



State of Utah
Department of Commerce
Division of Public Utilities

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MEMORANDUM

To: Public Service Commission

From: Division of Public Utilities
Chris Parker, Director
Bill Duncan, Telecommunications / Water Manager
Ron Slusher, Utility Technical Consultant

Date: April 20, 2015

Re: In Matter of the Application of X5 OpCo, LLC for a Certificate of Public Convenience and Necessity to Provide Certain Telecommunications Services within the State of Utah, Docket No.15-2580-01.

RECOMMENDATION (Approve):

The Division of Public Utilities (“Division”) has reviewed the technical, managerial, and financial abilities of the X5 OpCo, LLC., and has found that they have provided the necessary information to fulfill the requirements as stated in the existing Public Service Commission (“Commission”) rules. The Division believes that the public interest will be promoted by recommending that the Commission allow the X5 OpCo, LLC., a Certificate of Public Convenience and Necessity (“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:

On or about March 23, 2015, X5 OpCo, LLC., (“X5” or “Applicant”) filed an application for a CPCN. The Division reviewed the application and found the following:

X5 OpCo, LLC., is a registered foreign corporation within the State of Utah; with its corporate headquarters located at 555 East Lancaster Avenue, Suite 444, Radnor, PA 19087.

In X5 OpCo’s application they state that there are seeking statewide authority to offer telecommunication services. The Division sent a data request on April 03, 2015 asking for clarification of their statement, see DPU Exhibit A, and found that 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 local exchange services in the service areas of CenturyLink Communications, Inc. and any other existing or future LECs providing service in Utah.

The Applicant does not currently own property in the state and does not plan to construct any facilities in the state. The Applicant intends to provide local exchange services through resale or non-switched private line service.

X5 intends to initiate its operations in Utah upon receipt of authority.

X5 will provide access to local exchange, toll, operator services, directory assistance, directory listings, and emergency services such as 911 and E911 either through facilities-based interconnection or resale services purchased directly from the ILEC.

Summaries of professional experience and education of its managerial personnel demonstrate that the Applicant has considerable experience in the telecommunications industry.

According to financial statements attested to be accurate, objective and with integrity by Walter P. Maner, Chairman, X5 OpCo, LLC., the Applicant has a positive net worth and has ample working capital.

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 is currently authorized to provide local exchange telecommunications services in Oregon, and Washington.

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.

The Applicant asserts that approval of X5’s Application will serve the public interest by allowing X5 to continue to provide the competition in the local exchange marketplace that X5 Solutions

was providing. X5's provision of services will promote consumer choice by expanding the availability of innovative, high quality, reliable, and competitively priced public telecommunications services. The availability of its services also will increase incentives for other providers of public telecommunications services to improve their responsiveness to consumers, enhance their productive efficiency, accelerate product innovation, and adjust service prices continually according to market conditions.

cc: Walter P. Maner, Chairman, X5 OpCo, LLC.
Thomas J. Navin, Esq., Attorney, Wiley Rein, LLP
Justin Jetter, Assistant Attorney General, State of Utah
Cheryl Murray, Utility Analyst, Office of Consumer Services, State of Utah