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Kenneth W. Anderson, Jr.
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Brandy Marty Marquez
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Brian H. Lloyd
Executive Director



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Greg Abbott
Governor

Public Utility Commission of Texas

TO: Ronald W. Del Sesto, Jr.
Danielle C. Burt
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, DC 20004-2541

Jeffrey R. Strenkowski
Uniti Group Inc.
10802 Executive Center Drive, Suite 300
Little Rock, AR 72211

Infrastructure and Reliability Division
Legal Division

RE: **Docket No. 47294 – *Application of Uniti Fiber LLC for a Service Provider Certificate of Operating Authority***

NOTICE OF APPROVAL

This Notice addresses the application of Uniti Fiber LLC for a service provider certificate of operating authority (SPCOA). Commission Staff recommended approval of the application, as amended. The application, as amended, is approved.

I. Findings of Fact

Background

1. On June 15, 2017, Uniti applied for a SPCOA authorizing the company to provide facilities-based, data and resale services in all incumbent local exchange carrier (ILEC) areas of the State of Texas open to competition. Uniti supplemented the application on July 14, 2017.
2. On June 23, 2017, Order No. 2 was issued, certifying Uniti as eligible to obtain a SPCOA and finding Uniti's requested name, "Uniti Fiber LLC," to be distinctive and acceptable.
3. On June 30, Order No. 3 was issued, deeming the application sufficient and complete.



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4. On July 21, 2017, Commission Staff recommended approval of the application, as amended.

Notice

5. Notice of the application was published in the *Texas Register* on July 7, 2017.
6. Uniti provided notice of this application to the Texas Commission on Emergency Communications (CSEC) within 5 days of submitting the application.

Information

7. Uniti has satisfied all of the technical and financial requirements of 16 Texas Administrative Code § 26.111 (TAC) to be granted a SPCOA authorizing the company to provide facilities-based, data and resale services in all ILEC areas of Texas open to competition.
8. Uniti's Business Plan is Business Only – Optical Services, Dark Fiber, Wavelengths, Ethernet, IP Services (including Dedicated Internet Access and IP Transport), RF Transport Services.
9. Uniti's franchise tax account with the Texas Comptroller is active.
10. Uniti is authorized by the Texas Secretary of State to transact business in Texas.
11. Uniti provided a balance sheet for the most recent quarter and the company's shareholder equity is sufficient.
12. Uniti has demonstrated that its executive officers and principals do not have a history of violations of rules or misconduct such that granting this application would be inconsistent with the public interest.
13. Uniti does not hold a SPCOA, certificate of operating authority or certificate of convenience and necessity for the area covered by this application.
14. Uniti has principals, consultants or permanent employees in managerial position whose combined experience in the telecommunications industry equals or exceeds five year.
15. Neither Uniti nor any of its officers have any previous or ongoing investigations and have not been assessed any penalties in the past 60 months.
16. Neither Uniti nor any predecessor in interest have a history of insolvency, bankruptcy, dissolution, merger or acquisition in the 60 months preceding this application.

17. Neither Uniti nor its principals are currently under investigation or have been penalized by the attorney general or any state/federal regulatory authority for violation of any deceptive trade or consumer protection laws or regulations.
18. Uniti has confirmed that it will meet all applicable service quality standards.
19. Uniti has affirmed that it will meet are customer protection requirements.

Informal Resolution

20. More than 15 days have passed since the completion of notice.
21. The only parties to this proceeding are Uniti and Commission Staff.
22. No protests, motions to intervene, or requests for hearing were filed, therefore no hearing is necessary.

II. Conclusions of Law

1. The Commission has jurisdiction over this matter under PURA¹ §§ 14.001, 54.154-.159.
2. Notice of the application was provided in compliance with 16 TAC § 26.111 and 16 TAC §§ 22.54-.55.
3. The application complies with PURA §§ 54.154-54.159.
4. Uniti is not precluded by PURA §§ 54.201 or 54.152 from providing service under a SPCOA.
5. Uniti is entitled to approval of this application, having satisfied the requirements of PURA §§ 54.154(b) and 54.155(b) and 16 TAC § 26.111.
6. The requirements for informal disposition under 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

1. The application, as amended, is approved. Uniti is granted SPCOA No. 60980, in the name “Uniti Fiber LLC” to provide facilities-based, data and resale services in all ILEC areas of the State of Texas that are open to competition.

