

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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

DOCKET NO. 15-2583-01

REPORT AND ORDER

ISSUED: October 9, 2015

SYNOPSIS

The Commission approves the application of RCLEC, Inc. (RCLEC) for a Certificate of Public Convenience and Necessity and authorizes RCLEC to provide facilities-based and resold local exchange services, subject to specific limitations, within Utah.

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PROCEDURAL HISTORY

RCLEC filed its application on August 28, 2015, seeking a certificate of public convenience and necessity (Certificate) for authority to provide resold and facilities-based local exchange and interexchange services within Utah. The application contains detailed information regarding the technical, financial, and managerial resources and abilities of RCLEC to provide the public telecommunications services it seeks to offer.

On September 21, 2015, the Division of Public Utilities (Division) filed a memorandum recommending approval of the application. In its memorandum, the Division noted the following:

1. Approval of RCLEC's application will serve the public interest by creating greater competition in the local exchange marketplace.

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2. RCLEC asserts that it is in compliance with federal and state anti-slamming laws and regulations.
3. It is permissible and appropriate to waive the \$100,000 bond requirement in this docket, because RCLEC will not require customer deposits or prepayments.

On October 8, 2015, the Commission held a hearing in this docket. Jeff Slater appeared telephonically on behalf of RCLEC. Justin Jetter, Utah Assistant Attorney General, appeared on behalf of the Division, and was accompanied by Ron Slusher, utility analyst. Both RCLEC and the Division testified that approval of the application is in the public interest.

In light of the foregoing, the Commission enters the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. There are no intervenors in this docket. There has been no opposition to the application.
2. RCLEC has filed sworn statements or other documents containing sufficient information to support the application.
3. RCLEC has demonstrated that it is qualified to do business in Utah.
4. RCLEC proposes to provide public telecommunications services throughout Utah.
5. RCLEC will utilize its managerial expertise to support its Utah operations.
6. RCLEC has sufficient technical resources and abilities to provide the public telecommunications services it proposes to offer.
7. RCLEC has a secure and sufficient source of funding for its Utah operations, which funding will enable RCLEC to meet projected capital and operating expenses and to implement its business plans.

8. In providing intrastate services, RCLEC will be subject to competition from other certified telecommunications service providers.
9. RCLEC's service offerings will provide customers with a wider range of choice in meeting their telecommunications needs and will support the development of competition.
10. RCLEC will not require customer deposits or offer any prepaid services in Utah.

Therefore, RCLEC requests that the Commission waive the \$100,000 bond requirement set forth in Utah Administrative Code R746-349-3(A)(2).

#### CONCLUSIONS OF LAW

1. RCLEC meets each of the statutory requirements of Utah Code Ann. §§ 54-8b-1.1 *et seq.* for the requested Certificate.
2. RCLEC's request to be exempted from the \$100,000 bond requirement is in accord with Commission practice and is in the public interest.
3. Issuance of the requested Certificate to provide public telecommunications services, as described in the application, is in accord with the legislative policy set forth in Utah Code Ann. §§ 54-8b-1.1 *et seq.*, and is in the public interest.
4. It is in the public interest to restrict RCLEC's Certificate to the utility's stated scope of operation, as follows:
  - a. RCLEC will restrict its operations to supplying service only to ILECs and CLECs; and
  - b. RCLEC will restrict its operations to providing access to ordinary intraLATA and interLATA message toll calling.

ORDER

In light of the Findings and Conclusions set forth above, the Commission ORDERS:

- a. RCLEC, Inc. is granted the Certificate attached as Exhibit A, which exhibit is incorporated by reference into this Order as if fully set forth;
- b. RCLEC, Inc.'s Certificate is subject to the limitations stated therein;
- c. RCLEC, Inc. shall provide reports to the Commission and to the Division as set forth in Exhibit B, which exhibit is incorporated by reference into this Order as if fully set forth;
- d. The reporting, compliance, and service requirements set forth in Exhibit B shall be binding upon RCLEC until and unless modified by the Commission;
- e. RCLEC is exempted from certain provisions of the Utah Code and the Commission's Rules and Regulations, to the extent set forth in Exhibit B; and
- f. RCLEC is exempted from the \$100,000 bond requirement set forth in Utah Administrative Code R746-349-3(A)(2).

Any person may file a protest in regard to this Order within 20 days from the date of issuance. If the Commission finds the protest to be meritorious, the effective date shall be suspended pending further proceedings. Otherwise, this order shall take effect 20 days from the signature date below.

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DATED at Salt Lake City, Utah, this 9<sup>th</sup> day of October, 2015.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg  
Commission Secretary  
DW#269854

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.

