

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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Amended Application of: )  
Momentum Telecom, Inc. ) Docket No. 08-2496-01  
)  
For a Certificate of )  
Public Convenience and )  
Necessity to Operate as )  
a Competitive Local )  
Exchange Carrier In Utah)

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TECHNICAL CONFERENCE

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TAKEN AT: Public Service Commission  
160 East 300 South, Room 401  
Salt Lake City, Utah

DATE: September 16, 2008

TIME: 9:13 a.m.

REPORTED BY: Kelly L. Wilburn, CSR, RPR

(Momentum Telecom Technical Conference)

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1 SEPTEMBER 16, 2008 9:13 A.M.

2 P R O C E E D I N G S

3 MR. MOOY: I'm gonna identify the docket.

4 This is in Docket No. 08249601, a technical conference  
5 which was scheduled by the Public Service Commission  
6 in order to provide Momentum Telecom an opportunity to  
7 provide information concerning their planned services  
8 and to respond to questions that other participants  
9 may have.

10 This meeting is being transcribed because it  
11 may well be used as part of the record upon which  
12 Momentum's request for a Certificate of Public  
13 Convenience and Necessity may be issued. I won't take  
14 testimony in the context of people being sworn, unless  
15 those who want to make comments or make presentations  
16 want to do so.

17 If we find out later on that information on  
18 this record is such that it is going to be necessary  
19 to be entered as a sworn or under oath, we'll deal  
20 with that later on. I don't anticipate as such at  
21 this time.

22 We've taken information for the court  
23 reporter. She -- those again on the phone, if you do  
24 speak, if you again would identify yourselves so the  
25 court reporter can attribute the comments. And



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1 Mr. Shaw, since you're appearing here physically on  
2 behalf of Momentum, we're just gonna turn the show  
3 over to you.

4 MR. SHAW: Fantastic. I, in turn, will turn  
5 the time over to Bill Magness, counsel for Momentum.  
6 Bill, and Rose Mulvany Henry may join in as well. So  
7 Bill, Rose.

8 MR. MAGNESS: Okay. Yes, this is Bill  
9 Magness, on behalf of Momentum Telecom. And as  
10 Mr. Shaw said, Rose and I may both be chiming in. And  
11 we'll endeavor to identify ourselves every time we do.  
12 And if we don't, please let us know.

13 Momentum Telecom filed its amended  
14 application for a Certificate of Public Convenience  
15 and Necessity. The application I suppose could be  
16 broken down in a few parts. One is in the Qwest  
17 territories a CPCN for, I guess we'll call it general  
18 retail service as a CLEC in the state.

19 Then, in compliance with the state statutes  
20 concerning smaller or rural telephone companies, we  
21 made specific representations in our application  
22 regarding service in the Price and Moab exchanges as  
23 well as the Wendover exchange.

24 As described in the application, the specific  
25 service in the Price, and Moab, and Wendover exchanges

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1 as contemplated was to provide service in conjunction  
2 with Utah cable companies to provide a VOIP service  
3 alternative in the areas in which those companies  
4 serve.

5           This is a, call it a wholesale model of  
6 providing service that Momentum has engaged in in a  
7 number of states. In fact, the company is now  
8 certificated in 34 states. I think updating, we've  
9 been certificated in several more states since our  
10 amended application.

11           In addition, it's a business model similar to  
12 that used by several other companies across the  
13 country in order to advance competition in the voice  
14 market as cable companies and incumbent local exchange  
15 companies compete against one another for several  
16 types of services.

17           One thing I want to raise up front regarding  
18 the Wendover exchange. In our amended application the  
19 cable entity that Momentum was working with indicated  
20 that Wendover was in a service territory and it may be  
21 offering voice service there.

22           Based on those representations in Skyline's  
23 intervention pleading regarding that exchange being  
24 under 5,000, and in addition further discussions with  
25 the cable entity about its service territory and

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1 plans, we intend to withdraw the application as to  
2 Wendover.

3           So that's something we will get documented  
4 and filed shortly. But we have had further  
5 discussions and wanted to let everyone know that up  
6 front. So the, the application going forward would be  
7 for the Price and Moab exchanges as well as for the  
8 Qwest exchanges.

9           I -- in, in reading the intervention, it --  
10 we were not certain besides, you know, companies  
11 certainly being interested in, you know, a new  
12 competitor entering their service territory, what  
13 specific issues there are regarding the certification.

