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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** | | |  |
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|  | | Public Meeting held June 11, 2015 | | |
| Commissioners Present: | |  | | |
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| Gladys M. Brown, Chairman | | | | |
| John F. Coleman, Jr., Vice Chairman  James H. Cawley  Pamela A. Witmer  Robert F. Powelson | | | | |
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| Application of First Choice Technology of Louisiana, LLC for approval to offer, render, furnish or supply telecommunication services as an Interexchange Toll Reseller to the public in the Commonwealth of Pennsylvania | | | A-2015-2471491 | |
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ORDER

**BY THE COMMISSION:**

On March 12, 2015, First Choice Technology of Louisiana, LLC (Applicant) filed an Application seeking a Certificate of Public Convenience pursuant to the Telecommunications Act of 1996, 47 U.S.C. §§  201, *et seq*., (TA-96)[[1]](#footnote-1) and to Chapter 11 of the Public Utility Code (Code) (66 Pa. C.S. §§ 1101, *et seq.*) evidencing authority to provide telecommunication services to the public as a Interexchange Toll Reseller (IXC Reseller)[[2]](#footnote-2) throughout the Commonwealth of Pennsylvania.

The Applicant was granted provisional authority pursuant to our Secretarial Letter of March 26, 2015, to provide the proposed telecommunication services pursuant to its proposed tariff as an IXC Reseller during the pendency of the application process. The assigned utility code is 3117423.

The Applicant complied with notice requirements set forth in our *TA-96* *Implementation Orders*[[3]](#footnote-3) by serving a copy of its Application upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Attorney General. No protests were filed. No hearings were held.

Information concerning the Applicant is as follows:

* The Applicant is a Louisiana Corporation with its principal place of business at 903 Lake Lily Drive, Suite A125, Maitland, Florida 32751, telephone (407) 629-0950, facsimile (407) 260-1033.
* The Applicant complied with 15 Pa. C.S. § 8981, relating to a foreign limited liability company.
* The Applicant’s registered office provider within Pennsylvania is c/o Corporation Service Company, 2704 Commerce Drive, Harrisburg, PA 17110.
* Correspondence to resolve complaints may be directed to Scott Howsare, telephone (407) 629-0950, facsimile (407) 629-5320), at company headquarters.
* The Applicant will not be using a fictitious name.
* The Applicant is operating as a public utility in other states: Texas and Minnesota.
* The Applicant has no affiliates or predecessors within Pennsylvania.
* The Applicant has no affiliates or predecessors rendering public utility service outside Pennsylvania.

The Applicant understands that if it plans to cease doing business within the Commonwealth of Pennsylvania, it is under a duty to request authority from the Commission for permission prior to ceasing.

The Applicant proposes to offer resold long distance services utilizing the services and infrastructure of the underlying carrier. The Applicant will not deploy any of its own facilities for the provision of services.

We conclude that the Applicant has met the requirements for certification as an IXC Reseller, 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.

We note, however deficiencies in the proposed tariff. We shall direct the Applicant to revise the proposed tariff in accordance with the changes noted in Appendix A of this Order.[[4]](#footnote-4) The Applicant shall thereafter file its Initial Tariff reflecting the requested changes on or before sixty (60) days from the date of entry of this Order. The Applicant may file its Initial Tariff electronically, consistent with Commission Rules.[[5]](#footnote-5) Copies of the Initial Tariff shall also be served upon the same entities receiving service of the original Application. 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.

We note that the Commission will only approve tariff provisions regarding limitation of liability consistent with law. Any tariff provisions contained in the Initial Tariff regarding limitation of liability found to be inconsistent with any applicable laws, rules and regulations will be deemed inoperative and superseded.

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.

Carriers are required to provide telecommunications service to customers in Pennsylvania within one year of certification.[[6]](#footnote-6)

**Conclusion**

Accordingly, we shall grant the Application. Upon the establishment of filed rates and the approval of the Initial Tariff, a Certificate of Public Convenience shall be issued evidencing the Applicant’s authority to provide services as an IXC Reseller throughout the Commonwealth of Pennsylvania; **THEREFORE,**

**IT IS ORDERED:**

1. That the Application of First Choice Technology of Louisiana, LLC at Docket No. A‑2015-2471491, for authority to operate as an Interexchange Toll Reseller throughout the Commonwealth of Pennsylvania, is granted, consistent with this Order.
2. That the Applicant shall either eFile or submit an original copy of its Initial Tariff consistent with the requisite changes noted in Appendix A of this Order within sixty (60) days (120 days including an approved extension) after the date of entry of this Order. **The Applicant is directed to identify any changes made to the proposed Initial Tariff that are in addition to the changes noted in Appendix A.** The Applicant shall serve copies of its Initial Tariff on each entity receiving a copy of the original Application. The Initial Tariff may become effective on or after one (1) day’s notice from the date upon which it is filed and served.
3. That an Initial Tariff shall be labeled on its face according to the respective authority: “Interexchange Toll Reseller.”
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 this Commission, now in effect or as may be prescribed by this Commission, including but not limited to: the *Universal Service Investigation,* Docket No. I-00940035 and the *Global Order,* Docket No. P-00991648, *et al*.
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 maintains accurate accounting records that segment its Interexchange Toll revenues in the state.
7. That in accordance with Commission Orders entered October 5, 2005, at M‑00041857 and on August 21, 2006, at L-00050176, the Applicant shall follow the reporting requirements outlined at the following website: [www.puc.pa.gov/telecom/docs/Reporting\_Requirements.docx](http://www.puc.pa.gov/telecom/docs/Reporting_Requirements.docx).
8. 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-2015-2471491 shall be dismissed and the authority granted herein revoked without further Commission Order.
9. That upon the establishment of filed rates and the approval of the Initial Tariff, a Certificate of Public Convenience shall be issued authorizing the Applicant to furnish services as an Interexchange Toll Reseller throughout the Commonwealth of Pennsylvania, consistent with this Order.
10. That changes and/or additions made to an approved, filed tariff shall be made in the form of supplements, consecutively numbered in the order of their filing dates, and the tariff designation shall be in the following manner: Supplement No. \_\_ to Tariff Telephone Pa. P.U.C. No.\_\_\_.
11. That the Applicant shall add its Pennsylvania tariff to its website and provide the link to Cyndi Page (cypage@pa.gov) of the Commission’s Communications Office. Within 30 days after filing its Initial Tariff, the Applicant shall add the tariff to its website and mark it “Pending.” Within 30 days of receipt of its Certificate of Public Convenience, the Applicant shall make any required modifications to its website tariff and remove the “Pending” notation. Thereafter, the Applicant will continually update the website whenever any supplemental revisions to the tariff are approved by the Commission such that the website tariff is a true and accurate representation of the tariff on file with the Commission.
12. That if the Applicant plans to cease doing business within the Commonwealth of Pennsylvania, it shall request authority from the Commission for permission prior to ceasing.
13. That a copy of this Order be served on the Pennsylvania Department of Revenue, Bureau of Corporation Tax.

