

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter of the
Application of Clear Rate
Communications, Inc. for
a Certificate of Public
Convenience and Necessity
to Provide/Resell Local
Exchange and Interexchange
Services in the State of Utah

DOCKET NO.
15-2581-01

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HEARING PROCEEDINGS  
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TAKEN AT: Public Service Commission
160 East 300 South, Hearing Room 451
Salt Lake City, Utah

DATE: Tuesday, June 2, 2015

TIME: 9:04 a.m.

REPORTED BY: Teena Green, CSR, RPR, CRR, CBC

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APPEARANCES

ADMINISTRATIVE LAW JUDGE: MELANIE REIF

FOR THE DIVISION OF PUBLIC UTILITIES:

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FOR CLEAR RATE COMMUNICATIONS, INC.:

MICHELLE ROOSE (TELEPHONICALLY)

ALSO PRESENT:

SAM NAMY (TELEPHONICALLY)
RON SLUSHER

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1 June 2, 2015 9:04 a.m.

2 P R O C E E D I N G S

3 THE HEARING OFFICER: We're on the record.

4 Good morning, everyone. I'm Melanie Reif,
5 the administrative law judge for the Utah Public
6 Service Commission.

7 This morning is Docket 15-2581-01. This
8 matter is scheduled for a hearing, and the matter is
9 entitled, The Application of Clear Rate
10 Communications, Inc., for a Certificate of Public
11 Convenience and Necessity to Provide/Resell Local
12 Exchange and Interexchange Service in the State of
13 Utah.

14 Let's start this morning by taking
15 appearances.

16 Ms. Roose, let's start with you, and if
17 you would also kindly identify the other individual
18 who is on the phone with you and whether --

19 MS. ROOSE: Good morning. This is
20 Michelle Roose on behalf of Clear Rate Communications,
21 Inc. I'm here with Sam Namy, the chief financial
22 officer for Clear Rate Communications.

23 THE HEARING OFFICER: Thank you,
24 Ms. Roose.

25 MR. JETTER: Thank you, Your Honor. This

1 is Justin Jetter, I represent the Utah Division of
2 Public Utilities. And with me at the table is Ron
3 Slusher, technical consultant for the Utah Division of
4 Public Utilities.

5 THE HEARING OFFICER: Thank you, everyone.
6 And welcome this morning.

7 MS. ROOSE, just as a reminder, we do have
8 a court reporter here, so it's very important that you
9 speak clearly, and if you could slow down just a
10 little bit so that she can keep up with you.

11 And I will let you take the floor with
12 your application and presentation for the Commission.

13 MS. ROOSE: Thank you. So we're here to
14 present evidence in support of Clear Rate
15 Communications, Inc.'s, application for a certificate
16 of public convenience and necessity.

17 I just want to make sure or clarify for
18 the record that Your Honor has taken administrative
19 notice of the filing and the -- including the
20 application and the exhibits.

21 THE HEARING OFFICER: I have not done so
22 already, but based on your request, I would be happy
23 to do so. So the Commission takes administrative
24 notice of the application that was filed, together
25 with all of the exhibits. That application was filed

1 on April 6, 2015.

2 And, also, to help facilitate this matter
3 even further, the Commission also takes administrative
4 notice of the memorandum that was filed by the
5 Division on April 29th, 2015.

6 Are there any other documents that you
7 wanted to have the Commission take administrative
8 notice of, Ms. Roose?

9 MS. ROOSE: No. No, thank you.

10 THE HEARING OFFICER: Okay.

11 MS. ROOSE: Just to continue, I do have
12 Mr. Namy present with me today via telephone and he's
13 prepared to offer testimony in support of Clear Rate's
14 application.

