



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 29, 2009

Re: In the Matter of the Application of Broadview Networks, Inc., for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange Telecommunications Service within the State of Utah Docket No. 09-2514-01.

RECOMMENDATION:

The Division has reviewed the technical, managerial, and financial abilities of the Applicant and has found that the Applicant has provided the necessary information to fulfill the requirements as stated in the existing Commission rules. The Division believes that the public interest will be promoted by recommending that the Commission allow the Applicant a CPCN as requested under the same terms and conditions allowed in other CPCNs. The Division also recommends that the \$100,000 bond be waived on the basis that the Applicant will not require customer deposits or prepayments of any kind.

EXPLANATION:

Broadview Networks, Inc. ("Applicant") filed an application for a certificate of public convenience and necessity ("CPCN") on October 15, 2009. The Division reviewed the application and found the following:

The Applicant plans to operate as a provider of resold and facilities-based intrastate interexchange and non-switched local exchange telecommunications services throughout Utah excluding those exchanges with fewer than 5,000 access lines and served by incumbent local exchange carriers with fewer than 30,000 access lines.

According to financial statements attested to be accurate, objective and with integrity by Charles C. Hunter, Executive Vice President, Secretary and General Counsel of Broadview Networks, Inc., the Applicant has a positive net worth and has ample working capital.

The Applicant does not currently own property in the State of Utah and does not plan to construct any facilities in the state. The Applicant intends to offer a broad range of local telecommunications services through the use of its own facilities, resold facilities and through a combination of these provisioning methods. The Applicant will not be installing any facilities other than equipment to be installed in existing buildings or structures for the purpose of providing local exchange telecommunications services in Utah. This equipment may eventually include switches; no business decision has yet been made as to the location of any such switching equipment. Applicant intends to commence negotiations with Qwest Communications for an interconnection/commercial agreement immediately upon receiving approval from the Public Service Commission of Utah to operate as a local exchange telecommunications service provider in the State of Utah.

The Applicant states that, like all telecommunications carriers, Broadview Networks, Inc. has occasionally been the subject of consumer complaints lodged against it with various state commissions; these complaints have for the most part been informal and have concerned matters such as service quality and/or billing issues. All have been resolved to the customers' satisfaction. Applicant has not had an application for authority to provide telecommunications services denied by any jurisdiction.

The Applicant also states that it has implemented policies and procedures concerning solicitation of new customers. These policies require that customers sign a contract authorizing the Applicant to provide telecommunications services.

Summaries of professional experience and education of its managerial personnel demonstrate that the Applicant has considerable experience in the telecommunications industry. It is currently authorized to provide local exchange telecommunications services in California, Connecticut, the District of Columbia, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia and Washington.

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

The Applicant 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.

cc: Catherine M. Hannan, Regulatory Counsel, Broadview Networks, Inc.
Michael Ginsberg, Assistant Attorney General