

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application
of Broadview Networks, Inc., for
Approval of an Indirect Transfer
of Control

Docket No. 12-2514-01

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HEARING PROCEEDINGS  
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TAKEN AT: Public Service Commission
Hearing Room 451
160 East 300 South
Salt Lake City, Utah

DATE: Thursday, September 27, 2012

TIME: 9:03 a.m.

REPORTED BY: Scott M. Knight, RPR

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APPEARANCES

ADMINISTRATIVE LAW JUDGE: MELANIE A. REIF

FOR DIVISION OF PUBLIC UTILITIES:

JUSTIN JETTER, ESQ.,

ASSISTANT ATTORNEY GENERAL

500 Heber M. Wells Building

160 East 300 South

Salt Lake City, Utah 84114

FOR BROADVIEW NETWORKS, INC.:

DANIELLE BURT, ESQ.,

(Appearing via telephone)

BINGHAM McCUTCHEN, LLP

2020 K Street N.W.

Washington, D.C. 20006

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INDEX

WITNESS

Page

CHARLES HUNTER (Appearing via telephone)

DIRECT EXAMINATION

8

BY-MS.BURT

RON SLUSHER

DIRECT EXAMINATION

10

BY-MR.JETTER

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Hearing Proceedings

2

September 27, 2012

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PROCEEDINGS

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THE COURT: Good morning, everyone. We're on

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the record. And I'm Melanie Reif, administrative law judge for

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the Public Service Commission. This morning we are hearing

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Docket No. 12-2514-01, which is In the Matter of the Application

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of Broadview Networks, Inc., for Approval of a Transfer of

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Indirect Control. This hearing has been duly noticed and this is

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the date and time for such hearing.

11

Let's go ahead and start with appearances, starting

12

with the applicant. Ms. Burt, would you go ahead and make

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your appearance, please.

14

MS. BURT: Yes. My name is Danielle Burt, B-u-r-t.

15

I am an attorney with Bingham, McCutchen, and I am appearing

16

today on behalf of the applicant. I would at this time like to

17

make a motion for my admission pro hac vice in this matter.

18

THE COURT: Thank you, Ms. Burt. Let's hold that

19

for just one moment and we'll take the appearance from the

20

Division.

21

MS. BURT: Okay. Thank you.

22

MR. JETTER: Justin Jetter of the Attorney

23

General's Office representing the Division of Public Utilities.

24

With me is the Division's expert, Ron Slusher.

25

THE COURT: Thank you, Mr. Jetter.

1 Again, welcome, everyone. And Ms. Burt has made
2 a motion for admission pro hac vice for this hearing. Is there
3 any objection to that?

4 MR. JETTER: No objection.

5 THE COURT: Ms. Burt, your motion is granted.

6 MS. BURT: Thank you, your Honor.

7 THE COURT: You're very welcome.

8 Ms. Burt, I'm going to start with you this morning.

9 And--do you have a witness that you would like to call or do you
10 want to do a presentation first? What--how would you like to
11 proceed?

12 MS. BURT: Your Honor, before calling a witness, I
13 would like to ask whether the--we could administratively admit to
14 the record the application and supplement that were filed by
15 Broadview Networks, Inc.

16 THE COURT: Certainly. Just for clarification, I
17 have an application that was submitted on July 30th, 2012, and I
18 have an amended application or a supplement to that
19 application that was filed on September 5th, 2012. Are those
20 the two documents that you're referring to?

21 MS. BURT: Yes, your Honor.

22 THE COURT: Okay. I do want to make a note
23 because this is a little confusing to me when I saw it--before we
24 enter these into--well, I guess you're asking me to take
25 administrative notice, so before I take administrative notice, I do

1 want to clarify one thing with respect to the filing that was made
2 on September 5th, 2012. This particular supplement references
3 Docket No. 12-2556-01. I believe that--can I ask you to turn
4 your phone down, Ms. Burt? I'm getting feedback.

5 MS. BURT: I turned my phone down.

6 THE COURT: Okay. Thank you. I could hear an
7 echo. Thank you.

8 MS. BURT: Yeah, I heard it as well. I'm not sure
9 what--what . . .

10 THE COURT: Okay. Just for clarification, I have
11 this particular matter docketed as 12-2514-01. And the
12 document number that's noted on the supplement is 12-2556-01.
13 Just to be sure we're hearing the right matter and there's no
14 confusion, is it your understanding that both the application and
15 the supplement refer to the docket that we're hearing this
16 morning, which is 12-2514-01?

17 MS. BURT: Yes, your Honor.

18 THE COURT: Okay.

19 MS. BURT: Both of these filings refer to docket
20 that is before you today. The fact that the September 5th, 2012,
21 filing inadvertently referred to a different docket is an error that,
22 you know, we can note here on the record.

23 THE COURT: Okay. Thank you very much for
24 doing that.

25 And the Commission takes administrative notice of

1 those two documents--the application filed on July 30th, 2012,
2 and the subsequent supplement filed on September 5th, both in
3 Docket 12-2514-01.

