

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the) Docket No. 16-2588-01
Application of XYN)
Communications of Utah, LLC for) HEARING
a Certificate of Public)
Convenience and Necessity to)
Provide Facilities-Based, Resold))
Local Exchange and Access)
Telecommunications Services in)
the State of Utah)

April 26, 2016
9:06 a.m.

Location: Utah Public Service Commission
160 East 300 South Fourth Floor
Salt Lake City, Utah 84111

Job No. 298654
Reporter: Susan S. Sprouse

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A P P E A R A N C E S

For the Division of Public Utilities: Justin Jetter
For XYN Communications of Utah, LLC: Leon Nowalsky
Manager for XYN Communications of Utah: Shawn Sims

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1 Tuesday, April 26, 2016; 9:06 a.m.

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

3 * * *

4 ADMINISTRATIVE LAW JUDGE: Let's go ahead and go
5 on the record.

6 Today is Tuesday, April 26th, 2016. My name is
7 Jennie Jonsson. I'm the administrative law judge that the
8 Commission, the Public Service Commission of Utah has
9 assigned to conduct this hearing this morning. It is just
10 after 9 o'clock and we are on the record in the matter of
11 the application of XYN Communications of Utah, LLC, for a
12 certificate of public convenience and necessity to provide
13 facilities-based resold local exchange and access
14 telecommunication services in the state of Utah. This is
15 Docket No. 16-2588-01.

16 Let's put appearances on the record. The
17 Division is here in person in the room. Go ahead.

18 MR. JETTER: Good morning. My name is Justin
19 Jetter. I'm with the Utah Attorney General's Office and I
20 represent the Utah Division of Public Utilities. With me
21 at counsel table today is Ron Slusher, utility technical
22 consultant for the Utah Division of Public Utilities.

23 ADMINISTRATIVE LAW JUDGE: Thank you. And XYN
24 Communications is appearing telephonically. And
25 gentlemen, go ahead and put your names on the record for

1 us.

2 MR. NOWALSKY: This is Leon Nowalsky, and I am
3 counsel for XYN.

4 ADMINISTRATIVE LAW JUDGE: Thank you.

5 MR. SIMS: I am Shawn Sims, and I'm the manager
6 and CEO of XYN.

7 ADMINISTRATIVE LAW JUDGE: All right. We also
8 have in the room, Mr. Nowalsky and Mr. Sims, just so that
9 you know, William Duncan, and he's the telecom and water
10 manager for the Division.

11 All right. Mr. Nowalsky, this is your
12 application, so I'll let you go ahead with what -- and put
13 on the record what you'd like the Commission to be aware
14 of. Are you going to have Mr. Sims testify?

15 MR. NOWALSKY: We're just going to do some
16 direct questions, and then I'll turn the witness over to
17 any questions that the staff may have.

18 ADMINISTRATIVE LAW JUDGE: Okay. Well, then,
19 Mr. Sims, we're handling this informally, but even so as a
20 quasi judicial proceedings I have to put you under oath.
21 So do you swear to tell the truth?

22 MR. SIMS: I do.

23 ADMINISTRATIVE LAW JUDGE: Very good.

24 Go ahead, Mr. Nowalsky.

25 * * *

1 DIRECT EXAMINATION

2 BY MR. NOWALSKY:

3 Q. Okay. Mr. Sims, on March 14th did you cause to
4 be filed an application with the Utah Public Service
5 Commission to apply for facilities-based, resold --
6 facilities-based and resold local exchange and access
7 services within the state of Utah; is that correct?

8 A. That is correct.

9 Q. And as part of your application, you submitted
10 as Exhibit B, financial statements of the holding company
11 for XYN Communications of Utah; is that correct?

12 A. That's correct.

13 Q. And the financial statements were submitted for
14 confidential view; is that correct?

15 A. That is correct.

16 Q. Okay. In addition, in approximately April 4th,
17 a series of data requests were submitted to you by the
18 staff of the Utah Commission, and you were the party
19 responsible for responding to those; is that correct?

20 A. That's correct.

21 Q. Okay. And as of this day, you have no changes,
22 amendments or any corrections you would like to make to
23 any of the submissions that were made?

24 A. Nothing needs to be changed.

25 Q. Okay. All right. Your Honor, I'd like to

1 **tender Mr. Sims for any questions from the Commission.**

2 ADMINISTRATIVE LAW JUDGE: Mr. Jetter, any
3 questions?

4 MR. JETTER: No questions from the Division.
5 Thank you.

6 ADMINISTRATIVE LAW JUDGE: Could you just verify
7 for me, one of the things we put in the order is the basis
8 for waiving the bond requirements. So would you just
9 confirm on the record that the company will not be
10 requiring any customer deposits or prepayments?