14           And so I, I guess in large measure we'd like  
15 to kind of open that up and see if there are  
16 particular questions about what Momentum is doing. Or  
17 if there are particular issues that we can identify  
18 that, that need to be addressed here or in testimony  
19 as we go forward in the certification phase.

20           MR. MOOY: Don't be shy.

21           MR. MEREDITH: This is Douglas Meredith. I  
22 have a question. Is Momentum then intending to  
23 provide exclusive wholesale services to cable  
24 companies who are providing an interconnected VOIP  
25 service to their end-user customers?

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1           MR. MAGNESS: This is Bill Magness. In the  
2 Qwest exchanges the answer would be no. Momentum may  
3 provide services using resale. It may provide  
4 services using unbundled network elements or other  
5 what have become sort of standard CLEC business entry  
6 methods.

7           Currently what we are contemplating in the  
8 Price and Moab exchanges is the wholesale offering  
9 that we describe in our application. And currently we  
10 could not tell you there is a, you know, a business  
11 plan to do something besides those arrangements that  
12 are current -- that were -- that are discussed  
13 specifically in the application.

14           MR. MEREDITH: So current plans are exclusive  
15 wholesale service to a cable company providing  
16 interconnective VOIP service to its end user  
17 customers.

18           MR. MAGNESS: For Price and Moab.

19           MR. MEREDITH: Yes, thank you.

20           Do you have -- this is Douglas Meredith  
21 again. Do you have information regarding the cable  
22 offerings in Price and Moab specifically. Whether  
23 those cable offerings to their end-user customers will  
24 be directed to residential services or -- and/or  
25 business services?



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1           MR. MAGNESS: We certainly understand they  
2 would be residential services. I am not sure.

3           Maybe, Rose, you could chime in here. The  
4 cable company there is (inaudible) communications.

5           THE COURT REPORTER: I'm sorry, I'm sorry  
6 sir, someone coughed on this end and I didn't hear the  
7 name of the cable company.

8           MR. MAGNESS: The name of the cable company  
9 in that area is Crecis, C-r-e-c-i-s, Communications.  
10 Certainly I know that the offering is residential.

11           And on the business side, Rose, did you --  
12 can you confirm that?

13           MS. MULVANY HENRY: This is Rose Mulvany  
14 Henry. Honestly at this time, Mr. Meredith, I  
15 couldn't answer that question for you. I don't know.

16           MR. MEREDITH: Okay.

17           MR. MAGNESS: Bill Magness again. We do know  
18 it's certainly a residential offering at the outset.

19           MR. MEREDITH: And one last question and then  
20 I'll let others -- let others who are eagerly raising  
21 their hands to ask questions.

22           The question is, with regards to the cable  
23 offerings, have you done any research or can you  
24 provide any guidance as to whether the cable service  
25 offerings are overlapping the existing service areas

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1 of the underlying telecommunications carriers that are  
2 providing service in Moab and Price?

3 MR. MAGNESS: This is Bill Magness. I  
4 couldn't provide you, you know, for example an overlay  
5 map that would show specifically. But I think the  
6 general answer is yes. That there would be service  
7 offerings in those exchanges that would be in  
8 competition with the existing service offerings  
9 provided by the incumbent.

10 I think similar to the Bresnan case, the  
11 Commission approved a certification a few months ago.  
12 It may not be a house for a house, but I think there  
13 would be overlap certainly.

14 MR. MEREDITH: And the -- certainly in the  
15 exchange. But have you -- has any work been done or  
16 research been done on whether the study area is  
17 covered by the cable, cable service company?

18 MS. MULVANY HENRY: This is Rose Mulvany  
19 Henry. And the answer to that is no research has been  
20 done to date that we're aware of.

21 MR. MEREDITH: Thank you.

22 (Pause.)

23 MR. MOOY: This is Sandy Mooy. I'll fill the  
24 pause. In the context of the Price and Moab exchanges  
25 will Momentum be seeking an interconnection agreement

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1 with the local service provider? Or will Momentum let  
2 the -- whoever is buying your wholesale services  
3 undertake that responsibility?

4 MS. MULVANY HENRY: This is Rose Mulvany  
5 Henry. And Momentum would be seeking interconnection  
6 with the incumbent local exchange carrier in the  
7 applicable area.

8 MR. HUTTSELL: This is Curt Huttshell with  
9 Frontier Communications, and we serve the Moab  
10 exchange. Would you be seeking local number  
11 portability?

