

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter of the Application )  
of Neighborhood Networks, Inc. )  
for a Certificate of Public ) Docket No. 16-2587-01  
Convenience and Necessity to )  
Provide Resold and Facilities- ) HEARING  
Based Local Exchange Services )  
within the State of Utah )

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April 4, 2016  
1:00 p.m.

Location: Heber M. Wells Bldg.  
160 East 300 South, Room 451  
Salt Lake City, Utah

Hearing Officer: Jennie T. Jonsson  
Job Number: 293646  
Reporter: Melinda J. Andersen  
Certified Shorthand Reporter and Notary Public



1 P R O C E E D I N G S

2 HEARING OFFICER: Today is April 4, 2016 just  
3 after 1:00 in the afternoon. This is the date and time set  
4 for the hearing in the matter of the application of  
5 Neighborhood Networks Incorporated for a certificate of  
6 public convenience and necessity to provide resold and  
7 facilities-based local exchange services within the State  
8 of Utah. This is Docket number 16-2587-01.

9 Let's go ahead and put appearances on the  
10 record. Neighborhood Networks is being represented  
11 telephonically. Go ahead and give us your name and if you  
12 would spell it for the record that would be helpful.

13 MR. PENBERTHY: Yes. Johnathan Penberthy,  
14 J-O-H-N-A-T-H-A-N, P-E-N-B-E-R-T-H-Y.

15 HEARING OFFICER: Thank you. For the Division?

16 MR. JETTER: Thank you. I'm Justin Jetter. I  
17 represent the Utah Division of Public Utilities. With me  
18 at counsel table is William Duncan, also with the Division  
19 of Public Utilities.

20 HEARING OFFICER: Very good. As I mentioned  
21 when I read the heading this application is for a  
22 certificate of public convenience and necessity. There is  
23 some procedural history that I want to make sure is part of  
24 the record. On March 4th the Utah Rural Telecom  
25 Association filed comments and expressed concern about

1 whether Neighborhood Networks should be allowed to operate  
2 in rural areas of Utah where an Incumbent Local Exchange  
3 Carrier has a limited number of access lines and a fairly  
4 small customer base. URTA also requested intervention.

5 On seeing those comments Neighborhood Networks  
6 amended its application clarifying that it does not seek to  
7 operate in such a rural area.

8 On the basis of that URTA amended its comments,  
9 or I suppose I should say filed additional comments stating  
10 that it does not object to the application. And URTA is  
11 not here today.

12 With that I believe we can go ahead and take  
13 testimony. Mr. Penberthy, do you swear to tell the truth  
14 today?

15 MR. PENBERTHY: Yes.

16 HEARING OFFICER: Do you have anybody else who  
17 will be testifying or providing information on behalf of  
18 Neighborhood Networks?

19 MR. PENBERTHY: I don't believe so.

20 HEARING OFFICER: Okay. Why don't you go ahead  
21 and give me whatever information that you would like the  
22 Commission to review.

23 MR. PENBERTHY: Basically Neighborhood Networks  
24 we would like to apply to get our CLEC status to obtain the  
25 rights to provide resold and facilities-based services,

1 gain access to the right-of-ways in public utilities so we  
2 can go ahead and eventually deploy fiber within the State  
3 of Utah.

4 HEARING OFFICER: Very good. Mr. Jetter, do  
5 you have any questions?

6 MR. JETTER: I have just a brief question,  
7 Mr. Penberthy. Can you hear me okay?

8 MR. PENBERTHY: Yes.

9 MR. JETTER: This is just to confirm on our  
10 record for future times when this might occur. I want to  
11 make sure you understand that by amending your application  
12 your service offerings would be limited to the competitive  
13 territories in Utah. And if you did wish to expand into  
14 the rural areas with 5,000 or less access lines that you  
15 have amended your application to exclude, you would need to  
16 file a new application with the Commission here to amend  
17 the service territory that you're authorized to serve in  
18 with the CPCN that you would receive based on the amended  
19 application. Do you understand that?

20 MR. PENBERTHY: Yes. And I have actually  
21 spoken with URTA and I know the president. Our intentions  
22 were never to go out and step in their territory in the  
23 first place, but mainly would like to focus on the general  
24 public areas that aren't considered rural.

25 MR. JETTER: Okay. Thank you. I just wanted

1 to clarify that for the record. At least with respect to  
2 my client, the Division of Public Utilities, we don't have  
3 an opinion either way on serving those territories, just  
4 that they wouldn't be part of this particular certificate.

5 MR. PENBERTHY: Correct.

6 HEARING OFFICER: Mr. Jetter, do you have a  
7 witness today?

8 MR. JETTER: Yes, I do, Your Honor.

9 HEARING OFFICER: Go ahead.

10 MR. JETTER: William Duncan we would like to  
11 have sworn in.

12 (The witness is sworn in.)

