

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Neighborhood Networks, Inc. for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities- Based Local Exchange Services within the State of Utah	<u>DOCKET NO. 16-2587-01</u> <u>REPORT AND ORDER</u>
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ISSUED: April 4, 2016

SYNOPSIS

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

PROCEDURAL HISTORY

On February 18, 2016, Neighborhood Networks filed an application seeking a certificate of public convenience and necessity (Certificate) for authority to provide resold and facilities-based local exchange telecommunications services within Utah. In addition, Neighborhood Networks requested that the Commission waive the \$100,000 bond requirement set forth in Utah Administrative Code R746-349-3(A)(2).

On March 4, 2016, the Utah Rural Telecom Association (URTA) filed comments regarding whether Neighborhood Networks should be allowed to operate in the rural areas of the state. URTA also filed a petition to intervene, which was granted on March 25, 2016.

On March 14, 2016, Neighborhood Networks amended its application to clarify that it does not seek authority to compete against incumbent LECs (ILECs) that operate in rural areas of the state.

On March 14, 2016, the Division of Public Utilities (Division) filed a memorandum recommending approval of the application. In its memorandum, the Division noted the following:

1. Neighborhood Networks has provided the information necessary for the Division to review its technical, managerial, and financial ability to provide public telecommunications services in Utah.
2. Neighborhood Networks proposes to operate as a reseller of local exchange services within the service areas of CenturyLink Communications, Inc. and any other existing or future LECs that provide service in Utah.
3. Neighborhood Networks proposes to offer local exchange and interexchange services through VoIP, and will also offer fiber Internet and IPTV to both residential and business customers.
4. Neighborhood Networks will provide access to local exchange, toll, operator services, directory assistance, and directory listings, either through facilities-based interconnection or through resale services purchased directly from one or more ILECs.
5. Neighborhood Networks will not directly provide emergency services such as 911 and E911. Such services will be provided by an upstream carrier.
6. Neighborhood Networks does not own property in Utah and does not plan to construct facilities in the state. Rather, Neighborhood Networks will use the local loops and other existing network facilities of one or more ILECs.

On March 30, 2016, URTA filed additional comments. Where Neighborhood Networks amended its application to clarify that it does not intend to compete with a rural ILEC, URTA has no objection to the Certificate being granted.

On April 4, 2016, the Commission held a hearing in this docket. Johnathan Penberthy, CEO and CTO of Neighborhood Networks, appeared telephonically. Justin Jetter, Utah Assistant Attorney General, appeared on behalf of the Division, accompanied by William Duncan, Division Telecommunications Manager. URTA did not appear. The Division's March 14, 2016 memorandum was entered into evidence. According to the testimony given at hearing, approval of the application, including waiver of the \$100,000 bond requirement, 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 is no opposition to the application.
2. Neighborhood Networks has filed documentation containing sufficient information to support the application.
3. Neighborhood Networks has demonstrated that it is qualified to do business in Utah.
4. Neighborhood Networks does not propose to operate in any area with fewer than 5,000 access lines that is served by an ILEC that has fewer than 30,000 total access lines.
5. Neighborhood Networks will utilize its managerial expertise to support its Utah operations.

6. Neighborhood Networks has sufficient technical resources and abilities to provide the services it proposes to offer.
7. Neighborhood Networks has a positive net worth and ample working capital for its Utah operations.
8. It is permissible to waive the \$100,000 bond requirement set forth in Utah Administrative Code R746-349-3(A)(2).

CONCLUSIONS OF LAW

1. Neighborhood Networks meets each of the statutory requirements of Utah Code Ann. §§ 54-8b-1.1 *et seq.* for the requested Certificate.
2. Neighborhood Networks'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 resold and facilities-based 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.

ORDER

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

1. Neighborhood Networks, Inc. is granted the Certificate attached as Exhibit A, which exhibit is incorporated by reference into this Order as if fully set forth.
2. Neighborhood Networks, Inc.'s Certificate is subject to the limitations stated therein.