**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: June 11, 2015

ORDER ENTERED: June 11, 2015

APPENDIX A

First Choice Technology of Louisiana, LLC

Docket No. A-2015-2471491

Proposed tariff for Interexchange Toll Reseller

The proposed tariff contains certain deficiencies that must be addressed by the Applicant before the tariff can be approved and the Certificate of Public Convenience issued. **The Applicant must submit a copy of this Appendix with its revised compliance tariff. On that copy, please note the page/sheet of the compliance tariff where the required revision is located for each item below.**

**Tariff deficiencies noted – IXC Reseller (A-2015-2471491) Tariff No. 1**

1. Correct the Title to read:

First Choice Technology of Louisiana, LLC

INTEREXCHANGE TOLL RESELLER

Regulations and Schedule of Charges

1. Page 2, Check Sheet; Add the text “\*Indicates sheet included in this filing.”
2. Page 4; Revise the “Explanation of Symbols” section. Pursuant to 52 Pa. Code § 53.22, the only codes that should appear in the tariff are "(I)," "(D)," or "(C)."
3. Page 11, Section 2.6. “Limitation of Liability”: Remove or revise any portion of this section that does not fit within the scope of 52 Pa. Code § 69.87 and the Commission Order under Docket No. M-00981209. S*ee* <http://www.pabulletin.com/secure/data/vol29/29-17/659.html>.
4. Page 11, Section 2.6.2: Please add language to indicate 52 Pa. Code § 63.24(b)(3) which states that, when service is interrupted for at least 24 hours due to such factors as storms, fires, floods or other conditions beyond the control of the Company, an allowance of 1/30 of the tariff monthly rate shall apply for each full 24 hour period during which the interruption continues after notice by the customer to the Company
5. Page 11, Section 2.6.1.A: Change the reference for the limits on the liability for credits due to interruptions to Section 2.8.3
6. Page 16. Correct formatting issue by listing “Section 2 – Rules and Regulations (continued)” at the top of the page.
7. Page 17. Correct formatting issue by listing “Section 2 – Rules and Regulations (continued)” at the top of the page.
8. Page 19, Section 2.8.3.C.4: Correct formatting issue by indenting #4 so that it lines up with #3 above it.

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1. Page 25; Section 3.5: Calculation of Distance. Correct the format of the formula for calculating air mileage to:
2. Page 25, Section 3.7: Special Services. Add language noting that all ICB contracts will be filed with the Commission upon request.
3. Page 29, Section 4.5: Late Charge. Revise second sentence to comply with 52 Pa. Code § 64.14 as follows “The late charge will be calculated on all amounts past due with the exception of previously accrued late payment charges. The late payment charge may not be assessed against an outstanding security deposit.”
4. Page 30, Section 4.7: Special Promotions. Pursuant to 52 Pa Code § 53.60 indicate that promotional offerings will be filed as a tariff supplement and may not have a duration of longer than 6 months in any rolling 12-month period which commences as of the effective date of the filed promotion.

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) (herein “*TA‑96 Implementation Orders”*). [↑](#footnote-ref-1)
2. 66 Pa. C.S. § 3018(b)(2) gives IXCs the option to (1) file and maintain tariffs with the Commission, (2) file and maintain price lists with the Commission, or (3) detariff. Further, 52 Pa. Code § 63.104 outlines the disclosure requirements for filing and maintaining tariffs or operating as a detariffed IXC. The Applicant was provided with these options via Secretarial Letter and has elected to maintain a tariff with the Commission. [↑](#footnote-ref-2)
3. *Id.* [↑](#footnote-ref-3)
4. Regardless of the review process, any tariff provision(s) inconsistent with the provisions of the Code, the TA-96, our regulations or Orders will be deemed inoperative and superseded. [↑](#footnote-ref-4)
5. *See Final Rulemaking to Permit Electronic Filing*, Docket No. L-00070187 (Order entered May 23, 2008). [↑](#footnote-ref-5)
6. For complete details regarding this requirement, including consequences for non-compliance, *see* *Final Order* Regarding the *Commission’s Plan to Implement a One-Year Timeframe for Inactive Telecommunication Carriers to Provide Service on an Annual Basis within the Commonwealth of Pennsylvania*, Docket M-2011-2273119 (Order entered July 19, 2012).  [↑](#footnote-ref-6)