

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Joint Application of)
MegaPath Corporation and GC Pivotal, LLC) DOCKET NO. 14-2539-01
d/b/a Global Capacity for Approval of Asset) ORDER APPROVING ASSET TRANSFER
Transfer Transaction)

ISSUED: November 13, 2014

This matter is before the Commission on the joint application of MegaPath Corporation (MegaPath) and GC Pivotal, LLC d/b/a Global Capacity (Global) (collectively, Applicants) for approval pursuant to which MegaPath will transfer certain assets to Global. Applicants filed for Commission approval on October 1, 2014.¹ The application contains all the information required by Utah Admin. Code R746-349-7(A)(1).

Pursuant to Utah Code Ann. § 54-4-30, the Commission issued a notice on October 6, 2014, allowing for the submission of comments by any interested party regarding the application. No comments or objections were received.

On October 28, 2014, in response to a Commission action request, the Division of Public Utilities (Division) submitted a recommendation to approve the application. The Division's memo states: "The Division . . . has reviewed the joint application between . . . MegaPath . . . and . . . Global . . . and believes that the transfer of assets and customers is in the public interest. As a result of the acquisition, [Global] should be in a better position to provide expanded and advanced telecommunications and broadband services in the State. . . ."²

On November 5, 2014, the Administrative Law Judge (ALJ) for the Commission held a hearing, pursuant to Utah Code Ann. § 54-4-30. Joe Stultz and William J. Evans appeared

¹ Applicants filed supplemental exhibits on October 30, 2014.

² Division Memo at 1, filed October 28, 2014.

on behalf of the Applicants and were joined, telephonically, by Jeremy Kissel, counsel for Global; Katherine Mudge, Vice President – Regulatory Affairs and Litigation; and Jeffrey Strenkowski, counsel for Global and MegaPath. Justin Jetter, Utah Assistant Attorney General, appeared for the Division, and was accompanied by Ron Slusher, Utility Technical Consultant for the Division.

Both Applicants' filings and the Division's recommendation were entered into the record. Mr. Kissel testified on behalf of Global and offered the following summary of why the transaction is in the public interest:

The transaction will result in the transfer of certain network assets, and the broadband data customers served by those assets, to Global Capacity, a company with a history of providing high-quality communications services. The transaction will not only allow Global Capacity to provide service to the broadband customers currently served by MegaPath, it will also give all Utah business customers another competitive choice for high-quality broadband service. Also, Global Capacity's operations are overseen by a well-qualified management team with substantial telecommunications experience and technical expertise. And there will be an orderly and seamless transition of customers from MegaPath to Global Capacity.

Hr'g Tr. 13:2-17. Ms. Mudge testified that she agreed with Mr. Kissel's explanation as to why the transaction is in the public interest. Id. at 16:20-24.

Mr. Slusher testified on behalf of the Division in support of the application. Mr. Slusher further testified that approval of the joint application is just and reasonable, and in the public interest. Id. at 20:16-17. No one appeared at the hearing objecting to the application.

Under Utah Admin. Code R746-349-7, "[i]f 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 use the information contained in the application and accompanying documents as evidence to support a Commission order.” Utah Admin. Code R746-349-7(A)(3). Because there is no objection to the granting of the application, the Commission presumes the application for approval of the transfer of customers and certain assets is in the public interest. Moreover, the Division’s memoranda and testimony provide additional support for approval of the application.

ORDER

For the foregoing reasons, the Commission approves the asset transfer from MegaPath to Global.

DATED at Salt Lake City, Utah, this 13th day of November, 2014.

/s/ Melanie A. Reif
Administrative Law Judge

Approved and confirmed this 13th day of November, 2014, as the Order Approving Transfer of Customers and Certain Assets issued by the Public Service Commission of Utah.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#262052

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on the 13th day of November, 2014, a true and correct copy of the foregoing was delivered upon the following as indicated below:

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