15 So if I may, Your Honor, I'd like to call
16 Mr. Namy now.

17 THE HEARING OFFICER: Thank you. I'll go
18 ahead and swear him in.

19 Mr. Namy, would you kindly raise your
20 right hand, please.

21 THE WITNESS: Yes, Your Honor.

22 THE HEARING OFFICER: And do you swear to
23 tell the truth?

24 THE WITNESS: Yes.

25 SAM NAMY,

1 called as a witness for and on behalf of the
2 applicant, being first duly sworn, was examined and
3 testified as follows:

4 THE HEARING OFFICER: Okay. Thank you.
5 Ms. Roose, please proceed.

6 MS. ROOSE: Thank you.

7 DIRECT EXAMINATION

8 BY MS. ROOSE:

9 Q. Good morning, Mr. Namy.

10 For the record, would you please state
11 your full name, business address and your position in
12 the company?

13 A. Yes. My name is Sam Namy. My business
14 address is 555 South Old Woodward, Suite 600,
15 Birmingham, Michigan 48009. I am the chief financial
16 officer for Clear Rate Communications, Incorporated.

17 Q. Okay. And have you reviewed the
18 application of Clear Rate Communications for a
19 certificate of public convenience and necessity that
20 has been filed in this docket?

21 A. I have.

22 Q. Okay. And do you have knowledge of the
23 content presented in the application?

24 A. Yes, I do.

25 Q. And the affidavit that's included as part

1 of Exhibit D in the application was signed by you; is
2 that correct?

3 A. That is correct.

4 Q. For the purposes of your testimony in this
5 matter today, do you adopt as your own the statements
6 made in Clear Rate Communications' application?

7 A. Yes, I do.

8 Q. And are those statements true and correct,
9 to the best of your knowledge?

10 A. Yes, they are.

11 Q. Are there any changes or corrections that
12 need to be made to the application?

13 A. No.

14 Q. Okay. Do you have a copy of the
15 application in front of you?

16 A. Yes, I do.

17 Q. The application states that Clear Rate
18 applies for a certificate of public convenience and
19 necessity to operate as a reseller/provider of local
20 exchange and interexchange services in the state of
21 Utah, and further states that Clear Rate intends to
22 provide intrastate interexchange services within and
23 throughout the state of Utah?

24 A. Yes, that is correct.

25 Q. Can you further clarify for the record

1 whether or not it's Clear Rate's intention to follow
2 Utah Code, specifically 54-8b-2.(13)(c), regarding the
3 Competitive Entry rule that states, "A
4 telecommunications corporation may not receive a
5 certificate to compete in providing local exchange
6 service within any local exchange with fewer than
7 5,000 access lines that is owned or controlled by
8 an incumbent telephone corporation with fewer than
9 30,000 access lines in the state"?

10 A. Clear Rate intends to comply with the
11 Competitive Entry rule. Specifically, Clear Rate
12 proposes to provide public telecommunications services
13 in Utah within the CenturyLink services area. In the
14 event Clear Rate chooses to provide public
15 telecommunications services outside of the CenturyLink
16 service area, Clear Rate will submit a new application
17 demonstrating that granting an additional service area
18 is in the public interest.

19 Q. Okay. So does Clear Rate intend to offer
20 facilities-based services in Utah?

21 A. No, not at this time. Clear Rate intends
22 to initially provide resale services. If at any time
23 in the future Clear Rate decides to offer facilities-
24 based services, Clear Rate will advise the Commission
25 and will comply with all necessary regulatory

1 requirements.

2 Q. Does Clear Rate intend to receive any
3 state USFs?

4 A. No, Clear Rate will not be applying for
5 any state USF.

6 Q. Okay. Turning to page 5 of the
7 application, the professional experience and
8 managerial qualifications are discussed. And there
9 are descriptions of the officers' experience attached
10 as Exhibit B; is that correct?

11 A. Yes, that is correct. I have over
12 19 years of executive level business experience and
13 have served as the chief financial officer of Clear
14 Rate Communications since 2005. I will utilize my
15 managerial experience to support Clear Rate's Utah
16 operations.

17 Q. Are there any changes or corrections that
18 need to be pointed out regarding this exhibit?

19 A. No.

20 Q. Okay. The application also includes
21 Exhibit C, D and E, which set forth a chart of
22 accounts, a balance sheet and affidavit signed by you,
23 and a five-year projection which has been offered as a
24 representation of Clear Rate's financial condition; is
25 this correct?

1 A. It is. Clear Rate is financially
2 qualified to provide local exchange telecommunications
3 services in Utah. Clear Rate has access to the
4 financing and capital necessary to conduct its
5 telecommunications operations as outlined in its
6 application.

