



State of Utah
Department of Commerce
Division of Public Utilities

FRANCINE GIANI
Executive Director

THOMAS BRADY
Deputy Director

CHRIS PARKER
Director, Division of Public Utilities

GARY HEBERT
Governor
SPENCER J. COX
Lieutenant Governor

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 09, 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 (No Objections to Approval):

On January 28, 2016, the Division of Public Utilities (“Division”) submitted a memorandum to the Public Service Commission (“Commission”) recommending the denial ExteNet Systems, Inc. (“ExteNet” or “Applicant”) application for a Certificate of Public Convenience and Necessity (“CPCN”). After further review prior Commission precedent for similar entities, the Division is amending its recommendation to approval of the application with conditions. The Division is basing this new recommendation on the past approval of NewPath Networks, LLC, under Docket Number 09-2512-01.

It appears that the Applicant is offering a telecommunications service to a narrow subset of the utility customers, rather than the public generally, but is not at this time offering any local exchange services. The Division withdraws its recommendation of denial and does not object to the Commission granting a CPCN. The Division recommends that the Commission limit the CPCN to the scope requested. Specifically the Applicant has requested statewide authority with the limited purpose of providing its current service offering(s). If the Applicant chooses to expand its service offering to include Public telecommunications services as defined in UC 54-8b-2(16), the Division recommends that ExteNet apply to amend its certificate to the same terms and conditions contained in other CPCNs offering similar services(i.e. NewPath Networks).

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 and will not be serving the “Public Generally”.

EXPLANATION:

On or about January 5, 2016, ExteNet Systems, Inc. (“ExteNet or Applicant”) filed an application for a CPCN. On January 28, 2016, the Division filed a recommendation asking the Commission “Deny” the company’s application because the Company did not fit the definition of a “Public Utility” as described under Utah Code Title 54-2-1(19)(a). The Division has reviewed ExteNet’s application again, compared it with a previous applicant, NewPath Networks, LLC, and found that the companies offer similar services. NewPath Networks, LLC asked for and was granted certification under Docket Number 09-2512-01.

ExteNet proposes to operate a Distributed Antenna System (“DAS”) which provides transport and backhaul services to other carriers, including, but not limited to wireless telecommunication service providers and other wireless information service providers. The Applicants’ distributed architecture is designed to support multiple wireless carriers within a defined network using a shared infrastructure that results in enhanced service while minimizing the expense of expanding existing carrier networks. Their customers are wireless carriers and wired and wireless internet service providers who wish to increase cell coverage in an area where zoning for typical cellular communications towers are prohibited and in areas where cellular coverage is inadequate. Thus, they serve a subset of the general public. 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.

In conversations with the applicant, ExteNet represented that they may in the future change their business plan and expand their service offering to include products that require a CPCN such as Local Exchange Services (UC 54-8b-2(10)).

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's marketing plan for Utah will be limited in nature and will focus on large sophisticated carriers. As such, the public's exposure to unauthorized PUC changes relating to ExteNets’ marketing activities is non-existent.

In reviewing the application of ExteNet, the Division feels that the Company has met the requirements set forth in the Public Service Commission Rules R746-349-3.

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