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EXHIBIT A

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of RCLEC, Inc. for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange and Interexchange Services within the State of Utah	<u>DOCKET NO. 15-2583-01</u> <u>REPORT AND ORDER</u>
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ISSUED: October 9, 2015

The Public Service Commission of Utah, pursuant to Utah Code Ann. § 54-8b-2.1, issues a Certificate of Public Convenience and Necessity authorizing RCLEC, Inc. to provide public telecommunications services within the State of Utah, subject to the following limitations:

1. RCLEC may not supply service to any customer that is not an ILEC or a CLEC.
2. RCLEC shall restrict its operations to providing access to ordinary intraLATA and interLATA message toll calling.

DATED at Salt Lake City, Utah, this 9<sup>th</sup> day of October, 2015.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg  
Commission Secretary

EXHIBIT B

REPORTING, COMPLIANCE, AND SERVICE REQUIREMENTS

RCLEC, Inc. shall comply with the reporting requirements, applicable regulations, and service obligations as set forth below.

**I. Annual Report:** RCLEC shall file an Annual Report, on or before March 31 of each year, unless RCLEC requests and obtains an extension. The Annual Report shall contain the following:

**A. Annual Revenues** from operations attributable to the State of Utah by major service categories. Such information shall be provided on a "Total Utah" and "Utah Intrastate" basis. The "Total Utah" calculation shall consist of the total of interstate and intrastate revenues. The "Utah Intrastate" calculation shall reflect only revenues derived from intrastate tariffs, price lists, or contracts. Both Total Utah and Utah Intrastate revenues shall be reported, at a minimum, for the following classes of service:

1. private line and special access;
2. business local exchange;
3. residential local exchange;
4. measured interexchange; and
5. vertical services.

Business local exchange, residential local exchange and vertical service revenue shall be reported by geographic area, to the extent feasible.

**B. Annual Expenses and Estimated Taxes** attributed to telecommunications operations and investments in the State of Utah, including:

1. Year-end balances by account for:
  - a. property;
  - b. plant;
  - c. equipment;
  - d. annual depreciation; and
  - e. accumulated depreciation; and
2. Actual depreciation rates applied in developing annual and accumulated depreciation figures.

**C. Financial Statements** maintained in accordance with generally accepted accounting principles in the ordinary course of business and including, at a minimum:

1. an income statement;
2. a balance sheet; and
3. a statement of cash flows.

**D. List of Services** that, as of the report date, are offered to customers and the geographic areas in which those services are offered. Further, RCLEC shall update its List of Services whenever a new service is offered or a new area is served.

**E. Number of Access Lines in Service** by geographic area, segregated between business and residential customers.

**F. Number of Messages and Minutes of Services** for measured services billed to end users.

**G. List of Officers and Responsible Contact Personnel**, updated annually.



**H. Chart of Accounts**, accurate as of the report date. Further, RCLEC shall update its Chart of Accounts at least annually and shall work with the Division in good faith to develop a method for estimating intrastate expenses and investments.

**II. Exemptions from Statutes and Waivers of Regulations.**

**A. Exemptions.** RCLEC is exempted from the following statutory provisions:

§ 54-3-8, § 54-3-19	Prohibitions of discrimination
§ 54-7-12	Rate increases or decreases
§ 54-4-21	Establishment of property values
§ 54-4-24	Depreciation rates
§ 54-4-26	Approval of expenditures

**B. Waivers.** The Commission waives the following regulations:

R746-340-2(D)	Uniform System of Accounts (47 C.F.R. 32)
R746-340-2(E)(1)	Tariff filings required
R746-340-2(E)(2)	Exchange maps
R746-344	Rate case filing requirements
R746-401	Reporting of construction, acquisition and disposition of assets
R746-405	Tariff formats
R746-600	Accounting for post-retirement benefits

**III. Obligations with Respect to Provision of Services.** RCLEC shall provide service within specified geographic areas upon reasonable request and subject to the following conditions:

**A.** RCLEC's obligation to furnish service to customers is dependent upon the availability of suitable facilities on its own network and the networks of underlying carriers.

RCLEC shall provide the Commission with a map identifying the area(s) within the

state of Utah where it is offering one or more services. RCLEC shall update the map as it serves new areas. At a minimum RCLEC shall update its map annually.

- B. RCLEC shall be responsible for operation and maintenance of services only to the extent of the services that it provides.

To the extent any of the foregoing requirements is found to impact competitive entry or effective competition, the requirement(s) shall be subject to rulemaking. Utah Code Ann. § 54-8b-2.2. Any rule adopted by the Commission shall supersede any conflicting provision set forth herein.

CERTIFICATE OF SERVICE

I CERTIFY that on the 9<sup>th</sup> day of October, 2015, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

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