12 MS. MULVANY HENRY: This is Rose Mulvany  
13 Henry. And the answer to that is yes.

14 MR. MEREDITH: This is Douglas Meredith. To  
15 follow up on that response, is it Momentum's position  
16 that you do not need an interconnection agreement for  
17 local number portability issues?

18 MS. MULVANY HENRY: This is Rose Mulvany  
19 Henry. Can you please repeat that question? I'm not  
20 sure I understood it.

21 MR. MEREDITH: Yes. Do you need -- in order  
22 to effect local number portability between two  
23 carriers does there have to be some agreement,  
24 interconnection agreement of that -- in order to make  
25 that work? Is that, is that Momentum's position or

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1 what is, what is Momentum's position on that issue?

2 MS. MULVANY HENRY: This is Rose Mulvany  
3 Henry. And with respect to interconnection between  
4 the carriers, Momentum has not entered into any  
5 agreement with any incumbent local exchange carrier  
6 across the country specifically and exclusively for  
7 local number portability.

8 In fact, local number portability has been  
9 included in every single interconnection agreement  
10 that has been effectuated between Momentum and any  
11 ILEC across the country.

12 MR. MEREDITH: Thank you.

13 MR. MECHAM: This is Steve Mecham from the  
14 Utah Rural Telecom Association. Do you know if Crecis  
15 has a certificate to provide retail services in the  
16 state?

17 MR. MAGNESS: This is Bill Magness. A  
18 telecommunications retail certificate?

19 MR. MECHAM: Yeah.

20 MR. MAGNESS: To our knowledge they do not,  
21 no.

22 MR. MECHAM: Do you know if they intend to  
23 seek one?

24 MR. MAGNESS: Bill Magness again. We have  
25 had some discussion in that regard. And I think it's



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1 a, you know, business determination that they're  
2 considering.

3 Whether they would come in for that or, you  
4 know, come in simultaneously or at a different time  
5 than Momentum is, that's a determination I know  
6 they're considering and we really can't speak to at  
7 this point.

8 We think the Momentum application stands on  
9 its own and satisfies the statutory standards as a  
10 standalone application, so had hoped to proceed with  
11 this case and -- as Crecis makes those considerations.

12 MR. MECHAM: Now, as I understand it though,  
13 you intend to provide wholesale-only services in Moab  
14 and Price?

15 MR. MAGNESS: Yes.

16 MR. MECHAM: And you'll be the certificated  
17 carrier, or will Crecis be the certificated carrier?

18 MR. MAGNESS: Bill Magness again. Well, if  
19 we receive a CPCN, we would be a certificated carrier.  
20 If Crecis receives one as well, both are certificated.

21 MR. MECHAM: Say that again.

22 MR. MAGNESS: I think we, we would be  
23 providing the services that we -- that Momentum would  
24 provide pursuant to Momentum's certificate. It's --  
25 we have applied for the CPCN, as we noted in our

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1 application.

2           We, you know, caveat it by saying we're not  
3 necessarily taking the position that a CPCN is  
4 required for the services Momentum is offering. But  
5 we are seeking one in Utah and consent to the  
6 Commission's jurisdiction to, to make sure we, you  
7 know, can provide the service in a way that's  
8 satisfactory under state laws and regulations.

9           However, we are coming in and seeking the  
10 certificate, and obtaining that, and would be  
11 providing what we were providing pursuant to that  
12 certificate. If, if Crecis has a separate  
13 certificate, they would be a certificated carrier as  
14 well.

15           MR. MECHAM: So if I'm a Crecis customer in  
16 Moab and I have a problem with Crecis, are you saying  
17 they would have a certificate that I could go then  
18 pursue my troubles at the Public Service Commission,  
19 or would you only have the certificate?

20           That's what I'm trying to get at. Who --  
21 where does the customer go in a situation like this if  
22 Crecis winds up thinking it doesn't have to have a  
23 certificate?

24           MR. MAGNESS: The customer would -- if the  
25 problem is with voice service. I mean, setting aside

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1 cable or Internet service that wouldn't, you know,  
2 isn't subject to the CPCN anyway.

3 MR. MECHAM: Right.

4 MR. MAGNESS: I think, you know, Momentum's  
5 intention, and the way Momentum operates in other  
6 states, is if there is a voice problem and a problem  
7 with the service we are providing on a wholesale  
8 basis, that's something we would be responsible for.

9 So any consumer that had a problem with voice  
10 service through Crecis, I mean, even for example if  
11 they contacted Crecis first as the front-line company  
12 there would still be a company, to put it  
13 colloquially, "on the hook" for service quality  
14 problems under a state certificate if Momentum has a  
15 certification.

