

TENNESSEE PUBLIC SERVICE COMMISSION

460 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-0505

KEITH BISSELL, CHAIRMAN
STEVE HEWLETT, COMMISSIONER
SARA KYLE, COMMISSIONER

PAUL ALLEN, EXECUTIVE DIRECTOR



APPLICATION FOR CERTIFICATE TO PROVIDE OPERATOR SERVICES AND/OR RESELL INTEREXCHANGE TELECOMMUNICATION SERVICES IN TENNESSEE [RULE 1220-4-2-.57]

SECTION A

Part 1: General Information

- A. Name of Applicant TotalTel USA Communications, Inc.
Address Overlook at Great Notch, 150 Clove Road, 8th Floor, Little Falls
State NJ Zip Code 07424 Phone No. (201) 812-1100
- B. Owner, Partners, or Corporate Officer

NAME	ADDRESS	CITY	STATE	ZIP CODE
Warren H. Feldman	150 Clove Rd. 8th	Little Falls,	NJ	07424
Solomon Feldman	"	"		
Thomas P. Gunning	"	"		

- C. Name and telephone number of Tennessee contact person authorized to respond to Commission inquiries Monday through Friday.
Lance JM Steinhart, Esq. (770) 698-9200 (770) 698-9202
Name Tennessee Phone No. Fax No.
- D. List a toll-free telephone number that consumers can call to report service problems and/or request refunds or adjustments. 800-805-1000
- E. Check the type of telecommunication services you plan to provide in Tennessee.
☒ Resell Interexchange long distance services
☐ Operator Services
☐ Other (describe below) _____
- F. If providing operator services, list company name, address and contact person for all reseller carriers you serve in Tennessee. Provide the above information on Appendix I.
- G. List the state(s) you are authorized to operate in at this time. All States Except
Maine, Tennessee, Alaska, Rhode Island, and New Mexico.

(To be filled out by PSC) 95-3238
Company ID Number 115555
Date Approved _____
Evaluator _____

Mail the completed application and a check for \$50.00 to: Tennessee Public Service Commission, P.O. Box 3412, Nashville, TN 37219-0412. Should you have any questions, call (615) 741-3939.

- H. List any states that you have been denied authority to provide service.
None
- I. Areas in Tennessee to be served.
The entire state
- J. What type of customers will the company serve?
a. Business X
b. Residential X
c. Aggregators _____
(e.g. Hotels, Payphones)
d. Other (specify) _____
- K. Do you allow a property imposed fee (PIF) to be added to the price of intrastate telephone calls over your network? If yes, specify amount. No
- L. Are your prices for intrastate services plus any PIF equal to or less than the dominant carriers price for similar services? Yes X No _____
- M. Describe the type of services and price that the applicant will be offering in Tennessee on the Informational Tariff Form found in Appendix II¹.
- N. What is the applicant's 10XXX or 800 access code? 10555
- O. Does the applicant now have or plan to have any telecommunication's facilities (e.g. switches, fiber lines) in Tennessee? No
- P. What facility-based network will the applicant be reselling? WillTel/LDDS
- Q. Will the applicant be utilizing the local telephone company's billing system or billing customers direct²? Direct Billing
- R. Describe briefly how the applicant plans to market their services in Tennessee? If an independent telemarketer is going to be used, state company name and address.
The Company will market its services in the State of Tennessee through its sales department. No sales office will be opened in the State of Tennessee. The Company will follow leads from its existing customers.
- S. Describe the procedures the applicant will use to switch a consumer's preferred interexchange service. All customers are required to execute a letter of agency authorizing applicant to switch service.

¹Applicant is required to fill out an Informational Tariff form. Failure to fill out this form will cause the applicant's request to be rejected.

²A copy of a bill is required if the applicant is going to bill the customer direct.

T. Applicant has the ability and agrees to honor the form of call blocking that the consumer has subscribed to with their local telephone company. Yes X No _____

U. Applicant gives permission to the local telephone company to provide the Commission a periodic sample of the reseller's intrastate toll calls. The purpose of this analysis is to audit the reseller's rates to assure they are at or below the dominant carrier's tariffed rates. Yes X No _____

Part II: Organization Structure

A. Type of Organization

_____ Individual X Corporation

_____ Partnership _____ Other (Explain on separate sheet)

B. If partnership and/or Non-resident

(1) Attach a copy of Articles of Incorporation and current by-laws.

(2) Attach a copy of Certification of Authority issued by Tennessee Secretary of State showing corporation's authority to engage in business in Tennessee.

Part III: Financial Information

A. Attach a current financial statement showing in detail the applicant's financial condition, including balance sheet and income statement, or a copy of IRS form 1120 or 1065 filed by your business for the previous year. Attach, if available, a copy of your company's 10K and/or stockholder reports.

