

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Blackfoot Communications, Inc. d/b/a Blackfoot for a Certificate of Public Convenience and Necessity to Provide Telecommunications Services in the State of Utah

DOCKET NO. 16-2592-01

REPORT AND ORDER

ISSUED: December 7, 2016

SYNOPSIS

The Public Service Commission of Utah (PSC) approves the application of Blackfoot Communications, Inc. (Blackfoot) for a Certificate of Public Convenience and Necessity and authorizes Blackfoot to provide telecommunications services within Utah.

PROCEDURAL HISTORY

On October 20, 2016, Blackfoot filed this application, seeking a certificate of public convenience and necessity (Certificate) for authority to provide telecommunications services within Utah. The application provided detailed information regarding the technical, financial, and managerial resources and abilities of Blackfoot to provide the public telecommunications services it seeks to offer. In addition, Blackfoot requested that the \$100,000 bond requirement set forth in Utah Administrative Code R746-349-3(A)(2) be waived, as Blackfoot will not require customer deposits or prepayments.

On November 17, 2016, the Division of Public Utilities (Division) filed a memorandum recommending approval of the application. In its memorandum, the Division noted the following:

1. Approval of Blackfoot's application will promote the public interest by creating and enhancing competition and expanding customer service options. Additionally, approving

the application will expand the availability of innovative, high quality, reliable, and competitively priced telecommunications services in the State of Utah.

2. Blackfoot seeks authority to offer interexchange and local exchange services on a statewide basis, except within exchange areas with fewer than 5,000 access lines that are owned or controlled by an incumbent local exchange carrier with fewer than 30,000 total access lines. *See* Utah Code § 54-8b-2.1(3)-(4). Specifically, Blackfoot seeks initially to provide basic local exchange service in areas served by Qwest d/b/a CenturyLink Communications, Inc. on a resale basis or through another authorized competitive local exchange carrier.
3. Blackfoot intends to provide all forms of facilities-based and resold local exchange, interexchange, and access telecommunications services, as well as unregulated services including broadband Internet service. Underlying carriers will perform switching, routing, and call completion functions.
4. To the extent Blackfoot provides basic local exchange services, it will provide access to local exchange, operator services, directory assistance, directory listings, and emergency services either through facilities-based interconnection or through resale services purchased from an underlying provider.
5. Blackfoot has a positive net worth and ample working capital to support its operations in Utah.
6. Blackfoot has never been investigated for unauthorized switching or any other illegal activity.

On December 5, 2016, the PSC held a hearing in this docket. Jason Williams, CEO of Blackfoot, and Michelle Owens, regulatory consultant for Blackfoot, appeared telephonically. Justin Jetter, Utah Assistant Attorney General, appeared on behalf of the Division, accompanied by Ron Slusher, utility technical consultant. According to the testimony given at hearing, the parties agree that approval of the application is in the public interest and that it is permissible and appropriate to waive the \$100,000 bond requirement.

In light of the foregoing, the PSC enters the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. There are no intervenors in this docket. There has been no opposition to the application.
2. Blackfoot has filed documentation containing sufficient information to support the application.
3. Blackfoot has demonstrated that it is qualified to do business in Utah.
4. Blackfoot proposes to provide public telecommunications services within the service area of Qwest d/b/a CenturyLink Communications.
5. Blackfoot will utilize its managerial expertise to support its Utah operations.
6. Blackfoot has sufficient technical resources and abilities to provide the public telecommunications services it proposes to offer.
7. Blackfoot has a positive net worth and ample working capital for its Utah operations.
8. In providing intrastate services, Blackfoot will be subject to competition from other certified telecommunications service providers.

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9. Blackfoot's service offerings will provide customers with a wider range of choice in meeting their telecommunications needs and will foster competition in the marketplace.
10. Blackfoot will not require customer deposits or offer any prepaid services in Utah.

CONCLUSIONS OF LAW

1. Blackfoot meets each of the statutory requirements of Utah Code Ann. §§ 54-8b-1.1 *et seq.* for the requested Certificate.
2. Blackfoot's request to be exempted from the \$100,000 bond requirement is in accord with PSC practice and is in the public interest.
3. Issuance of the requested Certificate to provide public telecommunications services, as described in the application, is in accord with the legislative policy set forth in Utah Code Ann. §§ 54-8b-1.1 *et seq.*, and is in the public interest.

ORDER

In light of the Findings and Conclusions set forth above, the PSC ORDERS:

- a. Blackfoot Communications, Inc. is granted the Certificate attached as Exhibit A, which exhibit is incorporated by reference into this Order as if fully set forth.
- b. Blackfoot Communications, Inc.'s Certificate is subject to the limitations stated therein.
- c. Blackfoot Communications, Inc. shall provide to the Division annual reports that contain information as required by the Division.
- d. Blackfoot Communications, Inc. is exempted from the \$100,000 bond requirement set forth in Utah Administrative Code R746-349-3(A)(2).

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Any person may file a protest in regard to this Order within 20 days from the date of issuance. If the PSC finds the protest to be meritorious, the effective date shall be suspended pending further proceedings. Otherwise, this order shall take effect 20 days from the signature date below.

