

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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| Application of Time Warner Cable Business LLC for a Certificate of Public Convenience and Necessity to Provide Interexchange Telecommunications Services within the State of Utah | <u>DOCKET NO. 19-2615-01</u> <u>REPORT AND ORDER</u> |
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ISSUED: September 11, 2019

SYNOPSIS

The Public Service Commission (PSC) approves the application of Time Warner Cable Business LLC (TWCB) for a Certificate of Public Convenience and Necessity (CPCN) and authorizes TWCB to provide telecommunications services within Utah.

PROCEDURAL HISTORY

On July 23, 2019, TWCB filed an application for a CPCN to provide telecommunications services within Utah (“Application”). The Application provides detailed information regarding the technical, financial, and managerial resources and abilities of TWCB to provide the public telecommunications services it seeks to offer. In addition, TWCB requests the \$100,000 bond requirement set forth in Utah Admin. Code R746-349-3(A)(2) be waived, as TWCB will not require customer deposits.

On July 23, 2019, the PSC issued a Notice of Filing and Comment Period (“Notice”), which set a comment deadline of August 22, 2019 and reply deadline of September 6, 2019. The Notice further stated that if no comment is filed in opposition to the Application, the PSC will adjudicate this docket informally and without hearing. *See* Utah Code Ann. § 54-8b-3. No party filed comments in opposition. Therefore, the PSC will adjudicate this docket informally.

On August 13, 2019, the Division of Public Utilities (DPU) filed a memorandum recommending approval of the Application. The DPU states it has reviewed the technical, managerial, and financial abilities of TWCB and that it believes TWCB has provided the necessary information to fulfill the requirements under the PSC's rules. The DPU concludes the public interest will be promoted by the PSC granting TWCB a CPCN under the same terms and conditions allowed in other CPCNs. In its memorandum, the DPU emphasized the following of TWCB's representations:

1. TWCB seeks statewide authority to offer interexchange telecommunications statewide. To the extent TWCB provides basic local exchange service, it will initially do so in the areas served by CenturyLink Communications, Inc. (CL) and does not plan to provide service in areas of any small or rural local exchange carriers having fewer than 5,000 access lines that are owned or controlled by an incumbent with fewer than 30,000 total access lines in accordance with Utah Code Ann. § 54-8b-2.1 (3) and (4). TWCB seeks statewide authority so that it may expand into other services as market conditions warrant and as additional service areas become open to competition TWCB does not intend to provide local access line (dial tone) services.
2. TWCB intends to provide a full range of telecommunications services to business and enterprise customers in the incumbent, CL, exchanges statewide in Utah, consistent with the exchange maps CL has on file with the PSC. TWCB states that it will not be providing traditional switched local exchange services within Utah. TWCB will provide primarily facilities-based private line, ethernet, and data/wide area network (WAN)

services to business customers. Therefore, TWCB will not have any interaction with emergency services such as 911 or enhanced 911, operator services, directory assistance, and telecommunications relay services.

3. TWCB does not currently own facilities or property in the State of Utah, but it will acquire or lease any facilities in the state as necessary in order to provide its services.
4. TWCB intends to initiate its interexchange operations in the State of Utah upon receipt of authority from the PSC and upon expression of customer interest.
5. TWCB claims that it has never had any complaints nor has any investigation been undertaken against it or any of its affiliates involving unauthorized switching or any other illegal activities. TWCB also states that it has implemented policies and procedures concerning solicitation of new customers. These policies require that customers sign a contract authorizing TWCB to provide telecommunications services.
6. According to financial statements that TWCB attests to be accurate, TWCB has a positive net worth and has ample working capital.
7. TWCB 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.

In light of the foregoing, the PSC makes 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. TWCB has filed documentation containing sufficient information to support the Application.
3. TWCB has demonstrated it is qualified to do business in Utah.
4. TWCB will provide primarily facilities-based private line, ethernet, and data/wide area network (WAN) services to business customers.
5. TWCB will utilize its managerial expertise to support its Utah operations.
6. TWCB has sufficient technical resources and abilities to provide the telecommunications services it proposes to offer.
7. TWCB has a positive net worth and sufficient working capital for its Utah operations.
8. TWCB's service offerings will provide customers with a wider range of choice in meeting their telecommunications needs and will foster competition in the marketplace.
9. TWCB will not require customer deposits or offer any prepaid services in Utah.

CONCLUSIONS OF LAW

1. TWCB meets each of the statutory requirements of Utah Code Ann. § 54-8b-1.1 *et seq.* for the requested CPCN.
2. TWCB'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 CPCN to provide 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. TWCB is granted the CPCN attached as Exhibit A, which exhibit is incorporated by reference into this Order as if fully set forth.
- b. TWCB's CPCN is subject to the limitations stated therein.
- c. TWCB is exempted from the \$100,000 bond requirement set forth in Utah Admin. Code R746-349-3(A)(2).

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. *See* Utah Admin. Code R746-110-2.

DATED at Salt Lake City, Utah, September 11, 2019.

/s/ Michael J. Hammer
Presiding Officer

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Approved and confirmed September 11, 2019 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
PSC Secretary
DW#309963

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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| Application of Time Warner Cable Business LLC for a Certificate of Public Convenience and Necessity to Provide Interexchange Telecommunications Services within the State of Utah | <u>DOCKET NO. 19-2615-01</u> <u>CERTIFICATE 2615</u> |
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ISSUED: September 11, 2019

The Public Service Commission of Utah, pursuant to Utah Code Ann. § 54-8b-2.1, issues a Certificate of Public Convenience and Necessity, authorizing Time Warner Cable Business LLC to provide public telecommunications services within the State of Utah. Time Warner Cable Business LLC 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, September 11, 2019.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary

CERTIFICATE OF SERVICE

I CERTIFY that on September 11, 2019, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

Laura Arredondo-Santisteban (LArredondo@fh2.com)
Betty Sanders (betty.sanders@charter.com)
Time Warner Cable Business LLC

Patricia Schmid (pschmid@agutah.gov)
Justin Jetter (jjetter@agutah.gov)
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Madison Galt (mgalt@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