

STATE OF VERMONT
PUBLIC SERVICE BOARD

CPG No. 993-CR

Petition of Airespring, Inc., for a certificate of public)
good to operate as a provider of telecommunications)
services in Vermont)

Order entered: 8/5/2015

I. INTRODUCTION

Airespring, Inc. ("Airespring" or the "Company") requests issuance of a certificate of public good ("CPG"), pursuant to 30 V.S.A. § 231, to provide telecommunications services in Vermont. In this Order, the Vermont Public Service Board ("Board") concludes that Airespring should be issued a CPG as requested to allow the Company to begin operating as a telecommunications carrier within the state.

II. PROCEDURAL HISTORY

On April 24, 2015, Airespring, pursuant to 30 V.S.A. § 231 and the rules and regulations of the Board, filed a Telecommunications Provider Registration Form ("Registration Form") and the required accompanying documentation seeking a CPG to offer telecommunications services in the State of Vermont.

On May 18, 2015, the Vermont Department of Public Service ("Department" or "DPS") filed a letter with the Board in which it recommended that a CPG be granted without the need for investigation or hearings.

The Board has reviewed the petition and accompanying documents and agrees that a CPG should be issued without hearing.

Based upon the Registration Form and accompanying documents, the Board makes the following findings.

III. FINDINGS

1. Airespring has all the necessary authority to transact business in Vermont. Airespring is incorporated in Delaware, and was granted a Certificate of Authority by the Vermont Secretary of State effective April 7, 2015. Registration Form at Attachment.

2. Airespring proposes to provide resold local exchange and interexchange telecommunications services throughout Vermont. Registration Form at 2.

3. Airespring is currently registered to provide telecommunications services in the States of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, District of Columbia, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Maryland, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. Registration Form at 3.

4. Airespring has provided the necessary documentation regarding management structure and financial information. Registration Form at Attachment.

5. Airespring has not filed for bankruptcy. Registration Form at 3.

6. Airespring has not been the subject of an investigation by a state or federal authority. Registration Form at 3.

IV. DISCUSSION

Sections 102 and 231 of Title 30, V.S.A., require that a CPG be issued before a company can offer telecommunications services to the public in Vermont. The primary purpose of this requirement is to protect consumers against incompetent or dishonest businesses.¹ However, the Board also determined that, in light of the emerging competitive telecommunications market, it was not necessary to require companies seeking to offer such services to be examined through contested regulatory proceedings. Instead, the Board adopted a "registration and screening system." Under this process, the Board created a model registration form that would apply to prospective competitive local exchange carriers. Under the process, after receipt of the form, and notice and an opportunity for hearing on the filing, the Board could find that a company's entry into Vermont promotes the general good and issue a CPG.² The Petitioner, Airespring, has filed the required form and the Board finds good cause to issue the CPG.

1. *Investigation into New England Telephone and Telegraph Company's tariff filing re: Open Network Architecture*, Docket 5713, Order of 2/4/99 at 59. Originally, the entry regulation also served a separate purpose: to protect existing providers by limiting or eliminating their competitors. *See, e.g.* Docket No. 5012, *Petition of Burlington Telephone Company*, Order of 5/27/86. In 1999, the Board concluded that such franchise protection does not apply where competition exists or is viable. *Id.*

2. *Id.*, at 62-63.

Pursuant to Board Rule 7.500, non-dominant telecommunications carriers, including Airespring, are no longer required to file tariffs with the Board. However, all carriers should familiarize themselves with the consumer protection provisions contained in Board Rule 7.600. In particular, carriers intending to provide operator services should review the rules governing provision of these services in section 7.609(G) of the rules.

Additionally, the Company should be aware of the Board's policy in connection with the provision of prepaid calling card service. The Board has imposed such a requirement on new entrants into the Vermont market that provide debit prepaid calling card services. See CPG No. 145, Order of 7/13/94, and CPG No. 146, Order of 8/17/94. As we noted in our Orders in CPG Nos. 145 and 146, the public utilities commissions of several states have expressed concern about the potential risks to consumers associated with payment in advance of receipt of service, and we have the same concern.³ Consequently, we ordered World Telecom Group and Quest Telecommunications Inc. to post a bond, payable to the Board, in an amount equal to their projected Vermont intrastate revenues for the first 12 months of operation.

We make a distinction, however, between new entrants into the Vermont market that provide only debit card service, and long-term participants that offer a multitude of services and have assets located within the state that simply seek to add debit card service to their choice of service offerings. For this latter group, we do not impose a bond requirement because the provider is already established in Vermont and offers several services that are provided on an on-going basis.

Since we do not know how much of its business will be devoted to prepaid calling card services, we conclude that the most sensible approach is to inform the Company that should it decide to include the provision of debit cards among its service offerings, it will be required to post a bond, payable to the Board, in an amount equal to its projected Vermont intrastate revenues from its prepaid calling card services for the first 12 months of operation. This approach will be fair to the Company, fair to the public, and consistent with the theory that

3. In this regard, we note that the DPS has asked several other prospective providers of debit cards to comply with more than 30 separate suggested requirements designed to protect consumers. See, e.g., CPG No. 156, *Petition of IDB WorldCom Services, Inc.*, letter from DPS to IDB WorldCom Services, Inc. dated May 26, 1994. In its letter to IDB WorldCom, the DPS states that its suggested requirements are "merely a guideline to certain consumer protection concerns" and are not required by the Public Service Board. *Id.* at 3. We confirm that we have not endorsed the requirements suggested by the DPS.

underlies the Board's treatment of other telecommunications providers offering debit card services.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board of the State of Vermont that:

1. Based on the above findings, discussion, and conclusion, the provision of telecommunications services by Airespring, Inc. ("Airespring"), will promote the general good of the State of Vermont, pursuant to the provisions of 30 V.S.A. § 231. A certificate of public good ("CPG") shall be issued to that effect, subject to the conditions contained in the CPG.