DOCKET NO. 16-2587-01

- 5 -

3. Neighborhood Networks, Inc. shall provide annual reports to the Commission and to the Division after meeting with the Division to determine what information is required in order for the Division to exercise its statutory obligations.
4. Within 30 days of the effective date of this order, Neighborhood Networks, Inc. shall file in this docket a notice:
 - i. affirming that it has met with the Division as required herein; and
 - ii. listing the information that Neighborhood Networks, Inc. will file with the Division in each annual report.
5. Neighborhood Networks, Inc. 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.

DATED at Salt Lake City, Utah, April 4, 2016.

/s/ Jennie T. Jonsson
Administrative Law Judge

DOCKET NO. 16-2587-01

- 6 -

Approved and confirmed April 4, 2016 as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#273212

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.

DOCKET NO. 16-2587-01

- 7 -

EXHIBIT A

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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ISSUED: April 4, 2016

The Public Service Commission of Utah, pursuant to Utah Code Ann. § 54-8b-2.1, issues a Certificate of Public Convenience and Necessity authorizing Neighborhood Networks, Inc. to provide public telecommunications services within the State of Utah. Neighborhood Networks, Inc. may not operate in any area with fewer than 5,000 access lines that is served by an incumbent local exchange carrier that has fewer than 30,000 total access lines.

DATED at Salt Lake City, Utah, April 4, 2016.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary

CERTIFICATE OF SERVICE

I CERTIFY that on April 4, 2016, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

Carol Lisowski (clisowski@incompasseg.com)
Incompass Consulting Group, LLC

Kira M. Slawson (kiram@blackburn-stoll.com)
Blackburn & Stoll, L.C.
Attorneys for URTA and its Members

Brett N. Anderson (bretta@blackburn-stoll.com)

Vicki Baldwin (vbaldwin@parsonsbehle.com)

Sharon Bertelsen (bertelsens@ballardspahr.com)

Larry Bowman (larry.bowman@charter.com)

Brian W. Burnett (brianburnett@cnmlaw.com)

(cflregulatory@chartercom.com)

Eddie L. Cox (ecox@cut.net)

William J. Evans (bevans@parsonsbehle.com)

James Farr (james.farr@centurylink.com)

Amy Gross (agross@tminc.com)

Alan Haslem (ahaslem@mleainc.com)

Ray Hendershot (ray.hendershot@beehive.net)

William Huber (William.huber@questar.com)

Bill Hunt (williamp.hunt@dish.com)

David R. Irvine (Drirvine@aol.com)

Kristin L. Jacobson (Kristin.l.jacobson@sprint.com)

Brock Johansen (bjohansen@emerytelcom.com)

Dawn Kubota (kubotad@ballardspahr.com)

Jasen Lee (jlee@desnews.com)

Kirk Lee (kirk.lee@ftr.com)

Shirley Malouf (srmalouf@stoel.com)

Jennifer H. Martin (jhmartin@stoel.com)

Steve Mecham (sfmecham@gmail.com)

Roger Moffitt (roger.moffitt@att.com)

Gregory Monson (gbmonson@stoel.com)

Sharon Mullin (smullin@att.com)

Thorvald Nelson (tnelson@hollandhart.com)

Janice Ono (Janice.ono@att.com)

Sheila Page (spage@utah.gov)

Mike Peterson (mpeterson@utahcooperatives.org)

Pam Pittenger (pam.pittenger@ftr.com)

Jenny Prescott (jenny.prescott@allwest.com)

Bruce Rigby (bruce@ucmc-usa.com)

Gary Sackett (gsackett@joneswaldo.com)

Alan L. Smith (alanakaed@aol.com)

Ted D. Smith (tsmithlaw@earthlink.net)

Kendra Thomas (kthomas@kfrservices.com)

Bruce H. Todd (btodd@stratanetworks.com)

Jake Warner (jakew@beehive.net)

James H. Woody (jwoody@union-tel.com)

John Woody (jwoody@union-tel.com)

Union Telephone Company

Patricia Schmid (pschmid@utah.gov)

Justin Jetter (jjetter@utah.gov)

Rex Olsen (rolsen@utah.gov)

Assistant Utah Attorneys General

By Hand-Delivery:

Division of Public Utilities
160 East 300 South, 4th Floor
Salt Lake City, Utah 84111

Office of Consumer Services
160 East 300 South, 2nd Floor
Salt Lake City, Utah 84111

Administrative Assistant