16 If Crecis has a certification as well, you  
17 know, obviously there's two companies that could be  
18 pursued. But if Momentum has one, then that, that's  
19 an issue that consumers could take up with Momentum as  
20 the certificated carrier.

21 MR. HUTTSELL: This is Curt Huttshell with  
22 Frontier again. Assuming Crecis doesn't get a  
23 certificate, how will the retail customer know who to  
24 complain to? Will Momentum advertise that it's  
25 providing service -- its services -- will it advertise

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1 retail?

2 MR. MAGNESS: I don't think we -- there are  
3 probably business arrangements between Momentum and  
4 Crecis that, that will be, you know, finalized and  
5 ironed out as service offerings are complete once we  
6 have the certificate.

7 With that said, I can assure you that if a  
8 Crecis customer has a problem with the voice service  
9 Momentum is providing, Crecis is going to address that  
10 with Momentum and get Momentum in with the customer.

11 So the -- whether it's, you know, noted on  
12 the bill or whether it's something that, that Crecis  
13 makes certain the customer is aware of, Momentum is,  
14 is on the line to resolve problems with the voice  
15 service that it provides.

16 MR. HUTTSELL: And this is Curt Huttshell  
17 again. To follow up on a question that Douglas asked  
18 in the beginning, is it -- is Momentum's intention to  
19 serve only the City of Moab, or the entire Moab  
20 exchange, or all of Grand County?

21 MR. MAGNESS: This is Bill Magness. I'd have  
22 to get clarification on that. I, I think the, the  
23 business arrangement where Moab -- where Momentum is  
24 providing the wholesale service is -- and again, I  
25 think this is similar to what was in the Bresnan



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1 case -- where the Crecis network is passing customers  
2 and offering customers other types of services and  
3 could offer the voice offering through Momentum, that  
4 is where we would be serving.

5 Now, whether those particular customers in  
6 the Crecis footprint fall inside or outside the county  
7 line or the city line, I, I couldn't tell you.

8 MR. MEREDITH: Follow up. This is Douglas  
9 Meredith. Is Momentum's intent or business plan to  
10 offer these services to Crecis in, in Price, is that  
11 an exclusive arrangement with, with Crecis?

12 MR. MAGNESS: As far as the offering in Price  
13 goes?

14 MR. MEREDITH: Yes.

15 MR. MAGNESS: I don't -- I could not tell you  
16 if the, you know, the particular business arrangement  
17 between the two companies has an exclusivity clause.  
18 You know, I know however that, that the idea, the  
19 business plan, is that Crecis and Momentum are  
20 partnering for service in that exchange.

21 And since Crecis is a wholesale -- I'm sorry,  
22 Momentum is the wholesale provider to Crecis, I doubt  
23 there would be another offering by Momentum in that  
24 exchange.

25 MR. MEREDITH: Okay, thank you.

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1           MR. MECHAM: This is Steve Mecham again. In  
2 the other states where you're certificated, do you --  
3 does the retail service provider have a certificate?

4           MR. MAGNESS: In most of them the answer is  
5 no. I mean, I -- and let me, let me clarify that. In  
6 situations where Momentum is providing the wholesale  
7 service partner with a cable company similar to the  
8 arrangement for Price and Moab, in most cases the  
9 underlying cable company is not required to have a  
10 telecom certificate.

11           And there are, you know, arrange -- as I  
12 mentioned, arrangements similar to this in I know of  
13 at least 30 states where Sprint and Time Warner Cable  
14 provide this sort of service where Sprint is a  
15 certificated carrier. And in most cases the cable  
16 entity does not have the equivalent of Utah's CPCN.

17           MR. MOOY: This is Sandy Mooy. Is Momentum  
18 aware that in the Bresnan circumstance the incumbent  
19 local exchange carrier has maintained that it has no  
20 interconnection obligation under federal law?

21           MR. MAGNESS: That is my understanding of  
22 what the incumbent local exchange carrier's position  
23 is. I mean, I, I have heard that, yes.

24           MR. MOOY: And in that context, if a local  
25 exchange carrier in the area in which Momentum seeks

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1 to operate refuses to interconnect because of a, an  
2 argument that the service is not a telecommunications  
3 service, how does that affect Momentum's plans?

4 MR. MAGNESS: Well, I guess I'd have to say  
5 we can -- we'll cross that bridge if we come to it.  
6 We are seek -- simply seeking certification to provide  
7 service in the state.

