA Assets will enable it to expand its operations in a cost-efficient manner, thereby enhancing its competitive position and ability to provide integrated telecommunications services to customers in Pennsylvania as well as other states. To that end, PAETEC and the Covista Companies have entered into an agreement whereby PAETEC will acquire certain Pennsylvania assets of the Covista Companies (the "COVISTA Assets"), which include among other things, a portion of Covista's commercial long distance customer base in Pennsylvania (the "Pennsylvania Customers") and Capsule's switch located in Philadelphia. A list of the COVISTA Assets is attached hereto as Exhibit A.

To ensure a seamless transition, the Pennsylvania Customers will be given not less than 30 days prior written notice of the proposed transfer, in compliance with the rules of the Federal Communications Commission ("FCC") governing carrier-to-carrier customer base transfers.³

Applicants emphasize that the proposed transaction involves neither the transfer nor abandonment of any Certificate granted to Covista and Capsule nor does it involve any plan by Covista to discontinue service to Pennsylvania customers. Following closing, the Pennsylvania Customers will receive from PAETEC the same services they currently receive from Covista. PAETEC will continue to provide intrastate long distance services to the Pennsylvania Customers pursuant to its own Certificates, as referenced above. Covista, in turn, will continue to operate pursuant to its Certificates, without any interruption in or change of service to that portion of its Pennsylvania customer base that will not be transferred to PAETEC.⁴

PAETEC will also amend its Pennsylvania tariffs, to the extent necessary, to include the rates and charges that apply to the services purchased by the Pennsylvania Customers. As a result, the proposed asset transfer will be virtually transparent to the Pennsylvania Customers in terms of the rates and terms and conditions of service that these customers currently receive.

IV. PUBLIC INTEREST CONSIDERATIONS

Grant of this Application will serve the public interest by enabling PAETEC to expand its operations in a cost-effective manner, thereby enhancing its competitive position and ability to provide a broad range of integrated telecommunications services to Pennsylvania consumers. By permitting PAETEC to strengthen its competitive position and accelerate the offering of innovative products and services, the proposed transaction will ultimately enhance competitive choices for Pennsylvania consumers.

³ 47 C.F.R. § 64.1200(e).

⁴ Capsule does not currently exercise the authority granted to it under its Certificates.

The Pennsylvania Customers will be given prior written notice of the transfer of their account to PAETEC, in compliance with the FCC's customer notice rules. Following the asset transfer, the Pennsylvania Customers will continue to receive services which will be consistent with the quality of services currently provided by Covista and which will be supported by PAETEC's experienced and well-qualified management team. As a result, the proposed transfer will be virtually transparent to the Pennsylvania Customers in terms of the rates and terms and conditions of service that these customers currently receive. The public interest therefore will be served by approval of this Application.

Applicants desire to complete the proposed asset acquisition as soon as possible to more speedily bring about the competitive benefits that will inure from permitting the Covista Companies to transfer the COVISTA Assets to PAETEC. Applicants therefore respectfully request that the Commission grant approval of this Application as soon as possible but not later than July 31, 2004.

V. CONCLUSION

Wherefore, Applicants respectfully request that the Commission grant this Application and authorize the Covista Companies to transfer to PAETEC the COVISTA Assets, including a portion of Covista's Pennsylvania commercial long distance customer base, as described herein.

Applicants further respectfully request that approval of this Application be granted on an expedited basis and no later than July 31, 2004.

Respectfully submitted,



Grace R. Chiu
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007
Tel: (202) 424-7500
Fax: (202) 424-7647

Counsel to
PAETEC COMMUNICATIONS, INC.

Lance J.M. Steinhart
Lance J.M. Steinhart, P.C.
1720 Windward Concourse, Suite 250
Alpharetta, GA 30005
Tel: (770) 232-9200
Fax: (678) 775-1194

Counsel to
The **COVISTA COMPANIES**

Dated: June 2, 2004

EXHIBIT LIST

LIST OF THE PENNSYLVANIA ASSETS

A

VERIFICATIONS

EXHIBIT A

LIST OF THE PENNSYLVANIA ASSETS

1. Equipment

Equipment located at 401 Broad Street, Philadelphia, including Alcatel gear, cards, racks, deployed equipment and inventory.

2. Commercial Long Distance Customer Contracts

Service contracts and agreements between Covista and the Pennsylvania Customers, including business records relating such accounts.

3. Other Assets

Office furniture, personal computers, monitors, keyboards or like items, and general office supplies located in Bensalem.