13 DIRECT EXAMINATION

14 BY MR. JETTER:

15 Q. Mr. Duncan, are you aware of the application  
16 filed in this docket?

17 A. Yes.

18 Q. Are you also aware of the amendments made to  
19 that application as of March 8, 2016?

20 A. Yes.

21 Q. Have you reviewed the comments that were filed  
22 by Ron Slusher with the Division of Public Utilities dated  
23 March 14, 2016?

24 A. Yes.

25 Q. Would you adopt those comments as your own

1 today?

2 A. Yes.

3 Q. Are there any corrections you would like to  
4 make to those?

5 A. No.

6 Q. Are you aware of any objection outside of the  
7 matter with the Utah Rural Telephone Association or any  
8 other reason that this application should not be approved?

9 A. No.

10 Q. Does the recommendation contained in that March  
11 14, 2016 recommendation of approval remain the Division's  
12 recommendation to the Commission?

13 A. Yes.

14 Q. Finally, would granting the CPCN as applied for  
15 in the amended application be just, reasonable and in the  
16 public interest?

17 A. Yes.

18 MR. JETTER: I have no further questions and I  
19 would just move to enter the Division's recommendation into  
20 the record.

21 HEARING OFFICER: Mr. Penberthy, is that  
22 acceptable to you to have the Division's memorandum entered  
23 as an exhibit into this record?

24 MR. PENBERTHY: Yes.

25 HEARING OFFICER: Do you have any questions for

1 Mr. Duncan?

2 MR. PENBERTHY: Not at this time. I wish for  
3 my understanding based on the recommendation by the  
4 Department of Public Utilities for the recommendation of  
5 approval unless the Public Service Commission deems  
6 otherwise in the proceeding that you go that way.

7 HEARING OFFICER: Okay. I just want to make  
8 sure that I word the order in a way that takes care of all  
9 the possible issues. I noticed in the Division's  
10 memorandum that it stated Neighborhood Networks does not  
11 own property in Utah and does not plan to construct  
12 facilities. Is that still the case today?

13 MR. PENBERTHY: Not at this time we don't have  
14 any plans to construct any kind of facilities. If that  
15 does change we will let the Service Commission know.

16 HEARING OFFICER: I just wanted to make sure  
17 that nothing had changed since the Division made that  
18 finding.

19 MR. PENBERTHY: No. We have not built or  
20 purchased any facilities.

21 HEARING OFFICER: And then there is also the  
22 information in the record regarding the bond. Neighborhood  
23 Networks has requested to be exempted from the bonding  
24 requirement; is that correct?

25 MR. PENBERTHY: Correct.



1 HEARING OFFICER: And the Division agrees that  
2 that's appropriate?

3 MR. JETTER: Yes, Your Honor. The Division has  
4 recommended that that be waived.

5 HEARING OFFICER: Okay. So I think I have it.  
6 We do have a template that we use for these and so I have  
7 put together an initial draft of the order. I just want to  
8 make sure that you're aware of the language that I have  
9 used. In the findings of facts it says Neighborhood  
10 Networks does not propose to operate in any area with fewer  
11 than 5,000 access lines that is serviced by an ILEC that  
12 has fewer than 30,000 total access lines. Is that  
13 accurately stated?

14 MR. PENBERTHY: Yes.

15 HEARING OFFICER: So the CPCN that is issued  
16 will state that you are not allowed to operate in that sort  
17 of area. And as Mr. Jetter indicated earlier if that  
18 changes and you wish to operate in such an area you would  
19 need to let the Commission know and submit an application  
20 for review. Okay.

21 MR. PENBERTHY: Okay.

22 HEARING OFFICER: All right. Well, then I  
23 think I have what I need. Thank you all very much. We can  
24 close this hearing.

25 (The hearing concluded at 1:15 p.m.)

C E R T I F I C A T E


STATE OF UTAH )  
: )  
COUNTY OF SALT LAKE )

I, Melinda J. Andersen, Certified Shorthand Reporter and Notary Public in and for the County of Salt Lake and State of Utah, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth, and were taken down by me in shorthand and thereafter transcribed into typewritten under my direction and supervision:

That the foregoing 10 pages contain a true and correct transcription of my shorthand notes so taken.

WITNESS MY HAND and official seal at Salt Lake City, Utah this 11th day of April, 2016.



My Commission Expires:  
February 10, 2018

Melinda J. Andersen, C.S.R.