8 If there are further disputes down the line  
9 with incumbent local exchange carriers -- which, you  
10 know, frankly would not surprise me -- then those are  
11 issues that the companies hopefully could negotiate to  
12 a resolution. Or if not, would have to come before  
13 the Commission or other authorities if and when they  
14 arise.

15 MS. SCHMID: This is Tricia Schmid with the  
16 Division. Has Momentum encountered situations in  
17 other states where interconnections have been refused?

18 MS. MULVANY HENRY: This is Rose Mulvany  
19 Henry. To my knowledge there has been no refusal of  
20 an interconnection agreement with any ILEC with which  
21 Momentum has sought interconnection.

22 MR. MAGNESS: And I, I mean, I -- this is  
23 Bill Magness again. I mean, I suppose if it's the  
24 incumbent's position that they don't have any  
25 obligations because this is not a telecommunications

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1 service, then they would also agree that this  
2 certification isn't even really necessary. Which, you  
3 know, raises the question of what the source of the  
4 opposition is. But that's another matter.

5 I think generally, as Rose said, there has,  
6 there has not been a refusal. And, you know, in large  
7 measure it's 251A and B interconnection -- or maybe  
8 that's 252 -- that, that's sought here, so. In any  
9 event.

10 MR. MEREDITH: It's 251.

11 MR. HUTTSELL: This is Curt Huttshell again.  
12 Will Momentum be seeking a designation as an ETC, an  
13 eligible telecommunications carrier?

14 MR. MAGNESS: No.

15 MR. HUTTSELL: Will Momentum seek support  
16 from the Utah Universal Service Fund?

17 MR. MAGNESS: It is my understanding no.

18 Rose, tell me if that's incorrect.

19 MS. MULVANY HENRY: No, that is correct Bill.

20 MR. HUTTSELL: Does Momentum intend to  
21 contribute to the Universal Service Fund? The state  
22 Universal Service Fund?

23 MR. MAGNESS: Yes.

24 MR. MECHAM: What, what is -- this is Steve  
25 Mecham again. What is the relationship between



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1 Momentum and Crecis?

2 MR. MAGNESS: They're two companies who would  
3 like to do business together to provide a competitive  
4 telecommunications service.

5 MR. MECHAM: They're not under the same  
6 umbrella in any business way?

7 MR. MAGNESS: No. I'm sorry, this is Bill  
8 Magness. But the answer is no.

9 MR. JOHANSEN: This is Brock Johansen. When  
10 you say they'd like to do business together, I guess  
11 that's -- will you expand on that? I mean, when we're  
12 talking about the viability of this product your  
13 relationship with Crecis is gonna be, is gonna be  
14 crucial. So can you expand upon "they would like to  
15 do business together"?

16 MR. MAGNESS: This is Bill Magness. Well,  
17 they, they made business arrangements for Momentum to  
18 provide the wholesale voice service so Crecis can make  
19 that offering to its customers as well as its video  
20 and Internet offerings.

21 If, if -- Momentum has come in seeking the  
22 certificate so that -- and then plans to, you know,  
23 get underway if we send in the application once we get  
24 the certificate.

25 MR. COX: Bill, this is Spencer Cox. What

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1 happens in the event that Crecis is sold or --

2 MR. MAGNESS: Bill -- I'm sorry, go ahead.

3 MR. COX: Yeah. Sold, or changes ownership,  
4 or something to that effect.

5 MR. MAGNESS: I think it would be as if --  
6 you know, any company that has a contract with any  
7 other company that is sold, or acquired, or merges, I  
8 don't know if there's anything -- you know, again I --  
9 not really speaking to the specific legal agreements  
10 between the companies, but I think Momentum would have  
11 a contract with the successor in interest.

12 And I mean, you know, I think certainly our  
13 intention would be to continue providing the service  
14 under the terms that we agreed to with Crecis. If the  
15 successor in interest decides that it doesn't want to  
16 be in the business anymore, then that's another  
17 matter. But I couldn't speculate about how that would  
18 all work out legally.

19 MR. JOHANSEN: This is Brock Johansen. And a  
20 follow up to that. You know, before you said that you  
21 were thinking that you and Crecis would  
22 have (inaudible.)

23 THE COURT REPORTER: I'm sorry, sir, I'm  
24 having trouble hearing on this end. Would you  
25 please -- you said that you were thinking in that

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1 process you would have?

