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Division of Public Utilities

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--==-- MEMORANDUM ==--

TO: PUBLIC SERVICE COMMISSION

FROM: DIVISION OF PUBLIC UTILITIES
Philip J Powlick, Division Director
William Duncan, Manager, Telecommunications
Shauna Benvegna-Springer, Utility Analyst

SUBJECT: APPLICATION in the Matter of the Petition of Broadband Dynamics, L.L.C. for Authority to Compete as a Telecommunications Corporation and to Offer Public Local Exchange and Interexchange Telecommunication Services

RE: Docket No. 08-2502-01

DATE: December 18, 2008

RECOMMENDATION: APPROVE

The Division has reviewed the technical, managerial, and financial abilities of Broadband Dynamic, L.L.C., (“Applicant” or “BDLLC”) and has found that the Applicant has provided the necessary information to fulfill the requirements as stated in the existing Commission rule R746-349-3. The Division believes that the public interest will be promoted by recommending approval of the Applicant’s request for a Certificate of Public Convenience and Necessity (CPCN) to provide resold and facilities-based local exchange telecommunications service in the

State of Utah, as requested, under the same terms and conditions as allowed in other CPCN applications.

The Division also recommends that the Commission waive the \$100,000 bond requirement on the basis that the Applicant will not require customer deposits or offer any prepaid services in Utah.

The Division further recommends that the certificate be limited to local exchanges with more than 5,000 access lines that are owned or controlled by incumbent local exchange carriers (“ILECs”) with more than 30,000 access lines. Rural ILECs have not objected to this application because they would not be affected unless the Applicant intended to serve in their territories. If the Applicant decides to serve in the rural ILECs’ territory, a hearing may be necessary before the Commission, pursuant to Section 251(f) (1) of the Telecommunications Act of 1996.

SUMMARY OF ISSUES:

On October 21, 2008, the Applicant filed an application for a CPCN to operate as a provider of interexchange and public local exchange telecommunications services in the State of Utah. The Applicant is not requesting authorization at this time to provide services within any local exchange with fewer than 5,000 access lines owned or controlled by an incumbent telephone corporation (ILEC) with fewer than 30,000 access lines within the state. The Applicant is a registered limited liability company in the State of Arizona, in good standing, as of December 17, 2008. The Applicant is financially qualified to provide resold and facilities-based/UNE telecommunications services in Utah. The Applicant currently provides telecommunications services in 32 other states.

Proposed Service Area:

The Applicant's initial focus will be to offer all forms on intrastate interexchange and local exchange telecommunications services. Initially, BDLLC will offer "resold interexchange and local exchange services, and local services through the use of unbundled network elements"¹ within the Qwest service areas and any other existing or future LECs providing service in Utah. The Applicant has plans to commence service to residential and business customers in the 1st quarter of 2009. The Applicant is seeking statewide authority except within exchange areas with less than 5,000 access lines that are owned or controlled by an ILEC with fewer than 30,000 total access lines.

Proposed Service Offerings:

The Applicant's service offerings will include all forms of intrastate interexchange and local exchange telecommunications services on a resold and facilities-based basis. They will include but are not limited to:

Interexchange (switched and dedicated services):

- 1) 1+ and 101XXXXX outbound dialing;
- 2) 800/888 toll-free inbound dialing;
- 3) Calling cards; and
- 4) Data services.

Local Exchange:

- 5) basic local exchange services for residential and business customers;
- 6) customer custom calling features;

¹ Broadband Dynamics' Application for CPCN filed October 21, 2008

- 7) switched local exchange services to include basic service, trunks, carrier access and other switched local services that currently exist or will exist in the future;
- 8) non-switched local services, such as private lines, that currently exist or will exist in the future;
- 9) Centrex and/or Centrex-like services that currently exist or will exist in the future;
- 10) Digital subscriber lines, and
- 11) ISDN and other high capacity line services.

The Applicant has initiated interconnection negotiations with Qwest, and will consummate the agreements as soon as this application is approved.

Current Areas of Telecommunications Operations:

The Applicant is certificated in 32 other state jurisdictions, throughout the United States. The Applicant is in the process of applying for authority to provide competitive local exchange and interexchange services in the 48 conterminous states and the District of Columbia. The Applicant was not denied authority for any of the services for which it is seeking approval in this application from other state jurisdictions.

Managerial & Technical Expertise:

The Applicant was formed in 1999 by a team with over 30 years of combined telecommunications industry experience. Summaries of the professional experience and the formal education of its managerial and technical personnel demonstrate that the Applicant has considerable business, managerial and technology expertise in the telecommunications industry.

Financial Analysis:

The Division believes that Broadband Dynamics has the financial ability to provide telecommunication services. The Applicant meets the positive net worth requirement for CLEC's as described in Rule 746-349-3(A)(11)(a). Moreover, BDLLC should also have sufficient cash flow to meet cash needs, assuming the accuracy of its five-year projection of expected operations is valid as attested. Since the Applicant will not be requiring customer deposits, the Applicant has requested a waiver of Rule 746-349-3(A) (2).

Complaint Analysis:

The Applicant claims it has had no formal complaints filed with the FCC or any other state regulatory authority, nor has it had any sanctions imposed against the company. BDLLC has not been denied requested certification in any jurisdiction, nor has it had a permit, license, or certificate revoked by any authority.

Waivers:

The Applicant requests that the \$100,000 bond requirement be waived because it will not require customer deposits or prepayments of any kind.

cc: Lance J.M. Steinhart, Attorney for Broadband Dynamics, LLC
Robert S. Rife, Manager, Broadband Dynamics, LLC