Part IV: Display Card

Attach a copy of the display card to be placed on the aggregators telephone which shows what operator services are to be provided. The card must contain all required information listed in the attached Rule (1220-4-2-.57, B)³, which includes a toll-free number consumers can call for service problems and refunds.

³It is the responsibility of the reseller or operator service provider to assure that the appropriate display card is affixed to the aggregates telephones.

Part V: Rule Compliance Agreement

- A. The Interexchange Reseller or Operator Service Provider applicant, hereby, affirms the following:
- Has received, read, and understands the Tennessee Public Service Commission's (TPSC) Interexchange Reseller Rules and Regulations, (Appendix III)
 - Understands the penalties for non-compliance, and all associated fees to provide such service.
 - Will comply with the TPSC Interexchange Reseller Rules and all other applicable Commission Rules and state laws, including T.C.A. Section 65-5-206 (Appendix IV),
 - That all information provided in the attached registration document is true to the best of my knowledge.

TotalTel USA Communications, Inc.
Company Name Date

[Signature] Anti Jly
Company Official Title

Subscribed and sworn
before me this 30th day
of 8, 1995

[Signature]
Notary Public

my Commission
EXPIRES 6-18-98

seal

Company ID: 115555
Covista, Inc.
150 Clove Road, 8th Floor
Little Falls, NJ 07424

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, TN

August 21, 2001

IN RE: CASE NUMBER: 01-00695

TotalTel, Inc. name change to Covista, Inc.

--ORDER--

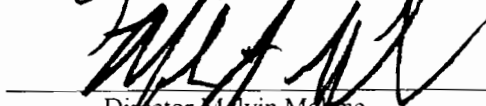
This matter is before the Tennessee Regulatory Authority upon the petition of TotalTel, Inc. to change its company name. The TRA considered this request at their regularly scheduled Conference held on August 21, 2001 and concluded that the applicant has met all the TRA requirements for changing its name. Pursuant to § T.C.A. 65-4-113,

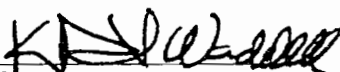
IT IS THEREFORE ORDERED:

1. That the petition TotalTel, Inc. is approved.
2. That Covista, Inc. holds a Certificate of Public Convenience and Necessity to provide telecommunications services in Tennessee as specified in its application on file with the Authority.
3. That said company shall comply with all applicable TRA rules and regulations.
4. That this order shall be retained as proof of certification with this Authority, and may be used to obtain appropriately tariffed service and billing arrangements from Authority authorized telecommunications service providers.


Chairman Sara Kyle


Director Lynn Greer


Director Melvin Malone

ATTEST: 
Executive Secretary

BEFORE THE TENNESSEE REGULATORY AUTHORITY

RECEIVED

NASHVILLE, TENNESSEE

AUG 10 1998

August 7, 1998

IN RE:

**PETITION OF TOTALTEL USA
COMMUNICATIONS, INC. AND
TOTALTEL, INC. FOR APPROVAL
OF TRANSFER OF AUTHORITY**

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**DOCKET NO.
97-07619**

TELECOMMUNICATIONS DIVISION

ORDER GRANTING APPROVAL OF TRANSFER OF AUTHORITY

This matter is before the Tennessee Regulatory Authority ("Authority") on the Joint Application of TotalTel USA Communications, Inc. ("TTU") and TotalTel , Inc. ("TTI") for approval of a transfer of a Certificate of Public Convenience and Necessity ("CCN") pursuant to Tenn. Code Ann. § 65-4-113. The Directors of the Authority considered this matter at a regularly scheduled Authority Conference on January 13, 1998.

From the application and the record existing in this matter, it appears that:

1. TTU is a publicly-held corporation duly organized and existing under the laws of the State of New Jersey, and domesticated under the laws of the State of Tennessee. TTU is a reseller of long distance telecommunications services in the State of Tennessee as reflected in the Certificate of Public Convenience and Necessity approved by the Tennessee Public Service Commission ("TPSC") in Docket Number 95-03238.

2. TTI is a wholly-owned subsidiary of TTU and is also a corporation duly organized and existing under the laws of the State of Delaware, and domesticated under the laws of the State of Tennessee.

3. It is proposed that TTU's CCN be transferred to TTI so that TTI will be permitted to conduct the retail interexchange and local exchange operations performed by TTU. As a result, TTU will no longer be authorized to provide service in the state of Tennessee.

I. CRITERIA FOR APPROVING TRANSFER

A transfer of authority to provide utility services cannot occur until the regulated public utility first obtains approval of such transfer by the Authority. The Directors of the Authority must approve the transfer pursuant to the requirements set forth under Tenn. Code Ann. § 65-4-113.

This Section in pertinent part provides for the following:

(a) No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

(b) Upon petition for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. The authority shall approve the transfer after consideration of all relevant factors and upon finding that such transfer furthers the public interest.

