



State of Utah
Department of Commerce
Division of Public Utilities

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MEMORANDUM

To: Public Service Commission

From: Division of Public Utilities
Chris Parker, Director
Bill Duncan, Telecommunications / Water Manager
Ron Slusher, Utility Technical Consultant

Date: February 14, 2011

Re: In the Matter of the Application of Zayo Group, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange Telecommunications Service within the State of Utah Docket No. 11-2536-01.

RECOMMENDATION: (Approval)

The Division has reviewed the technical, managerial, and financial abilities of the Applicant and has found that the Applicant has provided the necessary information to fulfill the requirements as stated in the existing Commission rules. The Division believes that the public interest will be promoted by recommending that the Commission allow the Applicant a CPCN as requested under the same terms and conditions allowed in other CPCNs. The Division also recommends that the \$100,000 bond be waived on the basis that the Applicant will not require customer deposits or prepayments of any kind.

The Division expects that based on history that a filing of this type and with the information submitted by the company there will be no objections or opposition to this recommendation. Therefore, the Division request that this docket be adjudicated informally in accordance with R746-110-1.

EXPLANATION:

Zayo Group, LLC (“Applicant”) filed an application for a certificate of public convenience and necessity (“CPCN”) on February 02, 2011. The Division reviewed the application and found the following:

The Applicant seeks statewide authority except within exchange areas with less than 5,000 access lines that are owned or controlled by an ILEC with fewer than 30,000 total access lines in accordance with Utah Code Ann. 5 54-8b-2.1 (3) and (4). Specifically, The Applicant seeks authority as a reseller

and facilities-based provider of interexchange and local exchange services in the service areas of Qwest Communications Inc. and any other existing or future LECs providing service in Utah.

According to financial statements attested to be accurate, objective and with integrity by Scott E Beer, VP / General Counsel and Secretary, of Zayo Group, LLC, the Applicant has a positive net worth and has ample working capital.

The Applicant does not plan to operate an office within Utah. Responsibility for Utah operations will be handled by Applicant's current management team from its headquarters in Louisville, Colorado. The Applicant intends to offer a broad range of local telecommunications services through the use of its own facilities, resold facilities and through a combination of these provisioning methods. The Applicant intends to commence negotiations with Qwest Communications for an interconnection/commercial agreement immediately upon receiving approval from the Public Service Commission of Utah to operate as a local exchange telecommunications service provider in the State of Utah.

The Applicant claims that it has never had any complaints nor has any investigation been undertaken against it or any of its affiliates involving unauthorized switching (slamming) or any other illegal activities. The Applicant also states that it has implemented policies and procedures concerning solicitation of new customers. These policies require that customers sign a contract authorizing the Applicant to provide telecommunications services.

Summaries of professional experience and education of its managerial personnel demonstrate that the Applicant has considerable experience in the telecommunications industry. The Applicant is not currently authorized to provide telecommunications service in any state, but is seeking such authority in every state where their affiliates currently provide telecommunications service. Zayo's Group subsidiaries are currently authorized to provide telecommunications services in the following areas, Arizona, California, Colorado, the District of Columbia, Delaware, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nevada, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington and West Virginia.

The Applicant requests that the \$100,000 bond requirement be waived because it will not require customer deposits or prepayments of any kind.

The Applicant asserts that approval of its application will serve the public interest creating and enhancing competition and expanding customer service options. Additionally, the approval of this application will expand the availability of innovative, high quality, reliable and competitively-priced telecommunications services in the State of Utah.

cc: Scott E Beer, VP / General Counsel and Secretary, Zayo Group, LLC
Jean L. Kiddoo, Counsel for Zayo Group, LLC, Bingham McCutchen LLP
Brett P. Ferenchak, Counsel for Zayo Group, LLC, Bingham McCutchen LLP
Felise Thorpe Moll, Attorney, State of Utah