2 MR. JOHANSEN: This is Brock Johansen. Can  
3 you hear me better?

4 THE COURT REPORTER: Yes. Just keep your  
5 voice up, please.

6 MR. JOHANSEN: All right. This is Brock  
7 Johansen. Just a follow up to Spencer's question.  
8 Before you had indicated that you would have an  
9 exclusive relationship with Crecis. Is that actually  
10 in your contract?

11 I guess, when you say that you -- that this  
12 contract would succeed to the successor or the buyer  
13 of Crecis, what terms are in there to make sure that  
14 you are the exclusive provider under that? And what  
15 terms -- when you said that that contract would  
16 continue forward, how long a term would it continue  
17 for?

18 I'm just trying to get an idea of what would  
19 happen if Crecis were to change owner -- ownership.  
20 Because cable companies are changing ownership right  
21 now throughout the nation.

22 MR. MAGNESS: This is Bill Magness. I think  
23 that's also true of phone companies. And I think  
24 that's, you know, a business issue that I would be  
25 doing nothing more than speculating about if I, I

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1     tried to answer it.

2                   I -- when you asked me the question about  
3     exclusivity I didn't represent specifically that  
4     there's an exclusivity clause in the contract.  And I  
5     think actually, you know, we're getting rather far  
6     afield about certification standards and kind of into  
7     areas that, you know, we may -- I don't know if we  
8     need to, you know, invoke a protective order or  
9     confidentiality about the competitive issues in that  
10    contract.

11                   But that said, I think, as I referenced  
12    before, I think the, you know, certainly a marketing  
13    arrangement, if, if -- would have Momentum providing a  
14    wholesale service to Crecis.  And, you know, any  
15    number of things could happen in the future, depending  
16    on business circumstances.

17                   It -- there's, there's no way to know.  Just  
18    as there is no way to know the exact fate of any  
19    particular company in the communications business  
20    today.

21                   MR. COX:  Bill, this is Spencer Cox.  The  
22    reason it's different and the reason it's relevant is  
23    it's public knowledge that Crecis has been trying to  
24    sell these assets for years.

25                   MR. MAGNESS:  Okay.



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1           MR. JOHANSEN:  And it's also relevant because  
2 we've had a lot of discussion about where the  
3 complaints would go as, I think Curt Huttsell was  
4 asking, and Douglas Meredith, about complaints coming  
5 to Crecis.

6           And you talked about you working through it  
7 with Crecis.  So the ownership of Crecis is very  
8 relevant, and is the difference between this and the  
9 Bresnan case.

10           MR. MAGNESS:  Number -- this is Bill Magness.  
11 Number one, the -- Momentum, if they get the  
12 certificate, is going to be the certificated carrier  
13 that's providing voice service to these customers in  
14 Utah.  And is going to be answerable to the Public  
15 Service Commission because we have come in and sought  
16 the CPCN.

17           So no matter who the underlying carrier is --  
18 I mean, for example, hypothetically if Crecis sold the  
19 assets to Comcast, or to Time Warner, or to a richer  
20 Bresnan, or any regional cable company.  If Momentum  
21 is still providing that wholesale voice service,  
22 Momentum is still answerable, as it would be if Crecis  
23 were the underlying carrier.  We still have the  
24 certificate.  That doesn't change based on who the  
25 business relationship is on -- with on the cable side.

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1           And the second piece, as far as Crecis being  
2   in discussions for sale, or selling assets, or  
3   whatever it is people are hearing I don't think  
4   changes -- it distinguishes this case from Bresnan in  
5   the sense that the Commission's findings about the  
6   benefit of providing a competitive alternative on the  
7   voice service, and the benefits that, that made it in  
8   the public interest to approve the CPCN, are any  
9   different than they are here.

10           The fact that the underlying company may be  
11   having business discussions that may come to something  
12   or may not come to something, as you said, what you  
13   hear is they've been doing it for years. Well, you  
14   know, people have been discussing lots of things for  
15   years. Sometimes they happen and sometimes they  
16   don't.

17           That, that is not the legal standard for  
18   whether Momentum should be able to get a CPCN and  
19   provide a competitive alternative in Utah.

20           MR. HUTTSELL: This is Curt Huttshell again.  
21   Under the rules of the Public Service Commission my  
22   company has an obligation, if a customer asked for  
23   service, to foot I believe the first \$2,000 of a line  
24   extension.

25           Is that roughly correct, Paul?

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1           MR. ANDERSON: I couldn't tell you for sure.  
2 I'm not familiar with that rule.

3           MR. HUTTSELL: It's roughly 1,500 or 2,000 --  
4 the first 1,500 or 2,000 dollars. Is it, is it  
5 Momentum's intention to observe that rule?