¹ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-58.303 (West 2016), §§ 59.001-66.017 (West 2007 & Supp. 2016) (PURA).

2. Uniti shall comply with pertinent provisions of the Federal Telecommunications Act of 1996,² including the procedural requirements of FTA § 251(f)(1)(B), when seeking interconnection, services, or network elements from a rural telephone company.
3. Uniti shall establish an access line account and submit quarterly reports in compliance with 16 TAC § 26.467.
4. Uniti is bound by the requirements of 16 TAC § 26.111. The applicant will provide service exclusively under the name approved by the Commission.
5. A SPCOA holder that has not provided service for a period of 12 consecutive months after initially having begun providing service must provide a sworn affidavit to the Commission on an annual basis attesting that they continue to possess the technical and financial resources necessary to provide the level of service proposed in the initial application. Unless subject to an exception under 16 TAC § 26.433(c), a SPCOA holder that has not provided service, as described in PURA § 54.001, within 24 months of being granted the certificate by the Commission, may have its certificate suspended or revoked, as provided in 16 TAC § 26.111, after due process, or undergo certification re-qualification. Uniti shall comply with the above requirements.
6. Uniti shall file, electronically, any future changes in address, contact representative, and/or telephone numbers in an annual report with the Commission between January 1st and April 30th of each year pursuant to 16 TAC § 26.111(k)(2). If Uniti has any change during the year in the information requested in Section One of the annual report form, the company shall file an updated form correcting the information in Section One within 30 days of the change.
7. Uniti shall provide a copy of its application and/or the Commission's Notice of Approval, in accordance with the individual entity's requirements, to all affected CSEC (9-1-1) entities prior to providing service to those entities.
8. Uniti's provision of local telephone service to end-users, whether by its own facilities, flat-rate resale, or usage sensitive loop, must also include 9-1-1 emergency telephone service at a level required by the applicable regional plan followed by local telephone service

² Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of 15 and 47 U.S.C.) (FTA).

providers under Chapters 771 and 772 of the Texas Health and Safety Code, Texas Health & Safety Code Ann. §§ 771.001 et seq. (West 2010 & Supp. 2012) (the Code) or other applicable law, and any applicable rules and regulations implementing those chapters. Uniti shall diligently work with the CSEC, local 9-1-1 entities, and any other agencies or entities authorized by Chapters 771 and 772 of the Code to ensure that all 9-1-1 emergency services, whether provided through the certificate holder's own facilities, flat-rate resale, or usage sensitive loop, are provided in a manner consistent with the applicable regional plan followed by local telephone service providers under Chapters 771 or 772 of the Code or other applicable law and any applicable rules and regulations implementing those chapters. Uniti shall diligently work with the 9-1-1 entities to pursue, in good faith, the mutually agreed goal that the local 9-1-1 entities and emergency service providers experience no increase in their current level of rates and, to the extent technically feasible, no degradation in services as a result of the certification granted herein and the involvement of the certificate holder in the provision of 9-1-1 emergency service.

9. Uniti shall notify all affected 9-1-1 administrative entities at least 30 days prior to activating or using a new NXX in a rate center or upon the commencement of providing local telephone service in any rate center in compliance with 16 TAC § 26.433(d)(3).
10. Uniti shall execute a separate service agreement with each 9-1-1 entity and remit the required 9-1-1 emergency service fee to the 9-1-1 entity pursuant to such agreement in compliance with 16 TAC § 26.435(e)(4).
11. Uniti is committed to and is bound by the quality of service requirements set forth in the Commission's Quality of Service Questionnaire. Uniti's underlying ILECs continue to be bound by the quality of service requirements contained in 16 TAC § 26.54. Approval of Uniti's SPCOA application does not expand the scope of an underlying ILEC's obligation to its own customers.
12. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.

Signed at Austin, Texas the 27th day of July 2017.

PUBLIC UTILITY COMMISSION OF TEXAS



**SUSAN E. GOODSON
ADMINISTRATIVE LAW JUDGE**

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