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State of Utah

Department of Commerce

Division of Public Utilities

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Director, Division of Public Utilities

MEMORANDUM

To: Public Service Commission

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

Date: October 23, 2014

Re: In the Matter of the Application of Talk America Services, LLC for a Certificate of Public Convenience and Necessity to Provide Resold Local Exchange and Interchange Telecommunications Services in the State of Utah, Docket No. 14-2236-01.

RECOMMENDATION (Approve):

The Division of Public Utilities ("Division") has reviewed the technical, managerial, and financial abilities of the Talk America Services, LLC. and has found that they have 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 Public Service Commission ("Commission") allow Talk America Services, LLC. a certificate of public convenience and necessity ("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. Further, as demonstrated by its financial statements, the Applicant has the financial resources to cover other liabilities to telecommunications customers.

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:

On or about September 24, 2014, Talk America Services, LLC (“Talk America” or “Applicant”) filed an application for a certificate of public convenience and necessity (“CPCN”). The Division reviewed the application and found the following:

Talk America Services, LLC is a registered foreign corporation within the State of Utah; with its corporate headquarters located at 4001 North Rodney Parham Road, Little Rock, AK 72212.

Talk America is a subsidiary of Communications Sales and Leasing, Inc., whose parent company is Windstream Holdings, Inc. Windstream Holdings, Inc. currently owns several telecommunications companies that provide telecommunications and related services in the state of Utah. Those companies are McLeodUSA Telecommunications Services, LLC., PAETEC Communications, Inc., Windstream Communications, Inc., Windstream NTI, Inc., and Windstream NuVox, Inc.

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 local exchange services in the service areas of CenturyLink Communications, Inc. and any other existing or future LECs providing service in Utah.

The Applicant does not plan to construct any facilities in the state. Talk America intends to focus on service packages, marketing strategies and designing customers service standards catered to the residential CLEC customer segment. They plan to use the existing local exchange boundaries and established local calling scope of the incumbent local exchange carriers in Utah.

The Applicant intends to use the local loops and other existing network facilities where prudent of the local exchange incumbent provider.

Applicant proposes to begin providing resold local exchange and interexchange services following the transfer of residential customers currently subscribed to the Windstream Companies in Utah, which will be undertaken concurrently with, or as soon as practicable following the Commission’s approval of Applicant’s CPCN, and approval of the Windstream Companies’ Transfer Application.

Applicant will provide access to ordinary intraLATA and interLATA message toll calling, operator services, directory assistance, directory listings, and emergency services through interconnection with its underlying carrier(s).

Summaries of professional experience and education of its managerial personnel demonstrate that the Applicant has considerable experience in the telecommunications industry. The Applicant’s Utah operations will be directed by its management team located at its headquarters in Little Rock, Arkansas.

According to financial statements attested to be accurate, objective and with integrity by Jeffery W. Small, Senior Vice President, Talk America Services, LLC the Applicant has a positive net worth and has ample working capital.

Applicant respectfully requests a waiver of the requirement for proof of a bond in the amount of \$100,000, as Utah customers will not be required to make a service deposit. Further, as demonstrated by its financial statements, Applicant has the financial resources to cover other liabilities to telecommunications customers.

Talk America is not currently authorized to provide intrastate telecommunications services in any jurisdiction, and therefore has not been denied authority to provide telecommunications services in any state, but is in the process of obtaining authority to provide intrastate telecommunications services in all of the contiguous United States and the District of Columbia. Applicant states that they will not be seeking authority to provide services within Alaska and Hawaii.

As a newly formed Company, Applicant has never had complaints filed against it with any state or federal commission regarding the unauthorized switching of a customer's telecommunications provider and the act of charging customers for services that have not been ordered. Applicant states that they will comply with all applicable laws and regulations to prevent the unauthorized switching of local service customers by the Applicant, its employees or agents.

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: Jeffery W. Small, Senior Vice President, Talk America Services, LLC
Justin Jetter, Assistant Attorney General, State of Utah
Cheryl Murray, Utility Analyst, Office of Consumer Services, State of Utah