



GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

MICHELE BECK
Director

To: Public Service Commission
From: The Office of Consumer Services
Michele Beck
Eric Orton
Date: January 30, 2012
Subject: Docket 11-2545-01

In the Matter of the Application of Wholesale Carrier Services, Inc. for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange Services within the State of Utah.

Background

On December 12, 2011 Wholesale Carrier Services, Inc. (WSC) filed its application for a certificate of public convenience and necessity (CPCN). On December 12, 2011 the Utah Public Service Commission (Commission) issued its Action Request to the Division of Public Utilities (Division) which was due back to the PSC by January 11, 2012.

On December 19, 2011 the Office of Consumer Services (Office) sent a data request to WCS and copied the DPU. On December 19, 2011, Chris Barton of WCS replied to the data request and copied the DPU. The OCS data request sought clarification on certain parts of WCS' application.

On January 6, 2012 the Utah Rural Telecom Association (URTA) petitioned the PSC for permission to intervene. The Commission granted URTA intervention January 27, 2011

On January 9, 2012 the Division filed its response to the Commission's action request recommending approval of WCS's application.

Discussion

The Office is concerned that the Division has provided potentially incorrect information as support for its recommendation for the Commission to approve WCS's application.

The Division states: "In addition to requesting authority to serve in CenturyLinks's territories, the Application has asked for statewide authority to serve in Frontier's service areas. At the time of this application the only available Frontier service territory that falls under Utah Code Ann. § 54-8b-2.1 (3) and (4) is the Moab exchange, based on Frontier's 2010 annual report filed with the Division of Public Utilities." Since the Division did not include evidence to support the higher standard of Carrier of Last Resort (COLR) required for serving in areas with less than 5,000 access lines [54-8b-2.1 (4)], the Office understands this to imply that WCS is limiting its request to the Moab exchange, which has greater than 5,000 access lines.

The Office asked discovery to clarify certain parts of WCS' application, some of which addressed this specific issue. The Office asked WCS if it intended to serve in Frontier's service territory with less than 5,000 access lines (which would be in areas other than the Moab exchange). The response from WCS was "Yes". The Office also asked if WCS intended to serve the entire Frontier service territory or only those areas with greater than 5,000 access lines. The response said that they intended to serve the entire Frontier service territory. The response to OCS data request #1, from WCS was in email form. A copy of that response is attached.

Because there are currently no Competitive Local Exchange Carriers (CLEC) allowed to serve in rural Utah and Utah statutes require a higher standard of service, it is important to clearly indicate and resolve the issue of which part of Frontier's service territory would be included in any potential CPCN for WCS. Any Commission decision should be delayed until all interested parties have had the opportunity to participate.

Recommendation

The Office recommends that the Commission take the following actions:

1. The Commission should not approve WCS's CPCN until the matter of service territory is cleared up and accurately recorded on the public record.
2. If WCS intends on serving the rural areas based on #1 above, the Commission should hold either a scheduling conference to give a timeline for resolving these unanswered questions or a technical conference at which all interested parties can discuss the issues and gain a shared understanding of the application.