



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 29, 2015

**Re:** In the Matter of the Application of Clear Rate Communications, Inc., for a Certificate of Public Convenience and Necessity to Provide/Resell Local Exchange and Interexchange Services in the State of Utah, Docket No.15-2581-01.

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**RECOMMENDATION (Approve):**

The Division of Public Utilities (“Division”) has reviewed the technical, managerial, and financial abilities of the Clear Rate Communications, Inc. 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 Clear Rate Communications, Inc. 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 April 08, 2015, Clear Rate Communications, Inc. (“Clear Rate” or “Applicant”) filed an application for a CPCN. The Division reviewed the application and found the following:

Clear Rate Communications, Inc. is a registered foreign corporation within the State of Utah; with its corporate headquarters located at 555 South Old Woodward Avenue, Suite 600, Birmingham, MI 48009.

In Clear Rate’s application they state that there are seeking statewide authority to offer telecommunication services. The Division sent a data request on April 20, 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 intends to provide a full range of telecommunications services to business and residential customers in the incumbent, CenturyLink, exchanges statewide in Utah, consistent with the exchange maps CenturyLink has on file with the Commission.

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 use the local loops and other existing network facilities where prudent of the local exchange incumbent provider.

The Applicant intends to commence negotiations with CenturyLink for an interconnection/commercial agreement immediately upon receiving approval from the Commission to operate as a local exchange telecommunications service provider in the State of Utah.

Clear Rate will provide access to ordinary intraLATA and interLATA message toll calling, operator services, directory assistance, directory listings, and emergency services such as 911 and E911 either through its own operations or by purchasing those services from ILECs, certificated CLECs, and other companies specializing in providing these services on a competitive basis.

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 Sam H. Namy, Chief Financial Officer, of Clear Rate Communications, Inc. the Applicant has a positive net worth and has ample working capital.

Clear Rate respectfully requests that the Commission grant a waiver from the requirement that Clear Rate show proof of a bond in the amount of \$100,000 in order to protect customer deposits or other liabilities.

The Applicant is currently authorized to provide local exchange telecommunications services in California, Florida, Illinois, Indiana, Massachusetts, Michigan, Minnesota, New York, Ohio, Pennsylvania, Texas, Virginia, Washington, and West Virginia.

The Applicant claims that is Rate has not been the subject of a formal complaint or investigation regarding the unauthorized switching (“slamming”) of any customer, but for one civil action filed by the West Virginia Attorney General, which has been dismissed and specifically focused on Clear Rate’s “carrier access fee.” The Applicant also states that it has implemented policies and procedures respecting the solicitation of new customers and has anti-slamming measures in place and routinely uses third party verification to verify carrier change requests in accordance with federal and state requirements.

The Applicant asserts approval of their application will serve the public interest by creating greater competition in the local exchange marketplace for both business and residential customers. Applicant anticipates that its proposed service will provide its subscribers with better quality services and enhanced user features and will increase consumer choice through Applicant’s reliable service offerings. The public convenience and necessity, therefore, will be served by the issuance of a Certificate of Public Convenience and Necessity to Applicant authorizing it to provide the services described in this application.

cc: Michelle A. Roose, General Counsel - Legal & Regulatory Affairs, Clear Rate Communications, Inc.  
Sam H. Namy, Chief Financial Officer, Clear Rate Communications, Inc.  
Justin Jetter, Assistant Attorney General, State of Utah  
Cheryl Murray, Utility Analyst, Office of Consumer Services, State of Utah