



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:** December 13, 2010

**Re:** In the Matter of the Application of WiMacTele, 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. 10-2531-01.

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**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 based on history that a filing of this type and with the information submitted by the company there will be no objections or opposition to this recommendation. Therefore, the Division request that this docket be adjudicated informally in accordance with R746-110-1.

**EXPLANATION:**

WiMacTele, Inc. ("Applicant") filed an application for a certificate of public convenience and necessity ("CPCN") on November 18, 2010. 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 James MacKenzie, President and CEO, of WiMacTele, Inc., the Applicant has a positive net worth and has ample working capital. Summaries of professional experience and education of its managerial personnel demonstrate that the Applicant has considerable experience in the telecommunications industry.

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's current management team from its headquarters in Sarasota, FL will handle responsibility for Utah operations. 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. They initially propose to offer local exchange services to pay telephone locations within Utah. The company may expand their service offering to provide services to small and medium sized business customers at a later date.

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 utilizes company sales representatives to market its services. Therefore, the Applicants marketing plan for Utah will be limited in nature. As such, the Applicant states that exposure to unauthorized switching of customers is almost non-existent. The Applicant also states that it will comply with all FCC and state requirements regarding solicitation and authorization for preferred carrier changes.

The Applicant is currently authorized to provide local exchange telecommunications services in Alabama, Florida, Illinois, Kansas, Massachusetts, New Mexico, New York, South Carolina, Washington, and Wisconsin. The Applicant states that they have plans to file local applications in the remaining states during the 4<sup>th</sup> quarter of 2010.

The Applicant does not plan to collect customer deposits or offer any prepaid services in Utah and requests that the \$100,000 bond requirement be waived.

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: Thomas M. Forte, Consultant to WiMacTele, Inc.  
James MacKenzie, President & CEO, WiMacTele, Inc.  
Patricia Schmid, Attorney, State of Utah