

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Prestige
Broadband, LLC for a Certificate of Public
Convenience and Necessity to Provide
Switched and Dedicated Facilities-based
Local Exchange and Facilities-based
Interexchange Services within the State of
Utah

DOCKET NO. 17-2595-01

REPORT AND ORDER

ISSUED: March 28, 2017

SYNOPSIS

The Public Service Commission of Utah (PSC) approves the application of Prestige Broadband, LLC (Prestige) for a Certificate of Public Convenience and Necessity and authorizes Prestige to provide switched and dedicated facilities-based local exchange and facilities-based interexchange services within Utah.

PROCEDURAL HISTORY

On February 17, 2017, Prestige filed this application, seeking a certificate of public convenience and necessity (Certificate) for authority to provide switched and dedicated facilities-based local exchange and facilities-based interexchange services within Utah. The application provided detailed information regarding the technical, financial, and managerial resources and abilities of Prestige to provide the public telecommunications services it seeks to offer. In addition, Prestige requested that the \$100,000 bond requirement set forth in Utah Administrative Code R746-349-3(A)(2) be waived, as Prestige will not require customer deposits.

On March 15, 2017, the Division of Public Utilities (Division) filed a memorandum recommending approval of the application. In its memorandum, the Division noted the following:

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1. Approval of Prestige's application will serve the public interest by creating greater competition in the local exchange marketplace, and the high-speed data market in particular. Prestige's fiber optic network will be capable of providing broadband internet with symmetrical speeds of one gigabit/second.
2. Prestige seeks statewide authority except within exchange areas with fewer than 5,000 access lines that are owned or controlled by an incumbent local exchange carrier (ILEC) with fewer than 30,000 total access lines. *See* Utah Code § 54-8b-2.1(3)-(4). Specifically, Prestige seeks authority as a reseller of local exchange services in the service areas of CenturyLink Communications, Inc. and any other existing or future competitive local exchange carriers providing service in Utah.
3. Prestige intends to provide a full range of telecommunications services to business and residential customers in CenturyLink's exchanges statewide in Utah, consistent with the exchange maps CenturyLink has on file with the Commission.
4. Prestige will construct its own switching and transmission facilities as market conditions warrant. Prestige will also use the Certificate to become a regulated utility, thereby granting Prestige access to municipal rights-of-way and utility poles to deploy fiber optic networks as market demand allows.
5. Prestige will provide access to standard intraLATA and interLATA message toll calling, operator services, directory assistance, directory listings, and emergency services either through its own operations or by purchasing those services from underlying carriers.

6. Prestige has a positive net worth and ample working capital to support its operations in Utah, as well as considerable experience in the telecommunications industry.
7. Prestige has never been investigated for unauthorized switching or any other illegal activity.

On March 28, 2017, the PSC held a hearing in this docket. Kris Twomey appeared telephonically as counsel for Prestige, accompanied telephonically by Michael Lingwall, managing member of Prestige. Justin Jetter, Utah Assistant Attorney General, appeared on behalf of the Division, accompanied by Ron Slusher, utility technical consultant. According to the testimony given at hearing, the parties agree that approval of the application is in the public interest and that it is permissible and appropriate to waive the \$100,000 bond requirement.

In light of the foregoing, the PSC 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. Prestige has filed documentation containing sufficient information to support the application.
3. Prestige has demonstrated that it is qualified to do business in Utah.
4. Prestige proposes to provide public telecommunications services within the service area of CenturyLink Communications, Inc. and other competitive local exchange carriers.
5. Prestige will utilize its managerial expertise to support its Utah operations.

6. Prestige has sufficient technical resources and abilities to provide the public telecommunications services it proposes to offer.
7. Prestige has a positive net worth and ample working capital for its Utah operations.
8. In providing intrastate services, Prestige will be subject to competition from other certified telecommunications service providers.
9. Prestige's service offerings will provide customers with a wider range of choice in meeting their telecommunications needs and will foster competition in the marketplace.
10. Prestige will not require customer deposits or offer any prepaid services in Utah.

CONCLUSIONS OF LAW

1. Prestige meets each of the statutory requirements of Utah Code Ann. §§ 54-8b-1.1 *et seq.* for the requested Certificate.
2. Prestige's request to be exempted from the \$100,000 bond requirement is in accord with PSC 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.

ORDER

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

- a. Prestige Broadband, LLC is granted the Certificate attached as Exhibit A, which exhibit is incorporated by reference into this Order as if fully set forth.
- b. Prestige Broadband, LLC's Certificate is subject to the limitations stated therein.

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- c. Prestige Broadband, LLC shall provide to the Division annual reports that contain information as required by the Division.
- d. Prestige Broadband, LLC 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 PSC 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, March 28, 2017.

/s/ Jennie T. Jonsson
Administrative Law Judge

Approved and confirmed March 28, 2017 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#292673

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 PSC 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 PSC 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 PSC'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 Prestige Broadband, LLC for a Certificate of Public Convenience and Necessity to Provide Switched and Dedicated Facilities-based Local Exchange and Facilities-based Interexchange Services within the State of Utah	<p><u>DOCKET NO. 17-2595-01</u></p> <p><u>CERTIFICATE 2595</u></p>
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ISSUED: March 28, 2017

The Public Service Commission of Utah, pursuant to Utah Code Ann. § 54-8b-2.1, issues a Certificate of Public Convenience and Necessity authorizing Prestige Broadband, LLC to provide public telecommunications services within the State of Utah. Prestige Broadband, LLC 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, March 28, 2017.

/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 March 28, 2017, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

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