7 THE HEARING OFFICER: Excuse me --
8 BY MS. ROOSE:

9 Q. Has there been any opposition to Clear
10 Rate's application for a certificate of public
11 convenience and necessity that you are aware of?

12 A. No.

13 Q. Can you describe why you believe it would
14 be in the public interest for the Commission to issue
15 a certificate to Clear Rate?

16 A. Yes. The certificate, if granted Clear
17 Rate, will allow it to provide high quality
18 telecommunications services, coupled with excellent
19 customer care to business and residential customers
20 throughout the state of Utah. The issuance of the
21 CPCN will allow Clear Rate to provide high quality
22 service at competitive rates. Allowing Clear Rate to
23 enter the market in Utah will have the effect of
24 enhancing competition and increasing customer choice
25 in the state.

1 MS. ROOSE: Okay. Thanks, Mr. Namy. I
2 don't have any further questions.

3 THE HEARING OFFICER: Ms. Roose, just one
4 moment, please. Our court reporter is having a
5 difficult time following the speed of which both you
6 and Mr. Namy were speaking. And I was trying to
7 interrupt but it's very difficult when you're speaking
8 and doesn't allow me to do that. So let's be off the
9 record for a moment.

10 (Discussion held off the record.)

11 THE HEARING OFFICER: Mr. Jetter, do you
12 have any questions for the witness.

13 MR. JETTER: No questions from the
14 Division, thank you.

15 THE HEARING OFFICER: Ms. Roose, just a
16 few questions, please. And these are for you and your
17 witness, in light of the testimony that's been given.
18 I'd like you to take a look at page 4 of the
19 application.

20 MS. ROOSE: Certainly.

21 THE HEARING OFFICER: And in particular,
22 7B, which is entitled, Location of Service. And it
23 says, "Clear Rate will provide to and from all points
24 in Utah," and then there is a footnote. Footnote 1
25 says, "Clear Rate currently does plan to provide local

1 exchange service in the service areas of small or
2 rural local exchange." And then in parens, in
3 quotations, it says, "(LECS) and defined by the
4 Telecommunications Act of 1996."

5 Could you please provide clarification
6 and, in light of the fact that your witness has stated
7 that there are no changes necessary to the
8 application, I'm wondering if that may be correct or
9 whether you want to expand on that, in light of the
10 clarification that you stated at the very beginning.

11 MS. ROOSE: Sure. Maybe we need to make
12 sure that the response that we submitted to the first
13 set of data requests is also part of the record,
14 because we did, you know, attempt to clarify, you
15 know, the exchange areas where we're trying to limit
16 the services.

17 THE HEARING OFFICER: Okay. For your
18 reference --

19 MS. ROOSE: I had a written response to
20 that request which, I apologize, I thought was part of
21 the record.

22 THE HEARING OFFICER: Well, in this case,
23 the discovery request came from the Division of Public
24 Utilities, and in this docket, they actually did
25 attach a copy of it to their memorandum. So it is

1 part of the record based on the acceptance of their
2 memorandum as far as the Commission taking judicial
3 notice of it -- excuse me, administrative notice of
4 it. But I do want to get full clarification from you
5 based on the fact that your witness said that there
6 were no corrections needed in the application itself,
7 and I think that based on the information you just
8 referred to and information you referred to in your
9 opening statement that the application does need to be
10 amended and that this particular section that I
11 pointed out does need to be corrected. So, just for
12 the record, I think we need to make sure that we're
13 all on the same page regarding that issue.

14 MS. ROOSE: Sure. So just for the record,
15 if you'd like me to have Mr. Namy confirm that, Clear
16 Rate intends to limit its service to the CenturyLink
17 service area. And, Mr. Namy, can you just confirm
18 that for the record?

19 MR. NAMY: I can.

20 THE HEARING OFFICER: Okay. So back to
21 your question when you were asking him earlier whether
22 the application is correct as submitted, I believe
23 that you probably need to address that as well, that
24 it actually is not correct as submitted, that it would
25 need to be amended based on the information that he's

1 just provided and the discovery response provided
2 earlier to the Division of Public Utilities.