(c) Following approval of the transfer pursuant to this section, the transferee shall be granted full authority to provide the transferred services subject to the continuing regulation of the authority. The transferor shall no longer have any authority to provide the transferred services, but shall retain authority to provide other services, if any are retained, which were not included in such transfer. (Emphasis supplied).

In this instance, the joint petitioners have requested that the Authority approve the transfer of TTU's CCN to its wholly-owned subsidiary TTI.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Directors of the Authority considered this matter at a regularly scheduled Authority Conference on January 13, 1998. After consideration of the entire record in this matter, including the joint application, the Directors find and conclude as follows:

1. That the Authority has jurisdiction over the subject matter of said petition pursuant to Tenn. Code Ann. § 65-4-113;
2. That the transfer will be accomplished by an internal restructuring of TTU, which permits TTI to conduct the retail interexchange and local exchange operations performed by TTU;
3. That TTI will rely upon the same personnel and resources for technical, managerial and financial ability as TTU to provide the transferred services;
4. That since TTI has access to the above-mentioned resources, TTI is fit to provide the services that had been provided by its parent;
5. That the change is transparent to customers since TotalTel is the recognized name of the service provider. In addition, current customers will continue to receive service under the same terms and conditions set forth in TTU's tariffs on file with the Authority;
6. That based upon the foregoing, the transfer of TTU's CCN to its wholly-owned subsidiary TTI is compatible with the public interest.

IT IS THEREFORE ORDERED THAT:

1. The transfer of the Certificate of Public Convenience and Necessity of TotalTel USA Communications, Inc. to TotalTel, Inc. be the same and hereby approved.
2. TotalTel, Inc. is hereby authorized to perform the retail services once provided by TotalTel USA Communications, Inc.
3. TotalTel USA Communications, Inc. is no longer permitted to directly provide resold interexchange telecommunications services in Tennessee.
4. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order.
5. Any party aggrieved by the Authority's decision in this matter may file a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.


CHAIRMAN


DIRECTOR


DIRECTOR

ATTEST:


EXECUTIVE SECRETARY

C L E C order

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 14, 2004

IN RE:

**APPLICATION OF COVISTA, INC. FOR A
CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY TO PROVIDE
TELECOMMUNICATIONS SERVICES
WITHIN THE STATE OF TENNESSEE**

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**DOCKET NO.
03-00459**

**INITIAL ORDER GRANTING CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY**

This matter came before the Hearing Officer of the Tennessee Regulatory Authority (the "Authority" or "TRA") at a Hearing held on March 15, 2004, to consider the *Application for Certificate of Public Convenience and Necessity to Provide Telecommunications Services within the State of Tennessee* (the "*Application*") filed by Covista, Inc. ("Covista") on August 1, 2003. The Application requests the Authority to grant a certificate of public convenience and necessity to provide facilities-based local exchange telecommunications services, including exchange access services, within the State of Tennessee.

Legal Standard for Granting Certificate of Public Convenience and Necessity

Covista's *Application* was made pursuant to, and was considered in light of, the criteria for granting a Certificate of Public Convenience and Necessity ("CCN") as set forth in Tenn. Code Ann. § 65-4-201, which provides, in pertinent part:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service

therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

* * *

(c) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the authority shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the authority finds:

(1) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and

(2) The applicant possesses sufficient managerial, financial, and technical abilities to provide the applied for services.

* * *

(d) Subsection (c) is not applicable to areas served by an incumbent local exchange telephone company with fewer than 100,000 total access lines in this state unless such company voluntarily enters into an interconnection agreement with a competing telecommunications service provider or unless such incumbent local exchange telephone company applies for a certificate to provide telecommunications services in an area outside its service area existing on June 6, 1995.¹

¹ Notwithstanding the existence of subsection (d), the Federal Communications Commission ("FCC") has expressly preempted the Authority's enforcement of subsection (d) pursuant to the authority granted to the FCC under 47 U.S.C. § 253(d). *In the Matter of AVR, L.P. d/b/a Hyperion of Tennessee, LP Petition for Preemption of Tennessee Code Annotated Section 65-4-201(d) and Tennessee Regulatory Authority Decision Denying Hyperion's Application Requesting Authority to Provide Service in Tennessee Rural LEC Service Area*, FCC 99-100, (Memorandum Opinion and Order) 14 F.C.C.R. 11,064 (May 27, 1999); (Memorandum Opinion and Order) 16 F.C.C.R. 1247 (January 8, 2001) The Authority has since issued an order expanding a competing local exchange carrier's CCN to provide telecommunications services on a statewide basis including areas served by incumbent local exchange carriers with fewer than 100,000 total access lines in Tennessee. *See In re Application of Level 3 Communications, LLC to Expand its CCN to Provide Facilities-Based Local Exchange and Interexchange Telecommunications Services in all Tennessee Service Areas*, Docket No. 02-00230, *Order Approving Application of Level 3 Communications, LLC to Amend Its Certificate of Public Convenience and Necessity* (June 28, 2002).

