



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: March 11, 2010

Re: In the Matter of the Application of IntelPeer, 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. 09-2518-01.

RECOMMENDATION: (Approval)

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.

The Division expects that a filing of this type, with the information submitted by the company, there will be no objections or opposition to this recommendation. Therefore, the Division requests that this docket be adjudicated informally in accordance with R746-110-1.

EXPLANATION:

IntelPeer, Inc. ("Applicant") filed an application for a certificate of public convenience and necessity ("CPCN") on November 24, 2009. The Division reviewed the application and found the following:

The Applicant seeks 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 in accordance with Utah Code Ann. 5 54-8b-2.1 (3) and (4). Specifically, The Applicant seeks authority as a reseller

and facilities-based provider of interexchange and local exchange services in the service areas of Qwest Communications Inc. and any other existing or future LECs providing service in Utah.

According to financial statements attested to be accurate, objective and with integrity by Todd Smith, Vice President / Corporate Controller of IntelPeer, 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. Responsibility for Utah operations will be handled by Applicant's current management team from its headquarters in San Mateo, California.

The Applicant proposes to offer basic local exchange services targeted at business throughout the state, and may offer service to residential customers in the future as the market conditions warrant.

The Applicant will offer service through interconnection and commercial agreements utilizing the facilities of Qwest Corporation ("Qwest"), the incumbent local exchange company. The Applicant will rely on its facilities-based underlying carrier for the operation and maintenance of the local exchange network.

The Applicant claims that it has never had any complaints nor has any investigation been undertaken against it or any of its affiliates involving unauthorized switching (slamming) or any other illegal activities. 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. The Applicant is currently authorized to provide local exchange telecommunications services in Colorado, the District of Columbia, Indiana, Maryland, Massachusetts, New York, Oregon, Texas and Washington State.

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: Ronald W. Del Sesto, Jr., Bingham McCutchen LLP.
Nguyen T. Vu, Bingham McCutchen LLP.
Michael Ginsberg, Assistant Attorney General