

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of Arcadian Infracom, Inc. for a Certificate of Public Convenience and Necessity to Provide Interexchange Telecommunications Services within the State of Utah	<u>DOCKET NO. 20-2616-01</u> <u>REPORT AND ORDER</u>
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ISSUED: May 7, 2020

SYNOPSIS

The Public Service Commission (PSC) approves the application of Arcadian Infracom, Inc. (“Arcadian”) for a Certificate of Public Convenience and Necessity (CPCN) and authorizes Arcadian to provide Telecommunications Services within Utah.

PROCEDURAL HISTORY

On March 19, 2020, Arcadian filed this application, seeking a CPCN for authority to provide telecommunications services within Utah. The application provides detailed information regarding the technical, financial, and managerial resources and abilities of Arcadian to provide the public telecommunications services it seeks to offer. In addition, Arcadian requests the PSC waive the \$100,000 bond requirement set forth in Utah Admin. Code R746-349-3(A)(2), as Arcadian will not require customer deposits.

On March 24, 2020, the PSC issued a Notice of Filing and Comment Period (“Notice”), which set a comment deadline of April 20, 2020, and a reply comment deadline of May 5, 2020. The Notice further stated that if no comment is filed opposing the application, the PSC will adjudicate this docket informally and without hearing. *See* Utah Code Ann. § 54-8b-3. No party filed comments in opposition. Therefore, the PSC will adjudicate this docket informally.

On March 27, 2020, the Division of Public Utilities (DPU) filed a memorandum recommending approval of the application. The DPU states it has reviewed the technical, managerial, and financial abilities of Arcadian and has found Arcadian has provided the necessary information to fulfill the requirements under the PSC's rules. The DPU concludes granting a CPCN to Arcadian as requested under the same terms and conditions allowed in other CPCNs will promote the public interest. In its memorandum, the DPU emphasized the following representations made by Arcadian:

1. Approval of Arcadian's application will serve the public interest by creating greater competition and expanding customer service options.
2. Arcadian 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 Ann. § 54-8b-2.1(3)-(4).*
3. Arcadian intends to provide facilities-based dark and lit fiber networks to business and enterprise customers in CenturyLink's exchanges statewide in Utah, consistent with the exchange maps CenturyLink has on file with the PSC, but seeks statewide authority so that it may expand the areas it offers services in as market conditions warrant and as additional service areas become open to competition.
4. Arcadian does not currently own facilities or property in the State of Utah, but expects to construct facilities to provide its service offerings upon receiving a CPCN; however, the timing and location(s) of such construction will depend largely on customer demand.

5. Arcadian intends to begin interconnection and commercial agreement negotiations with CenturyLink immediately upon obtaining a CPCN from the PSC.
6. Arcadian will not be providing traditional switched local exchange services within Utah. Therefore, Arcadian will not have any interaction with emergency services such as 911 or enhanced 911, operator services, directory assistance, and telecommunications relay services.
7. Arcadian has a positive net worth and ample working capital to support its operations in Utah, as well as considerable experience in the telecommunications industry.
8. Arcadian asserts it has never been investigated for unauthorized switching or any other illegal activity.

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 and no one opposes the application.
2. Arcadian filed documentation containing sufficient information to support its application.
3. Arcadian has demonstrated it is qualified to do business in Utah.
4. Arcadian proposes to provide public telecommunications services within the service area of CenturyLink and potentially other local exchange carriers in the future as explained in this order and the application.
5. Arcadian will use its managerial expertise to support its Utah operations.

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6. Arcadian has sufficient technical resources and abilities to provide the public telecommunications services it proposes to offer.
7. Arcadian has a positive net worth and sufficient working capital for its Utah operations.
8. Arcadian's service offerings will provide customers with a wider range of choice in meeting their telecommunications needs and will foster competition in the marketplace.
9. Arcadian will not require customer deposits or offer any prepaid services in Utah.

CONCLUSIONS OF LAW

1. Arcadian meets each of the statutory requirements of Utah Code Ann. §§ 54-8b-1.1 *et seq.* for the requested CPCN.
2. Arcadian's request for exemption from the \$100,000 bond requirement is consistent with PSC practice and is in the public interest.
3. Issuance of the requested CPCN to provide public telecommunications services as described in the application, is consistent 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. Arcadian is granted the CPCN attached as Exhibit A, which is incorporated by reference into this Order as if fully set forth.
- b. Arcadian's CPCN is subject to the limitations stated therein.
- c. Arcadian is exempted from the \$100,000 bond requirement set forth in Utah Administrative Code R746-349-3(A)(2).

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Any person may file a protest to this Order within 20 days from the date we issue the Order. 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, May 7, 2020.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#313552

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 -

Application of Arcadian Infracom, Inc. for a Certificate of Public Convenience and Necessity to Provide Interexchange Telecommunications Services within the State of Utah	<p><u>DOCKET NO. 20-2616-01</u></p> <p><u>CERTIFICATE 2616</u></p>
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ISSUED: May 7, 2020

The Public Service Commission of Utah, pursuant to Utah Code Ann. § 54-8b-2.1, issues a Certificate of Public Convenience and Necessity authorizing ARCADIAN INFRACOM, INC. to provide public telecommunications services within the State of Utah. ARCADIAN INFRACOM, 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, May 7, 2020.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary

CERTIFICATE OF SERVICE

I CERTIFY that on May 7, 2020, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

Brandon Porter (brandon.porter@arcadianinfra.com)
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