11 MR. SIMS: Yes. This is Shawn. The nature of
12 this is federal contract vehicles, so everything is a net
13 30-day requirement from the federal government, so there
14 will be no deposits of any sort, no letter of credit
15 coming.

16 ADMINISTRATIVE LAW JUDGE: Thank you very much.
17 And Mr. Jetter --

18 MR. SIMS: And --

19 ADMINISTRATIVE LAW JUDGE: Oh, go ahead.

20 MR. SIMS: I was going to say, if the financial
21 model changes due to saturation based on that market, then
22 we would actually come back before the Commission for a
23 bond or a cash deposit in order to procure that.

24 ADMINISTRATIVE LAW JUDGE: Okay. Thank you.
25 Mr. Jetter.

1 MR. JETTER: Thank you, your Honor. The
2 Division would like to call Ron Slusher and have him sworn
3 in at this time.

4 ADMINISTRATIVE LAW JUDGE: Mr. Slusher, do you
5 swear to tell the truth today?

6 MR. SLUSHER: I do.

7 ADMINISTRATIVE LAW JUDGE: Thank you. Go ahead.

8 DIRECT EXAMINATION

9 BY MR. JETTER:

10 Q. Mr. Slusher, would you please state your name
11 and occupation for the record?

12 A. My name is Ron Slusher, S, as in Sam,
13 L-U-S-H-E-R. I'm the utility technical consultant for the
14 Division of Public Utilities.

15 Q. Thank you. And in the course of your employment
16 with the Utah Division of Public Utilities, have you had
17 the opportunity to review the application for a CPC in
18 this docket?

19 A. Yes, I did.

20 Q. And did you create and cause to be filed with
21 the Commission a memorandum dated April 8th, 2016?

22 A. Yes, I did.

23 Q. And would you adopt that today as your
24 testimony?

25 A. Yes.

1 Q. Is there anything you'd like to edit or change
2 regarding that recommendation?

3 A. I would not.

4 Q. And to make sure it's clear for the record, is
5 your recommendation to approve, to approve the
6 application?

7 A. Yes, it is.

8 Q. Do you know of, are you aware of any opposition
9 to this application?

10 A. I have not heard or seen any opposition.

11 Q. Finally, do you believe that granting this
12 approval of this application would be just, reasonable and
13 in the public interest?

14 A. Yes.

15 MR. JETTER: Thank you. I have no further
16 questions.

17 ADMINISTRATIVE LAW JUDGE: Mr. Nowalsky, any
18 questions for Mr. Slusher?

19 MR. NOWALSKY: I have no questions.

20 ADMINISTRATIVE LAW JUDGE: All right. Well, I
21 think I have everything that I need. This order should
22 issue promptly. If there's anything -- just Mr. Nowalsky
23 Mr. Sims, just so you know, any company that has a CPC and
24 is required to file annual reports with the Division, but
25 we leave it to the company and the Division to identify

1 what information needs to be included in those reports.

2 So the order that issues is going to say that
3 within 30 days of the issue date, your company, XYN, is
4 required to meet with the Division, identify what
5 information the Division is going to need you to file each
6 year, and then file a statement in this docket outlining
7 what that information is. Does that make sense?

8 MR. SIMS: Yeah, that's no problem. We
9 outsource that portion to Compliance --

10 ADMINISTRATIVE LAW JUDGE: Sure.

11 MR. SIMS: -- Solutions. And so we will assign
12 them, and I will also be involved in that initial meeting
13 and then they will take over the report and handling
14 thereafter.

15 ADMINISTRATIVE LAW JUDGE: Okay. I just wanted
16 you to be aware that the order does require you to do just
17 one more thing before we close the docket. Okay?

18 MR. NOWALSKY: Sure.

19 ADMINISTRATIVE LAW JUDGE: Okay. Great. Well,
20 then I think with that, we can close this hearing. Thank
21 you all very much.

22 MR. NOWALSKY: Thank you.

23 MR. JETTER: Thank you.

24 MR. SIMS: Thank you.

25 (Hearing was concluded at 9:13 a.m.)

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C E R T I F I C A T E

STATE OF UTAH)
) SS.
COUNTY OF SALT LAKE)

I, Susan S. Sprouse, a Registered Professional Reporter, Certified Court Reporter, and Notary Public in and for the State of Utah, do hereby certify:

That the foregoing hearing was taken on April 26, 2016.

That the proceedings were reported by me in stenotype and thereafter transcribed by computer, and that a full, true, and correct transcription of said testimony so taken is set forth in the foregoing pages;

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND and official seal at Salt Lake City, Utah, this 3rd day of May, 2016.



SUSAN S. SPROUSE
License No. 5965543-7801

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