Furthermore, pursuant to Tenn. Code Ann. § 65-5-212, a competing telecommunications provider is required to file with the Authority (1) a plan containing the provider's plan for purchasing goods and services from small and minority-owned telecommunications businesses; and (2) information on programs that might provide technical assistance to such businesses.

The March 15, 2004 Hearing

Pursuant to Tenn. Code Ann. § 65-4-204, public notice of the Hearing in this matter was issued by the Hearing Officer on March 1, 2004. No persons sought intervention prior to or during the Hearing. At the Hearing held on March 15, 2004, Frank J. Pazera, Chief Financial Officer for Covista, participated in the Hearing, presented testimony, and was subject to examination by the Hearing Officer. H. LaDon Baltimore, Esq., Farrar & Bates, 211 Seventh Avenue North, Suite 420, Nashville, Tennessee 37219-1823, appeared on behalf of Covista. Upon Covista's conclusion of the presentation of its proof, the Hearing Officer granted Covista's *Application* based upon the following findings of fact and conclusions of law:

I. Covista's Qualifications

1. Covista is a corporation originally organized as Mansol Ceramics Company under the laws of the State of New Jersey on March 9, 1960. Mansol Ceramics Company changed its corporate name to TotalTel, Inc. by filing an amendment to its Charter.² TotalTel, Inc. was granted authority to transact business in the State of Tennessee on October 24, 1997. TotalTel, Inc. filed an *Amended Certificate of Authority* on July 27, 2000, and changed its corporate name to Covista, Inc.³

² On February 4, 1994, TotalTel USA Communications, Inc., the sole shareholder in the corporation, by unanimous consent of its Board of Directors, consented to the above amendment.

³ Covista, Inc. is a wholly-owned operating subsidiary of Covista Communications, Inc., a publicly held fully reporting Securities Exchange Commission Company. Covista Communications, Inc. was qualified to transact business in the State of Tennessee on February 18, 2003.

2. The complete street address of Covista's registered agent is TCS Corporate Services, Inc., 1900 Church Street, Suite 400, Nashville, Tennessee 37203. The complete street address of Covista's corporate office is 721 Broad Street, Suite 200, Chattanooga, Tennessee 37402. The telephone number is (423) 648-9595 and the facsimile number is (423) 648-9597.

3. The *Application* and supporting documentary information existing in the record indicate that Covista has the requisite technical and managerial ability to provide competitive access services and transport telecommunications services and within the State of Tennessee. Specifically, Covista's senior management team possesses extensive business, technical, operational and regulatory telecommunications experience.

4. Covista has the necessary capital and financial ability to provide the services it proposes to offer.

5. Covista has represented that it will adhere to all applicable policies, rules and orders of the Authority.

II. Proposed Services

Covista intends to provide facilities-based local exchange telecommunications services, including exchange access services, within the State of Tennessee.⁴

III. Permitting Competition to Serve the Public Convenience and Necessity

Upon a review of the *Application* and the record in this matter, the Hearing Officer finds that approval of Covista's *Application* would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State

⁴ In Docket No. 95-03238, Covista, formerly known as TotalTel USA Communications, Inc., by Order dated February 8, 1996, was granted authority to resell interexchange telecommunications services and operator services in Tennessee. In Docket No. 97-07619, TotalTel USA Communications, Inc., by Order dated August 7, 1998, was granted authority to transfer the Certificate of Public Convenience and Necessity of TotalTel USA Communications, Inc. to TotalTel, Inc. In Docket No. 01-00695, TotalTel, Inc., by Order dated August 21, 2001, was granted authority to change its name from TotalTel, Inc. to Covista, Inc.

and by fostering the development of an efficient, technologically advanced statewide system of telecommunications services.

IV. Small and Minority-Owned Telecommunications Business Participation Plan and Business Assistance Program


Covista has filed a satisfactory small and minority-owned telecommunications business participation plan, pursuant to Tenn. Code Ann. § 65-5-212 and the Authority's Rules.

V. Compliance with Tennessee's County-Wide Calling Requirements

Covista has indicated its awareness of, and its obligation to comply with, the requirements of county-wide calling as set forth in Tenn. Code Ann. § 65-21-114.

IT IS THEREFORE ORDERED THAT:

1. *The Application for Certificate of Public Convenience and Necessity to Provide Telecommunications Services within the State of Tennessee* of Covista, Inc. is approved; and
2. Any party aggrieved by the Hearing Officer's decision in this matter may file a petition for reconsideration within fifteen (15) days from and after the date of this Order.


Randal Gilliam, Hearing Officer