

BEFORE THE TENNESSEE PUBLIC SERVICE COMMISSION

Nashville, Tennessee

December 12, 1995

**IN RE: THE APPLICATION OF WINSTAR WIRELESS OF
TENNESSEE, INC. FOR A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY.**

Docket No. 95-03232

INITIAL ORDER

This matter is before the Tennessee Public Service Commission upon the application of WinStar Wireless of Tennessee, Inc. ("WinStar") for a certificate of public convenience and necessity to provide all forms of competitive telecommunications services, including private line (dedicated), local exchange and intraLATA toll services, within Tennessee. WinStar filed the instant application as a Competing Telecommunications Service Provider pursuant to Section 7 of Chapter 408 of the Public Acts of 1995, T.C.A. § 65-4-201(c). Pursuant to the limitations described in T.C.A. § 65-4-201(d), WinStar seeks to provide intrastate service to customers located in territory served by an incumbent local exchange telephone company with 100,000 or more total access lines. Notice of this application has been provided to such carriers and to other interested parties.

The matter was heard December 1, 1995, in Nashville, Tennessee, before Ralph B. Christian, II, Administrative Judge, at which time the following appearances were entered:

APPEARANCES:

ROBERT G. BERGER and MICHAEL C. WU, Attorneys at Law, 3000 K Street, N.W., Suite 300, Washington, D.C. 20007, appearing on behalf of the Applicant.

HENRY WALKER, Attorney at Law, 414 Union Street, Suite 1600, Nashville, Tennessee 37219, appearing on behalf of the Applicant.

BENNET L. ROSS, Attorney at Law, 333 Commerce Street, Suite 2101, Nashville, Tennessee 37201-3300, appearing on behalf of BellSouth Telecommunications, Inc.

David W. Ackerman, President, WinStar Wireless of Tennessee, Inc., testified in support of the application. No other witnesses testified. The application was not opposed.

Findings of Fact and Conclusions of Law

1. WinStar seeks authority to provide all forms of competitive telecommunications services including, but not limited to dedicated and switched access service, private line (dedicated) service, local dial tone, and toll service. WinStar seeks to provide those services on a statewide basis, including both interLATA and intraLATA, interexchange and intraexchange.

2. WinStar intends to provide service to customers located throughout Tennessee except in those areas served by an incumbent local exchange company with fewer than 100,000 access lines or by a telephone cooperative.

3. WinStar is a wholly-owned subsidiary of WinStar Wireless of Tennessee, Inc., which is a wholly-owned subsidiary of WinStar Communications, Inc. ("WCI"). WCI, through its operating subsidiaries, specializes in the development and provision of telecommunications services throughout the United States.

WinStar's affiliates are in the process of constructing microwave networks for high-capacity *interstate* service in the following metropolitan markets:

| | | | |
|--------------|-------------|---------------|---------------|
| Memphis | Akron | Atlanta | Austin |
| Baltimore | Boston | Buffalo | Charlotte |
| Chicago | Cincinnati | Cleveland | Dallas |
| Denver | Detroit | Houston | Indianapolis |
| Jacksonville | Kansas City | Los Angeles | Miami |
| Milwaukee | Minneapolis | New Orleans | New York |
| Norfolk | Oakland | Oklahoma City | Omaha |
| Philadelphia | Phoenix | Pittsburgh | Portland |
| Richmond | San Antonio | San Diego | San Francisco |
| Seattle | Spokane | Stamford | St. Louis |
| Tacoma | Tampa | | |

Additionally, WinStar's affiliates have obtained the requisite authority to provide *intrastate* high-capacity microwave services in California, Colorado, Florida, Georgia, Illinois, Kansas, Maryland, Massachusetts, Michigan, Missouri, New York, Ohio, Pennsylvania, Texas, Washington, and Wisconsin. WinStar's affiliates also are in the process of filing the requisite authority to provide *intrastate* high-capacity microwave services in the remaining states in which WinStar will offer *interstate* service.

WinStar's affiliates also have been authorized to provide competitive local exchange services in New York and Florida. Additionally, WinStar is in the process of seeking competitive local exchange authority in California.

According to Mr. Ackerman's testimony and portions of WCI's adjusted financial statements from its October 18, 1995 Offering Memorandum, WCI has recently raised approximately \$214.5 million in net proceeds for the purpose of supporting its telecommunications operations. WCI's adjusted financial statements reflect that WCI has in excess of \$226 million in cash and cash equivalents. Exhibits attached to the application demonstrate that the company has the necessary expertise in the design, operation, and deployment of advanced telecommunications networks to operate as a Competing Telecommunications Service Provider. The officers responsible for WinStar's Tennessee operations have the managerial and technical experience to execute WinStar's business plan.

The Administrative Judge finds that WinStar possesses the managerial, financial, and technical abilities to provide the telecommunications services it proposes.

4. Mr. Ackerman testified that the Applicant will adhere to all applicable Public Service Commission policies, rules, and orders.

5. In accordance with Section 16 of Chapter 408, WinStar has filed a small and minority-owned telecommunications business participation plan. The plan fulfills the statutory requirements of Section 16. Mr. Ackerman testified that WinStar is committed to implementation of the plan.

6. WinStar will keep its books in accordance with Generally Accepted Accounting Principles.

7. Approval of the instant application will serve the public interest by creating greater competition in the intrastate telecommunications marketplace. WinStar avers its proposed services will provide its users with better quality services and enhanced features and will increase consumer choice through innovative, diversified, and reliable service offerings.

The public will benefit both directly, through the use of the competitive telecommunications services to be offered by WinStar, and indirectly because the presence of WinStar in this market will increase the incentives for other telecommunications service providers, including the incumbent local exchange carrier, to operate more efficiently, offer more innovative services, reduce prices, and improve the quality of service. The result should stimulate economic development in Tennessee.


The public interest will also be furthered by a grant of the instant application by expanding the availability of technologically advanced telecommunications facilities with features such as security, survivability, and redundancy. The WinStar network will also provide Tennessee customers with the option of selecting from a wide range of innovative, customized services designed to meet specific customer needs. WinStar's entry into the intrastate market will therefore enhance the telecommunications infrastructure in Tennessee.

WHEREFORE, having considered the testimony, the evidence of record, and the statutory criteria, the Administrative Judge finds that the application is in the public interest and should be **granted**.

IT IS THEREFORE ORDERED:

1. That the application of WinStar Wireless of Tennessee, Inc. for a statewide certificate of public convenience and necessity as a Competing Telecommunications Service Provider, pursuant to Section 7 of Chapter 408 of the Public Acts of 1995, T.C.A. § 65-4-201(c), is hereby **granted**;
2. That WinStar Wireless of Tennessee, Inc. Is authorized to offer all of the services which may be provided by a Competing Telecommunications Service Provider, as the term is defined in Section 3 of Chapter 408, T.C.A. § 65-4-101(e) including but not limited to toll, local exchange, access, and private line (dedicated) services;
3. That WinStar Wireless of Tennessee, Inc. may not provide service to customers served by an incumbent local exchange telephone company with less than 100,000 total access lines or by a telephone cooperative, except in accordance with T.C.A. § 65-4-201(d), or as authorized by federal law or otherwise authorized by the Tennessee Public Service Commission; and

4. That before providing service pursuant to this certificate WinStar Wireless of Tennessee, Inc. shall file tariffs describing the areas it proposes to serve, the services it proposes to offer, and such other information the Public Service Commission may require.


RALPH B. CHRISTIAN, II
ADMINISTRATIVE JUDGE