3 MS. ROOSE: Okay. Did you want us to do a
4 written amendment for that or can we do that on the
5 record?

6 THE HEARING OFFICER: No, I just want to
7 make sure the record is clear. So for purposes of the
8 hearing, we want to make sure that what -- that
9 there's no confusion between the two. Because right
10 now, the application is in conflict with what has been
11 submitted.

12 MS. ROOSE: Sure. So just to clarify for
13 the record, while the application itself states that
14 we would be providing service to and from all points
15 in Utah, we did correct that with a response to the
16 first set of data requests to indicate and attempt to
17 clarify that we're limiting our service to the
18 CenturyLink service areas and we attempt to clarify
19 that as well on the record here today.

20 THE HEARING OFFICER: Thank you very much.
21 And, Mr. Namy, do you understand that
22 and -- do you understand that to be correct and do you
23 adopt that as part of your testimony?

24 MR. NAMY: I do.

25 THE HEARING OFFICER: Okay. Excellent.

1 Thank you for that.

2 MS. ROOSE: Sure.

3 THE HEARING OFFICER: I appreciate it.

4 Mr. Jetter, please go ahead.

5 MR. JETTER: Thank you. The Division
6 would like to call and swear in Mr. Ron Slusher.

7 THE HEARING OFFICER: Good morning,
8 Mr. Slusher.

9 THE WITNESS: Good morning.

10 THE HEARING OFFICER: Would you please
11 raise your right hand.

12 And you do you swear to tell the truth?

13 THE WITNESS: I do.

14 RON SLUSHER,
15 called as a witness for and on behalf of the Division,
16 being first duly sworn, was examined and testified as
17 follows:

18 DIRECT EXAMINATION

19 BY MR. JETTER:

20 Q. Mr. Slusher, would you please state your
21 name and occupation for the record.

22 A. My name is Ron Slusher, S-L-U-S-H-E-R.
23 I'm a utility technical consultant for the Division of
24 Public Utilities.

25 Q. Thank you. And in the course of your

1 employment as a technical consultant for the Division
2 of Public Utilities, did you have an opportunity to
3 review and evaluate the application made by the
4 applicant in this docket?

5 A. Yes, I did.

6 Q. And did you also submit a data request
7 that has been acknowledged by the Commission and
8 attached to the memorandum that was filed by the
9 Division on April 29th, 2015?

10 A. Yes, I did.

11 Q. And did you create that document entitled
12 "Memorandum" filed April 29th, 2015?

13 A. Yes, I did.

14 Q. And were you here in the hearing room
15 earlier today when it was clarified that the applicant
16 seeks only to offer service within the CenturyLink
17 service territory in Utah?

18 A. Yes, I was.

19 Q. With that understanding and that being
20 reflected in the memorandum, does the memorandum
21 accurately represent the Division's opinion and
22 position on the application as filed and amended by
23 that -- by earlier the testimony today, as well as the
24 data response request?

25 A. Yes.

1 Q. Are there any changes that you would like
2 to make to the Division's memo?

3 A. No.

4 Q. And, finally, with that, do you believe
5 that approval of the application as limited to the
6 territory of the CenturyLink service area would be
7 just, reasonable and in the public interest?

8 A. Yes.

9 Q. Are you aware of any opposition to
10 approval of this application?

11 A. I've not seen or heard of any.

12 MR. JETTER: Thank you. I have no further
13 questions. Mr. Slusher is available for questions
14 from the party or the Commission.

15 THE HEARING OFFICER: Thank you,
16 Mr. Jetter.

17 Ms. Roose, do you have any questions for
18 Mr. Slusher?

19 MS. ROOSE: No, I do not.

20 THE HEARING OFFICER: Okay. Mr. Slusher,
21 thank you for your testimony today.

22 THE WITNESS: Thank you.

23 THE HEARING OFFICER: The Commission will
24 take this matter under advisement. Thank you very
25 much, and have a nice day. Thank you for joining us

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by telephone as well.

(Concluded at 9:22 a.m.)

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CERTIFICATE

This is to certify that the proceedings in the foregoing matter were reported by me in stenotype and thereafter transcribed into written form;

That said proceedings were taken at the time and place herein named;

I further certify that I am not of kin or otherwise associated with any of the parties of said cause of action and that I am not interested in the event thereof.

Teena Green

Teena Green, RPR, CSR, CRR, CCG