DATED at Salt Lake City, Utah, December 7, 2016.

/s/ Jennie T. Jonsson
Administrative Law Judge

Approved and confirmed December 7, 2016 as the Order of the Public Service
Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#290686

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

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EXHIBIT A

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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ISSUED: December 7, 2016

The Public Service Commission of Utah, pursuant to Utah Code Ann. § 54-8b-2.1, issues a Certificate of Public Convenience and Necessity authorizing Blackfoot Communications, Inc. to provide public telecommunications services within the State of Utah. Blackfoot Communications, Inc. may not operate in any area with fewer than 5,000 access lines that is served by an incumbent local exchange carrier that has fewer than 30,000 total access lines.

DATED at Salt Lake City, Utah, December 7, 2016.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary

CERTIFICATE OF SERVICE

I CERTIFY that on December 7, 2016, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

Jason Williams (jwilliams@blackfoot.com)
Michelle Owens (mowens@blackfoot.com)
Blackfoot

Brett N. Anderson (bretta@blackburn-stoll.com)

Sara Baldwin (sbaldwin@utahcleanenergy.org)

Vicki Baldwin (vbaldwin@parsonsbehle.com)

Sharon Bertelsen (bertelsens@ballardspahr.com)

Brian W. Burnett (bburnett@kmclaw.com)

Kimberly Ceruti (kimberly.ceruti@ehc-usa.com)

(cflregulatory@chartercom.com)

Eddie L. Cox (ecox@cut.net)

David Crabtree (crabtree@deseretgt.com)

Stacey Davis (stacey.davis@pacificorp.com)

Curt Dowdle (curt@slhba.com)

Vickie Esparza (vickie.esparza@pacificorp.com)

James Farr (james.farr@centurylink.com)

Kelly Francone (kfrancone@energystrat.com)

Natalie Gleave (natalieg@gtelco.net)

Amy Gross (agross@tminc.com)

Alan Haslem (ahaslem@mleainc.com)

Ray Hendershot (ray.hendershot@beehive.net)

Yvonne Hogle (yvonne.hogle@pacificorp.com)

William Huber (william.huber@questar.com)

Bill Hunt (williamp.hunt@dish.com)

David R. Irvine (drirvine@aol.com)

Kristin L. Jacobson (kristin.l.jacobson@sprint.com)

Joelle Steward (joelle.steward@pacificorp.com)

Brock Johansen (bjohansen@emerytelcom.com)

Ginger Johnson (gingera.pinales@questar.com)

Rebecca Kelly (rak@stateside.com)

Dawn Kubota (kubotad@ballardspahr.com)

Jasen Lee (jlee@desnews.com)

Kirk Lee (kirk.lee@ftr.com)

Mike Legge (mlegge@usmagnesium.com)

Shirley Malouf (srmalouf@stoel.com)

George Marget (george.marget@dom.com)

Jennifer H. Martin (jhmartin@stoel.com)

Chuck McCown (chuck@directcom.com)

Steve Mecham (sfmecham@gmail.com)

Roger Moffitt (roger.moffitt@att.com)

Gregory Monson (gbmonson@stoel.com)

Melissa Montin (mpf@stateside.com)

Sharon Mullin (slmullin@att.com)

Thorvald Nelson (tnelson@hollandhart.com)

(news@krcl.org)

Michael Orton (michael.orton@questar.com)

(jpeterson@utahcooperatives.org)

Mike Peterson (mpeterson@utahcooperatives.org)

Paul M. Pietsch (paul.pietsch@drsgcoalition.org)

Pam Pittenger (pam.pittenger@ftr.com)

Tariff Policy (tariffpolicy@pacificorp.com)

Jenny Prescott (jenny.prescott@allwest.com)

(radioactive@krcl.org)

Bob Reeder (bobreeder@parsonsbehle.com)

F. R. Reeder (frreeder@parsonsbehle.com)

Jeff Richards (jeff.richards@pacificorp.com)

Mark Richards (markrichards@imwindandsolar.com)

Bruce Rigby (bruce@summitcorp.net)

Gary Sackett (gsackett@joneswaldo.com)

Darren Shepherd (darren.shepherd@questar.com)

Kira Slawson (kiram@blackburn-stoll.com)

Alan L. Smith (alanakaed@aol.com)

Phillip Solomon (psolomon@deseretpower.com)

Kendra Thomas (kthomas@kfrservices.com)

Bruce H. Todd (btodd@stratanetworks.com)

(tonyhall2004@hotmail.com)

Jake Warner (jakew@beehive.net)

Ronald Weathers (ron.weathers@ehc-usa.com)

James H. Woody (jwoody@union-tel.com)

John Woody (jwoody@union-tel.com)

Union Telephone Company

Patricia Schmid (pschmid@utah.gov)

Justin Jetter (jjetter@utah.gov)

Rex Olsen (rolsen@utah.gov)

Assistant Utah Attorneys General

Erika Tedder (etedder@utah.gov)

Division of Public Utilities

By Hand-Delivery:

Office of Consumer Services

160 East 300 South, 2nd Floor

Salt Lake City, Utah 84111

Administrative Assistant