

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 6434

Petition of Winstar Wireless, Inc. for Approval )  
of a Transfer of Control )

Order entered: 10/26/2000

**I. INTRODUCTION**

This case involves a petition filed on July 25, 2000, by Winstar Wireless, Inc. ("WWI"), seeking Vermont Public Service Board ("Board") approval, under 30 V.S.A. § 107, of a pro forma corporate reorganization whereby WCI Capital Corp. ("WCC"), currently a sister company of WWI, will acquire direct control of WWI. Both companies will continue to be wholly-owned subsidiaries of Winstar Communications, Inc. The transaction will not affect the operations of WWI, which is a certificated carrier of interexchange telecommunications services in Vermont.

On October 17, 2000, the Vermont Department of Public Service ("Department") submitted a letter to the Board indicating that the Department had no objection to the transfer of control of WWI to WCC. The Department noted that the transaction would be transparent to Vermont consumers and should not cause any changes in services or rates, since Board approval of the proposed transaction would permit WWI to continue operating in Vermont under its current name and service offerings. Further, the Department also had no objection to the issuance of an order without hearing or further investigation, as provided under 30 V.S.A. § 107.

**II. FINDINGS OF FACT**

Based upon the petition and accompanying documents, the Board makes the following findings of fact.

1. WWI, a wholly-owned subsidiary of WCI, is authorized by the Board to provide telecommunications service in Vermont. A Certificate of Public Good was issued to WWI on December 17, 1999, in Docket No. 6075. Petition at 2.

2. WCI is a publicly held Delaware corporation that is headquartered in New York. WCI, through its subsidiaries, provides resale and facilities-based telecommunications services throughout the United States. Currently, WCI is the direct parent of both WCC and WWI. Petition at 2.

3. WCC is currently a sister company of WWI and a wholly-owned subsidiary of WCI. Petition at 3.

4. In conjunction with certain financing arrangements, WWI is participating in a corporate reorganization whereby WCC will become the new direct parent of WWI and WCI will be the indirect parent of WWI. Petition at 3.

5. Following completion of the transaction, WWI will continue to operate in all respects as it currently operates, pursuant to present operating authority. Neither the name of, nor the terms and conditions of service offered by WWI will be affected by the transaction. Accordingly, the transaction should not inconvenience customers within the State of Vermont. Petition at 3-4.

6. Completion of the proposed transaction will serve the public interest in that it will promote competition among telecommunications providers by providing WWI with the opportunity to strengthen its competitive position and to pursue marketing and business plans more effectively. Petition at 4.

### **III. CONCLUSIONS OF LAW AND DISCUSSION**

The proposed transaction requires Board approval under 30 V.S.A. § 107, which applies to a direct or indirect acquisition of a controlling interest in a Vermont utility.<sup>1</sup> Under Section 107, a "controlling interest" is defined as 10% or more of the outstanding voting securities of a company or such other interest as may constitute the means to direct or cause the direction of the management or policies of a company. Section 107 requires a finding that the transfer of control will promote the public good. This standard is met in this case. The proposed transaction will promote the public good, because the transfer of control of WWI from WCI to

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1. Approval under 30 V.S.A. §§ 231 and 311 is not required because the current holder of the Certificate of Public Good, WWI, will continue to be the entity providing telecommunications service in Vermont.

WCC will allow WWI to operate in a more flexible manner. In the competitive arena of telecommunications, the overall effect of this transfer may promote more customer choice in terms of services, with stronger competitors in the Vermont telecommunications market. It should also be noted that the transfer of control will not have an adverse impact on Vermont consumers as WWI will continue to operate according to its respective present authority.

For all of the above reasons, the proposed indirect transfer of control of WWI to WCC, should be approved.

**IV. ORDER**

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

1. The transfer of control of Winstar Wireless, Inc. from Winstar Communications, Inc. to Winstar Capital Corp., is approved.
2. Petitioners shall notify the Board, within one week, upon completion of the transfer of control.

DATED at Montpelier, Vermont, this 26<sup>th</sup> day of October, 2000.

s/Michael H. Dworkin	)	PUBLIC SERVICE  BOARD  OF VERMONT
	)	
s/David C. Coen	)	
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OFFICE OF THE CLERK

Filed: October 26, 2000

Attest: s/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 mail) of any technical errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)*

*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.*