



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: January 28, 2016

Re: In the Matter of ExteNet Systems, Inc. Application for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange Services within the State of Utah, Docket No.16-2586-01.

RECOMMENDATION (Deny):

The Division of Public Utilities (“Division”) has reviewed the application filed by ExteNet Systems, Inc. for a Certificate of Public Convenience and Necessity (“CPCN”) and found that the Company does not fit the definition of a “Public Utility” as described under Utah Code Title 54-2-1(19)(a). The Division recommends that the Public Service Commission (“Commission”) deny their application at this time.

EXPLANATION:

On or about January 5, 2015, ExteNet Systems, Inc. (“ExteNet or Applicant”) filed an application for a CPCN. The Division reviewed the application and found the following:

ExteNet Systems, Inc. is a registered foreign corporation within the State of Utah; with its corporate headquarters located at 3030 Warrenville Road, Suite 34-, Lisle, IL 60532.

The Applicant intends to provide non-switched dedicated Point-To-Point Private Virtual Circuit Transport Service on a wholesale basis to other carriers via Distributed Antenna System networks and other small cell networks. This service is offered to Wireless Services Providers so that they can improve their coverage by filling in dead spots, and/or

increase their network capacity to provide services in certain geographic areas. ExteNet will not furnish switched voice services or dial tone, and will not provide service to any end user customer. Instead, it will provide service only to other carriers on a wholesale basis.

Based on the customers the Applicant plans to serve, it appears that they do not meet the definition of a public utility as defined in the Utah Code Title 54-2-1(19)(a) “Public utility includes every railroad corporation, gas corporation, electrical corporation, distribution electrical cooperative, wholesale electrical cooperative, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, and independent energy producer not described in Subsection (19)(d), where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation or electrical corporation where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.”¹

As for the Company’s claim that they need a CPCN to gain access to the “Public Easement” and to attach to other utilities poles, the State of Utah has several unregulated utilities that have access to both without having a CPCN issued to them.

It is because of these findings that the Division recommends that the Commission deny the Applicant’s request for a CPCN at this time.

cc: Ross Manire, CEO / President, ExteNet Systems, Inc.
Anita Taff-Rice, Counsel for ExteNet Systems, Inc.
Justin Jetter, Assistant Attorney General, State of Utah
Cheryl Murray, Utility Analyst, Office of Consumer Services, State of Utah

¹ Utah Code Title 54 Public Utilities Statutes and Public Service Commission Rules, 2015 Edition, page 29.