<p><b>1</b></p> <hr/> <p>14 6:23 16-2587-01 3:8 1:00 3:3</p> <hr/> <p><b>2</b></p> <hr/> <p>2016 3:2 6:19, 23</p> <hr/> <p><b>4</b></p> <hr/> <p>4 3:2 4th 3:24</p> <hr/> <p><b>5</b></p> <hr/> <p>5,000 5:14</p> <hr/> <p><b>8</b></p> <hr/> <p>8 6:19</p> <hr/> <p><b>A</b></p> <hr/> <p>access 4:3 5:1, 14 actually 5:20 additional 4:9 adopt 6:25 after 3:3 afternoon 3:3 ahead 3:9,11 4:12,20 5:2 6:9 allowed 4:1 also 3:18 4:4 6:18 amend 5:16 amended 4:6,8 5:15,18 amending 5:11 amendments 6:18 anybody 4:16 appearances 3:9</p>	<p><b>application</b> 3:4,21 4:6,10 5:11,15,16,19 6:15,19 <b>apply</b> 4:24 <b>April</b> 3:2 <b>area</b> 4:7 <b>areas</b> 4:2 5:14, 24 <b>Association</b> 3:25 <b>authorized</b> 5:17 <b>aware</b> 6:15,18</p> <hr/> <p><b>B</b></p> <hr/> <p><b>base</b> 4:4 <b>based</b> 5:18 <b>Basically</b> 4:23 <b>basis</b> 4:8 <b>behalf</b> 4:17 <b>being</b> 3:10 <b>believe</b> 4:12,19 <b>brief</b> 5:6</p> <hr/> <p><b>C</b></p> <hr/> <p><b>Carrier</b> 4:3 <b>certificate</b> 3:5, 22 6:4 <b>clarify</b> 6:1 <b>clarifying</b> 4:6 <b>CLEC</b> 4:24 <b>client</b> 6:2 <b>comments</b> 3:25 4:5,8,9 6:21,25 <b>Commission</b> 4:22 5:16 <b>competitive</b> 5:12 <b>concern</b> 3:25 <b>confirm</b> 5:9</p>	<p><b>considered</b> 5:24 <b>convenience</b> 3:6,22 <b>Correct</b> 6:5 <b>counsel</b> 3:18 <b>CPCN</b> 5:18 <b>customer</b> 4:4</p> <hr/> <p><b>D</b></p> <hr/> <p><b>date</b> 3:3 <b>dated</b> 6:22 <b>deploy</b> 5:2 <b>DIRECT</b> 6:13 <b>Division</b> 3:15, 17,18 6:2,22 <b>docket</b> 3:8 6:16 <b>Duncan</b> 3:18 6:10,15</p> <hr/> <p><b>E</b></p> <hr/> <p><b>either</b> 6:3 <b>eventually</b> 5:2 <b>EXAMINATION</b> 6:13 <b>exchange</b> 3:7 4:2 <b>exclude</b> 5:15 <b>expand</b> 5:13 <b>expressed</b> 3:25</p> <hr/> <p><b>F</b></p> <hr/> <p><b>facilities-based</b> 3:7 4:25 <b>fairly</b> 4:3 <b>fiber</b> 5:2 <b>file</b> 5:16 <b>filed</b> 3:25 4:9 6:16,21 <b>first</b> 5:23</p>	<p><b>focus</b> 5:23 <b>future</b> 5:10</p> <hr/> <p><b>G</b></p> <hr/> <p><b>gain</b> 5:1 <b>general</b> 5:23 <b>give</b> 3:11 4:21 <b>good</b> 3:20 5:4</p> <hr/> <p><b>H</b></p> <hr/> <p><b>heading</b> 3:21 <b>hear</b> 5:7 <b>hearing</b> 3:2,4, 15,20 4:16,20 5:4 6:6,9 <b>helpful</b> 3:12 <b>here</b> 4:11 5:16 <b>history</b> 3:23 <b>Honor</b> 6:8</p> <hr/> <p><b>I</b></p> <hr/> <p><b>Incorporated</b> 3:5 <b>Incumbent</b> 4:2 <b>information</b> 4:17,21 <b>intentions</b> 5:21 <b>intervention</b> 4:4 <b>into</b> 5:13</p> <hr/> <p><b>J</b></p> <hr/> <p><b>J-o-h-n-a-t-h-a-n</b> 3:14 <b>Jetter</b> 3:16 5:4, 6,9,25 6:6,8, 10,14 <b>Johnathan</b> 3:13 <b>Justin</b> 3:16</p>	<p><b>L</b></p> <hr/> <p><b>least</b> 6:1 <b>less</b> 5:14 <b>like</b> 4:21,24 5:23 6:10 <b>limited</b> 4:3 5:12 <b>lines</b> 4:3 5:14 <b>local</b> 3:7 4:2</p> <hr/> <p><b>M</b></p> <hr/> <p><b>made</b> 6:18 <b>mainly</b> 5:23 <b>make</b> 3:23 5:11 <b>March</b> 3:24 6:19,23 <b>matter</b> 3:4 <b>mentioned</b> 3:20 <b>might</b> 5:10</p> <hr/> <p><b>N</b></p> <hr/> <p><b>name</b> 3:11 <b>necessity</b> 3:6, 22 <b>need</b> 5:15 <b>Neighborhood</b> 3:5,10 4:1,5, 18,23 <b>Networks</b> 3:5, 10 4:1,5,18,23 <b>never</b> 5:22 <b>new</b> 5:16 <b>number</b> 3:8 4:3</p> <hr/> <p><b>O</b></p> <hr/> <p><b>object</b> 4:10 <b>obtain</b> 4:24 <b>occur</b> 5:10 <b>offerings</b> 5:12 <b>OFFICER</b> 3:2,</p>
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