



State of Utah
Department of Commerce
Division of Public Utilities

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MEMORANDUM

To: Public Service Commission

From: Division of Public Utilities
Constance B. White, Director
Laura Scholl, Telecommunications Manager
Chris Luras, Technical Consultant
Clair Oman, Utility Analyst

Date: January 16, 2007

Re: Docket No. 06-2469-01
In the Matter of All American Telephone Co. Inc's Request for a Certificate of Public Convenience and Necessity to Provide Local Exchange Services within the State of Utah

I. BACKGROUND

On April 19, 2006, All American Telephone Company ("All American") applied for a Certificate of Public Convenience and Necessity ("CPCN") as a Competitive Local Exchange Carrier ("CLEC") to provide intrastate interexchange services throughout the State of Utah. On August 28, 2006, All American amended its application requesting a CPCN to provide intrastate interexchange services as a CLEC in Qwest territories and in Beehive Telephone's Independent Local Exchange Carrier ("ILEC") territory.

II. ISSUES

The Division recommends that All American's request to compete in Qwest's territory be approved. However, the Division has identified several potential issues with All American's request to enter Beehive Telephone's ILEC territory. The following sections highlight the Division's primary concerns.

Statewide Issue

The All American petition is the first request in Utah by a CLEC to enter a rural ILEC territory. As a result, determinations made in this proceeding will set precedents for future requests. The Division recommends that the associated issues be heard by the Commission.

Universal Service Fund

In general, allowing CLEC entry into the territory of any rural ILEC that receives Universal Service (“USF”) support can impact the USF. The probability of USF support increases when any rural ILEC loses customers and revenues to a CLEC.

Telecommunications Rates

Generally, allowing CLEC entry into the territory of any rural ILEC can result in an increase of telecommunication rates. In this instance, it is possible that existing ILEC customers will subscribe to the CLEC, which will result in a loss in revenue to the ILEC. To meet its rate of return, an ILEC could increase service rates to offset revenue loss.

III. RECOMMENDATION

Qwest Territory

The Division recommends that the Commission approve All American’s request for a CPCN in Qwest’s territory. All American has provided the necessary information to fulfill the requirements detailed in §746-349 of the Public Service Commission Rules. The Division has reviewed the technical, managerial, and financial abilities of All American and has concluded that the issuance of a CPCN to All American in only Qwest’s territory is in the public interest. Additionally, the Division recommends that the Commission specifically disallow entry into local exchanges with fewer than 5,000 access lines that are owned or controlled by incumbent local exchange carriers with fewer than 30,000 access lines until the associated issues and concerns are resolved formally in a hearing.

The following points summarize All American's petition and the Division's concurrences as they relate to entry into Qwest's territory:

- All American plans to provide competing local telecommunications services, including exchange access telecommunications in the exchange areas in which Qwest Communications is the ILEC.
- All American's balance sheet indicates a positive net worth and sufficient cash to fund operations. Moreover, All American's five-year projection of operations illustrates that it should have sufficient cash to fund operations.
- All American agrees to comply with all FCC and state requirements regarding solicitation and authorization for preferred carrier changes.
- Summaries of professional experience and education of its managerial personnel indicate that the staff of All American has considerable experience in the telecommunications industry.
- All American requests that the \$100,000 bond requirement be waived considering that it will not require customer deposits or prepayments of any kind.
- All American asserts that approval of this application will serve the public interest by creating greater competition in the local exchange marketplace.

Beehive Telephone's Territory

The Division recommends that the significant competitive entry issues raised in All American's petition be heard by the Commission. The Division believes that this issue is precedential and could affect the USF and customer service rates. As an aside, the Division is aware of competitive trends in telecommunications and the various modes of competition not addressed by Utah Statutes or subject to Commission oversight. Nonetheless, there is currently no clear statutory provision allowing the permissions All American seeks.