6           MR. MAGNESS: This is Bill Magness. That is,  
7 that Momentum would be subject to that rule?

8           MR. HUTTSELL: Yes.

9           MR. MAGNESS: I think, again, as that was,  
10 you know, also discussed in the Bresnan case and that  
11 wasn't applied in that situation. And Momentum would  
12 be providing, you know, a wholesale-only service. And  
13 isn't -- that isn't a rule that is going to apply to  
14 the service they're providing.

15           Momentum would be providing service in the  
16 footprint of, of the underlying carrier in the Price  
17 and Moab areas.

18           MS. SCHMID: And this is Tricia with the  
19 Division, who might have an incredibly stupid question  
20 but I'm gonna ask anyway. I normally don't do  
21 telephone. Would Momentum be offering a plain basic  
22 telephone service in addition to other offerings?

23           UNKNOWN SPEAKER: Not in Price and Moab.

24           MS. SCHMID: Not in Price and Moab?

25           MR. MAGNESS: Momentum would be offering

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1 is -- what Momentum is offering is IPE, Internet  
2 protocol phase phone service, in conjunction with the  
3 cable company, Crecis, in Price and Moab. Or if the  
4 underlying cable company changes, the underlying cable  
5 company.

6 That, that is the service that Momentum would  
7 be providing, excuse me, as part of an offering with  
8 the cable company's service offerings.

9 Unless, Rose, unless you can expand on that.

10 MS. MULVANY HENRY: This is Rose Mulvany  
11 Henry. No, Bill, you're correct.

12 MR. MAGNESS: Yeah. So for example, Momentum  
13 would not, would not advertise that they, you know,  
14 they will make available a freestanding service  
15 offering. Their service offerings would be, you know,  
16 under the, under the marketing banner of the, of the  
17 underlying carrier. And what it has determined it can  
18 offer economically.

19 MR. MEREDITH: Douglas Meredith --

20 MR. JOHANSEN: Just an expansion on that. So  
21 this would be lumped into Crecis's offering? Meaning  
22 when they are advertising it just goes on their bill  
23 and on their advertisement as another service to their  
24 data and video; is that what you're saying? So it's  
25 actually under -- advertised by Crecis?



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1           MR. MAGNESS: This is Bill Magness. I, you  
2 know, I don't write the ads. And I don't think the  
3 ads have been written until we get the certificate and  
4 can provide the service.

5           I think this is -- I'll -- just to analogize  
6 to other offerings that have, you know, given people  
7 an alternative for phone service from the cable  
8 company. It's often called a "triple play." It's  
9 often called, you know, "bundled service." I think  
10 phone companies are familiar with such offerings as  
11 well.

12           And I would expect that it would be offered  
13 under the Crecis name. If there is a, a business  
14 advantage that is, is gained by identifying Momentum  
15 as the wholesale carrier, if that's the case, you  
16 know, Crecis may want to take advantage of that as a  
17 business matter.

18           But yes, I would expect this to be part of a  
19 bundled offering.

20           MR. MEREDITH: This is Douglas Meredith. Is  
21 it correct, for the Moab and Price exchanges, that  
22 Momentum will not have facilities in those areas. And  
23 will actually a presis -- or Crecis facilities will be  
24 used exclusively to deliver services to end-user  
25 customers?

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1           MR. MAGNESS: Well, Momentum typically in  
2 these wholesale-type arrangements will utilize a soft  
3 switch that -- and may place media gateways at the  
4 cable company's head-ins. You know, just basically  
5 they're put on the central offices.

6           So it's not correct to say that there would  
7 be no Momentum equipment whatsoever. I think it would  
8 be typically -- at least some of it may be co-located  
9 with the cable company's equipment.

10          MR. MEREDITH: And outside -- toward the  
11 end-user customer. You know, granted, soft switch or  
12 media gateway at a cable head-in. Transport to and  
13 from that cable head-in to other network facilities.

14          But from that location to the end-user  
15 customer Momentum doesn't plan on having any  
16 facilities, outside plant facilities to end-user  
17 customers, do they?

18          MR. MAGNESS: In the Price and Moab  
19 exchanges, no. The arrangement would utilize the  
20 existing last-mile portion of the cable company's  
21 network.

22          MR. MEREDITH: Yes.

23          MR. MAGNESS: And the voice service can be  
24 provided over the facilities that are in the ground  
25 that provide video and broadband Internet. Those

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1 would be, in the Price and Moab areas, what we would  
2 anticipate that the service would run over for outside  
3 plant purposes.