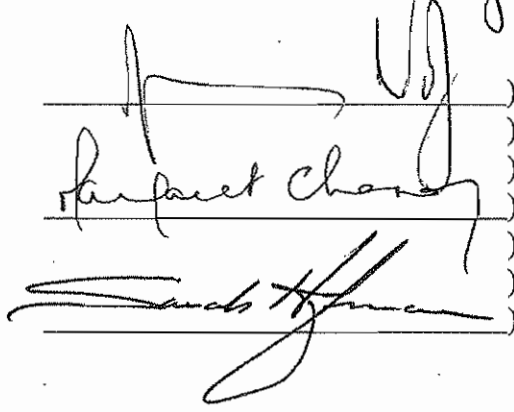
2. If Airespring at any time in the future proposes to offer operator services, it shall be required to comply with Board Rule 7.609(G).

3. If Airespring at any time in the future proposes to offer prepaid calling card services, it shall post a bond, payable to the Board, in an amount equivalent to its projected intrastate revenues from its prepaid calling card service for the first twelve (12) months of operation.

4. Airespring intends to conduct business in the State of Vermont under the name Airespring, Inc., and has filed appropriate documents with the Vermont Secretary of State. If Airespring intends to do business in the State of Vermont under a name other than the name in use on the date of this Order, it shall file a notice of the new trade name with the Clerk of the Board and the Vermont Department of Public Service at least 15 days prior to commencing business under the new trade name.⁴

4. For a corporate name change, *see* 11 V.S.A. § 4.01 and 30 V.S.A. § 231. Petitioner may wish to contact the Clerk of the Board for assistance.

Dated at Montpelier, Vermont, this 5th day of August, 2015.



Three handwritten signatures are written over three horizontal lines. The signatures are cursive and appear to be 'Richard Cheney' and 'Susan M. Hudson'.

PUBLIC SERVICE
BOARD
OF VERMONT

OFFICE OF THE CLERK

Filed: August 5, 2015

Attest: Susan M. Hudson
Clerk of the Board

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and Order.

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PUBLIC SERVICE BOARD

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CERTIFICATE OF PUBLIC GOOD
ISSUED PURSUANT TO 30 V.S.A. SECTION 231

IT IS HEREBY CERTIFIED that the Public Service Board ("Board") of the State of Vermont on this day found and adjudged that the issuance of a Certificate of Public Good ("CPG") to Airespring, Inc. ("Airespring") and that the provision of telecommunications services by Airespring will promote the general good of the State of Vermont, subject to the following conditions:

1. Airespring is subject to the provisions of Title 30, Vermont Statutes Annotated, to the same extent as other regulated utilities.
2. Airespring shall terminate all telecommunications traffic routed to its customers by any telecommunications carrier with which Airespring interconnects.
3. Airespring may participate in any Board investigation into local competition and/or competitive access services. Airespring shall be bound to comply with any lawful requirement imposed by the Board governing the obligations of telecommunications carriers in Vermont.
4. Airespring's books, accounts, statements, and other financial records shall, in accordance with Vermont law, be made available for examination by the Board or the Vermont Department of Public Service.
5. This CPG may not be transferred to any other party without prior approval by the Board.
6. Airespring intends to conduct business in the State of Vermont under the name Airespring, Inc., and has filed appropriate documents with the Vermont Secretary of State. If Airespring intends to do business in the State of Vermont under a name other than the name in use on the date of this CPG, it shall file a notice of the new trade name with the Clerk of the

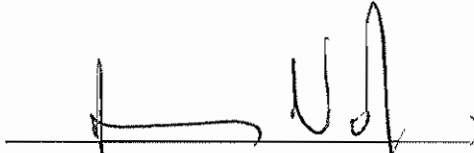
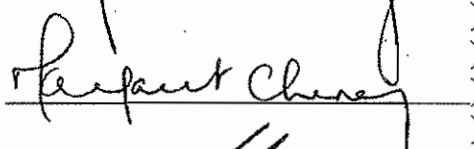
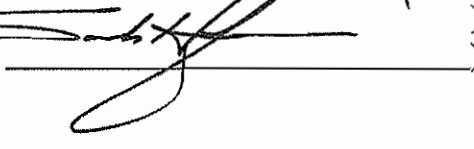

Board and the Vermont Department of Public Service at least 15 days prior to commencing business under the new trade name.¹

7. If Airespring at any time in the future proposes to offer operator services, it shall be required to comply with Board Rule 7.609(G).

8. If Airespring at any time in the future proposes to offer prepaid calling card services, it shall post a bond, payable to the Board, in an amount equivalent to its projected intrastate revenues from its prepaid calling card service for the first twelve (12) months of operation.

9. Airespring shall be subject to any rules lawfully adopted or to be adopted by the Board, and its CPG hereby incorporates those rules by reference. Airespring's CPG shall be subject to revocation upon good cause, including a substantial or continuous failure to abide by its material terms.

Dated at Montpelier, Vermont, this 5th day of August, 2015.

)	
)	PUBLIC SERVICE
)	BOARD
)	OF VERMONT

OFFICE OF THE CLERK

Filed: August 5, 2015

Attest: Susan M. Huelson
Clerk of the Board

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1. For a corporate name change, see 11 V.S.A. § 4.01 and 30 V.S.A. § 231. Petitioner may wish to contact the Clerk of the Board for assistance.