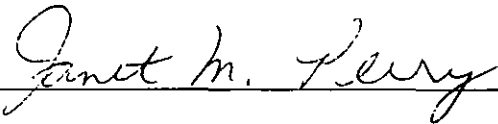
CERTIFICATE OF SERVICE

I, Janet M. Perry, do certify, pursuant to Section 5.14 of the Commission's Regulations, 52 Pa. Code § 5.14, that I have served a copy of the foregoing signed and verified *Joint Application of PAETEC Communications, Inc. and Covista, Inc. and Capsule Communications, Inc. For Authority to Transfer Certain Pennsylvania Assets, Including Customer Accounts*, on the following:

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101

Further, pursuant to Sections 1.57 and 1.58 of the Commission's Regulations, 52 Pa. Code §§ 1.57 and 1.58, I submit this Certificate of Service as Proof of Service of the Application and attachments upon the above named parties.



Dated: June 2, 2004

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

IN REPLY PLEASE
REFER TO OUR FILE
Secretary
717-772-7777

June 22, 2004

A-310743F0007
A-310640F0003
A-310915F0005

GRACE R CHIU
SWIDLER BERLIN SHEREFF FRIEDMAN LLP
3000 K STREET NW SUITE 300
WASHINGTON DC 20007

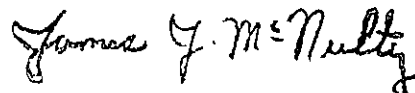
DOCUMENT
FOLDER

Dear Ms. Chiu:

Receipt is acknowledged of the Joint Application of Paetec Communications, Inc., Covista Inc., and Capsule Communications, Inc., for approval of a transfer of certain Pennsylvania assets, including customer accounts, which has been captioned and docketed to the above numbers.

This matter will receive the attention of the Commission and you will be advised of any further necessary procedure.

Sincerely,



James J. McNulty
Secretary

JJM:ddt

Cc: Lance J. M. Steinhart

DOCKETED

JUN 22 2004

DATE: June 22, 2004

SUBJECT: A-310743F0007; A-310640F0003
A-310915F0005

TO: Bureau of Fixed Utility Services

FROM: James J. McNulty, Secretary *ddt*

DOCUMENT
FOLDER

**JOINT APPLICATION OF PAETEC COMMUNICATIONS, INC,
COVISTA INC AND CAPSULE COMMUNICATIONS, INC**

We attach hereto a copy of the Joint Application of Paetec Communications, Inc., Covista, Inc., and Capsule Communications, Inc., for approval to transfer certain Pennsylvania assets including customer accounts, which has been captioned and docketed to the above numbers.

Applicant has served a copy of the application upon the Office of Consumer Advocate and the Office of Small Business Advocate, and has filed proof of such service with this Commission.

May we have a report prepared by your Bureau for Public Meeting.

Attachment

cc: Law Bureau

ddt

DOCKETED
JUN 22 2004

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

ORIGINAL

3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116

GRACE R. CHIU
DIRECT DIAL: (202) 424-7783
FAX: (202) 424-7647
E-MAIL: GRCHIU@SWIDLAW.COM

TELEPHONE (202) 424-7500
FACSIMILE (202) 424-7647
WWW.SWIDLAW.COM

NEW YORK OFFICE
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NY 10174
(212) 973-0111 FAX (212) 891-9598

June 25, 2004

RECEIVED

JUN 25 2004

VIA OVERNIGHT DELIVERY

A-310743F0007
A-310915F0005
A-310640F0003

James McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

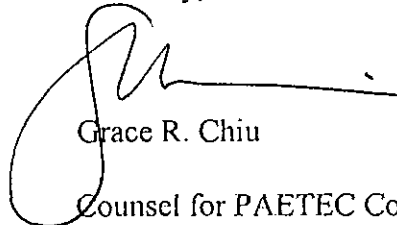
Re: Application of PAETEC Communications, Inc. and Covista, Inc. and
Capsule Communications, Inc. for Approval to Transfer Certain
Pennsylvania Assets, Including Customer Accounts

Dear Mr. McNulty:

Enclosed for filing on behalf of PAETEC Communications, Inc., Covista, Inc. and Capsule Communications, Inc. ("Applicants"), please find an check in the amount of \$350.00. Please associate this payment with the above referenced application, that was filed with the Commission earlier this week. As stated in the original transmittal letter, Applicants respectfully request expedited treatment and approval of this Application as soon possible but no later than July 31, 2004.

Please date-stamp the enclosed extra copy of this filing and return it in the self-addressed, postage paid envelope provided. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Grace R. Chiu

Counsel for PAETEC Communications, Inc.

DOCUMENT
FOLDER

Enclosure