



State of Utah  
Department of Commerce  
Division of Public Utilities

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**MEMORANDUM**

**To:** Public Service Commission

**From:** Division of Public Utilities  
Philip Powlick, Director  
Bill Duncan, Telecommunications / Water Manager  
Ron Slusher, Utility Technical Consultant

**Date:** October 28, 2009

**Re:** In the Matter of the Application of NewPath Networks, LLC. for a Certificate of Public Convenience and Necessity to compete as a Competitive Access Provider within the State of Utah Docket No. 09-2512-01.

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**RECOMMENDATION:**

The Division has reviewed the application submitted by NewPath Networks, LLC. and based on the information provided we believe that their application for certificate of public convenience and necessity ("CPCN") should be dismissed without prejudice. The Applicant does not intend to provide services that require a CPCN such as Local Exchange Service (UC 548b-2(10)) or Public Telecommunications Service (UC 54-8b-2(16)), at this time.

**EXPLANATION:**

NewPath Networks, LLC. ("Applicant") filed an application for a certificate of public convenience and necessity ("CPCN") on September 16, 2009. The Division reviewed the application and found the following:

The Applicant 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.

The Applicant does not intend to provide services that require a CPCN such as Local Exchange Service (UC 548b-2(10)) or Public Telecommunications Service (UC 54-8b-2(16)), at this time.

In conversations with the applicant, NewPath represented that they may in the future change their business plan and expand their service offering to include products that require a CPCN. The Division feels it would be appropriate for NewPath to apply for a CPCN at that time.

cc: Todd H. Wells, Attorney, NewPath Networks, LLC.  
Michael Ginsberg, Assistant Attorney General, State of Utah