4 MR. MEREDITH: Thank you.

5 (Pause.)

6 MR. MOOY: It looks like we've run to the  
7 end. If there are no more questions. Anything  
8 further from Momentum that you'd like to add? Bill,  
9 Rose, anything further on your side?

10 MR. MAGNESS: This is Bill Magness. No, I  
11 don't think we have anything further to add. We just  
12 wanted to understand sort of how the, how the process  
13 works next.

14 MR. MOOY: There will be a hearing on your  
15 certificate. Those who want to participate and  
16 present their evidence will do so. And the Commission  
17 will then consider whether a certificate should be  
18 issued under Utah law.

19 MR. MAGNESS: And your Honor, will there be  
20 any -- again, Bill Magness, sorry -- occasion in which  
21 the contested issues are identified by the  
22 interveners? I think the, the assertions in the  
23 intervention motions were, were broad. And didn't  
24 really give us notice specifically of what contested  
25 issues we're facing.

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1           Whether we're looking at primarily legal  
2 issues, or factual issues, or, you know. If nothing  
3 else, what resources we need to bring forward to  
4 satisfy concerns. I mean, obviously we heard a lot of  
5 questions today, but I'm still not sure exactly what  
6 the nature of the opposition is.

7           MR. MOOY: I would anticipate that during a  
8 scheduling conference you could raise that. And to  
9 the extent that the Administrative Law Judge who is  
10 conducting the hearing, or the Commission's secretary  
11 who's conducting the scheduling conference, if there  
12 are desired parties to present an issue list and to  
13 address those, whether they're legal or factual, that  
14 that could be mapped out at the scheduling conference.

15           MR. MAGNESS: This is Bill Magness. I  
16 appreciate the clarification.

17           MR. MOOY: If there's nothing further, we'll  
18 adjourn.

19           MR. COLEMAN: Do we want to set a scheduling  
20 conference now? I mean, is there any reason why we  
21 don't set a date today on this? We've got all parties  
22 participating. Sorry, this is Casey Coleman with the  
23 Division.

24           MR. MOOY: Only because the Commission hasn't  
25 resolved who the Administrative Law Judge will be.



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1 Nor the person --

2 MR. MAGNESS: This is Bill Magness. I'm  
3 sorry, I couldn't hear the question.

4 MR. MOOY: The question was made from  
5 Mr. Casey, on behalf of the Division of Public  
6 Utilities, as to whether we should actually go ahead  
7 and do a scheduling conference now.

8 The difficulty is that the Commission has not  
9 designated who the Administrative Law Judge will be  
10 for this case. I also raise independently, it may be  
11 that there are some parties -- some people who are  
12 interested who have not come forward today or even  
13 petitioned to intervene.

14 And once there's a scheduling conference  
15 noticed, they may then do so. And so I think  
16 procedurally it would be better that the Commission  
17 notice up a scheduling conference in the normal  
18 course. Do that in writing, and publicly announce  
19 that. And then we'll just go to the scheduling  
20 conference when it's set.

21 MR. COLEMAN: This is Casey again. The only  
22 reason I bring that up is we've got a 240-day clock  
23 that's been ticking, and we're already probably more  
24 than halfway through it.

25 And so if we want to complete all the other

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1 elements that's gonna happen with the CPCN application  
2 we need to start something fairly quickly. Or the  
3 other option is to see if that 240-day clock can be  
4 waived.

5 MR. MOOY: Okay. Again, thank you for your  
6 participation today. We'll adjourn, and go off the  
7 record.

8 (The meeting was concluded at 9:53 a.m.)

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C E R T I F I C A T E

STATE OF UTAH )  
 ) ss.  
COUNTY OF SALT LAKE )

This is to certify that the foregoing proceedings were taken before me, KELLY L. WILBURN, a Registered Professional Reporter and Notary Public in and for the State of Utah.

That the proceedings were reported by me in stenotype and thereafter caused by me to be transcribed into typewriting. And that a full, true, and correct transcription of said proceedings so taken and transcribed is set forth in the foregoing pages, numbered 1 through 35, inclusive.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND AND OFFICIAL SEAL AT KEARNS, UTAH  
THIS 26th DAY OF September, 2008.

\_\_\_\_\_  
Kelly L. Wilburn, CSR, RPR  
My Commission Expires:  
May 16, 2009

Kelly L. Wilburn, CSR, RPR  
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