4 And is it your intent to call Mr. Hunter at this time?

5 MS. BURT: Yes, your Honor.

6 THE COURT: Okay. Thank you. I'd like to go
7 ahead and swear him in even though he's not present.

8 Mr. Hunter, can you hear me okay?

9 THE WITNESS: Yes, I can.

10 THE COURT: Thank you for being here this
11 morning. Would you kindly raise your right hand. And do you
12 swear that the testimony that you are about to give is the truth?

13 THE WITNESS: Yes, I do.

14 THE COURT: Okay. Thank you.

15 Ms. Burt, please proceed.

16 CHARLES HUNTER, being first duly sworn, was
17 examined and testified as follows:

18 DIRECT EXAMINATION

19 BY-MS.BURT:

20 Q. Mr. Hunter, I am wondering if there is any update to
21 the application that was filed with the Commission at this time
22 or if we might just proffer it as filed?

23 A. Only that subsequent to the filing of the application
24 on the supplement, we have filed for transfer of our FCC
25 Section 214 application. And that's for both the international

1 and the domestic side. And a public notice has been released
2 as to the domestic application.

3 Q. And that is the only update, Mr. Hunter?

4 A. That--that is the only update.

5 MS. BURT: Your Honor, I have no further
6 questions.

7 THE COURT: Okay. Mr. Jetter, do you have any
8 questions of the witness?

9 MR. JETTER: No, I do not.

10 THE COURT: Ms. Burt, I have one question of Mr.
11 Hunter, please.

12 Did I understand the testimony correct that the
13 submission to the FCC has been approved or is that still
14 pending?

15 THE WITNESS: The application is still pending.
16 We expect approval in mid-October.

17 THE COURT: Okay. Thank you very much for that.
18 I have no further questions.

19 Mr. Jetter, would you like to go ahead, please?

20 MR. JETTER: Sure. The Division will call its
21 expert, Ron Slusher.

22 THE COURT: Mr. Slusher, good morning. Thank
23 you for being here. Would you kindly raise your right hand. Do
24 you swear that the testimony you're about to give is the truth?

25 THE WITNESS: I do.

1 THE COURT: Thank you. Please proceed, Mr.
2 Jetter.

3 RON SLUSHER, being first duly sworn, was
4 examined and testified as follows:

5 DIRECT EXAMINATION

6 BY-MR.JETTER:

7 Q. I guess we'll start just quickly. Would you just
8 state your occupation and address for the record.

9 A. My name is Ron Slusher. I'm a consultant with the
10 Division of Public Utilities. Address is 160 East 300 South, Salt
11 Lake City, Utah.

12 Q. And, Mr. Slusher, have you reviewed the two filings
13 made by Broadview in this docket?

14 A. Yes, I have.

15 Q. And what is your--excuse me--let me rephrase that
16 question. Have you prepared the two memorandums filed by the
17 Division in this docket?

18 A. I did.

19 Q. And are they still accurate, in your opinion?

20 A. They are.

21 Q. Do you have any additions, amendments, or
22 changes that you'd like to make to them?

23 A. I do not.

24 Q. And in your opinion, would the action requested by
25 Broadview in this case be in the public interest?

1 A. Yes. After the Division has reviewed their
2 applications and notice, we feel that it will be in the public
3 interest for this transfer of control.

4 MR. JETTER: I don't have any further questions.

5 THE COURT: Thank you, Mr. Jetter.

6 Ms. Burt, do you have any cross-examination for
7 Mr. Slusher?

8 MS. BURT: No, your Honor, I do not.

9 THE COURT: Okay. Just one bit of clarification,
10 please, Mr. Slusher. You testified that the application,
11 according to the Division, is in the public interest; is that
12 correct?

13 THE WITNESS: Correct.

14 THE COURT: Okay. And does your testimony still
15 hold true, given the supplement that was filed on September
16 5th?

17 THE WITNESS: It does.

18 THE COURT: Okay. And that would be reflected in
19 your September--September 12 filing--
20 your memo dated September 12th--

21 THE WITNESS: You're correct, yes.

22 THE COURT: --2012? Thank you very much. I
23 don't have any additional questions. Is there anything more that
24 the parties wish to present at this time?

25 MS. BURT: No, your Honor.

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THE COURT: Okay. Thank you.

I'm--I'm now going to ask, although we have no one else here, whether there's any objection to the application that's pending before the Commission for approval of Broadview Networks, Inc., application for approval of indirect transfer of control.

Hearing no objection, the application is approved pursuant to Rule R746-349-7, subsection (3), which provides, "If no objection to the proposed transaction is submitted in any filed comments or reply comments, the Commission will presume that approval of the transaction is in the public interest and the use"--"and use the information contained in the application and accompanying documents as evidence to support a Commission order."

Thank you, everyone. This matter is adjourned and an order will be forthcoming. Have a very nice day. Bye-bye.

MS. BURT: Thank you, your Honor.

THE COURT: We're off the record. Thank you.

(Proceedings concluded at 9:13 a.m.)

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CERTIFICATE

This is to certify that the foregoing proceedings were taken before me, SCOTT M. KNIGHT, a Registered Professional Reporter and Notary Public in and for the State of Utah, residing at South Jordan, Utah;

That the proceedings were reported by me in stenotype and thereafter caused by me to be transcribed into typewriting, and that a full, true, and correct transcription of said proceedings so taken and transcribed is set forth in the foregoing pages, inclusive.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

Scott M. Knight, RPR
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