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UTAH DEPARTMENT OF COMMERCE

Division of Public Utilities

MARGARET W. BUSSE
Executive Director

CHRIS PARKER
Division Director

ACTION REQUEST RESPONSE

To: Public Service Commission

From: Division of Public Utilities

Chris Parker, Director

Artie Powell, Manager

Brenda Salter, Utility Technical Consultant Supervisor

Ron Slusher, Utility Technical Consultant

Date: March 29, 2022

Re: Docket No. 22-2634-01: In the Matter of the Application of BIF IV Intrepid OpCo LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange Telecommunications Service within the State of Utah.

Recommendation (Approve)

The Division of Public Utilities (“Division”) has reviewed the technical, managerial, and financial abilities of the BIF IV Intrepid OpCo LLC (“BIF IV” or the “Applicant”) and has found that it has provided the necessary information to fulfill the requirements as stated in the existing Public Service Commission (“Commission”) rules. The public interest will be promoted by the Commission granting BIF IV a Certificate of Public Convenience and Necessity (“CPCN”) as requested under the same terms and conditions allowed in other CPCNs.

The Division also recommends that the \$100,000 bond be waived on the basis that the Applicant will not require customer deposits or prepayments of any kind.

The Division expects that based on history, a filing of this type and with the information submitted by the company will generate no objections or opposition to this recommendation. Therefore, the Division requests that this docket be adjudicated informally in accordance with R746-110-1.

Discussion

On or about March 08, 2022, BIF IV filed an application for a CPCN. The Division reviewed the application and found the following:

BIF IV is a registered foreign corporation within the State of Utah; with its corporate headquarters located at 250 Vesey Street, Brookfield Place, 15th Floor, New York, NY 10281-1023.

The Applicant seeks authority to provide its proposed point-to-point telecommunications services to and from all points in Utah where demand for its services arises. However, it does not seek authority to provide local exchange service (as defined in Utah Code § 54-8b-2(11)) or other circuit-switched services within any local exchange that has fewer than 5,000 lines and that is owned or controlled by an incumbent telephone corporation with fewer than 30,000 access lines in the state.

BIF IV intends to provide services to other communications carriers on a wholesale basis. In the future, the Applicant may provide services to end users. The Applicant states that its current business plan is to primarily provide point-to-point telecommunications services for high-speed data transport to wholesale customers.

BIF IV does not currently own or lease facilities in Utah but plans to construct facilities to provide its services. The Applicant proposes to build a fiber-based network in Utah and

plans to construct to customer locations. BIF IV will provide services primarily using its own facilities, including fiber optic cable and other equipment and facilities, to originate, terminate, and amplify signals.

The Applicant states that it will start offering services in Utah as soon as reasonably practicable after it has obtained approval of its Application for a CPCN and completed the construction of its network.

BIF IV does not plan to furnish switched voice services or dial tone at this time and therefore requirements to provide access to directory assistance, directory listings, operator services and emergency services do not apply. When the Applicant desires to provide local exchange service to end users in the future, it will seek to amend its CPCN to provide local exchange service and, at that time, explain how it proposes to provide access to ordinary intraLATA and interLATA message toll calling, operator services, directory assistance, directory listings, and emergency services.

Summaries of professional experience and education of its managerial personnel demonstrate that the Applicant has considerable experience in the telecommunications industry.

According to financial statements attested to be accurate, objective and with integrity by Hadley Peer Marshall, Managing Director, BIF IV Intrepid OpCo LLC, the Applicant has a positive net worth and has ample working capital.

The Applicant requests that the \$100,000 bond requirement be waived because it will not require customer deposits or prepayments of any kind.

BIF IV is a newly formed entity and currently does not provide intrastate telecommunications services in any state. However, the Applicant is currently authorized to provide intrastate telecommunications services in Iowa, Oregon, Washington, and Wisconsin.

BIF IV states that it has never had any complaints nor has any investigation been undertaken against it or any of its affiliates involving unauthorized switching (slamming) or any other illegal activities. The Applicant also states that it has implemented policies and procedures concerning solicitation of new customers and will comply with all applicable laws and regulations to prevent the unauthorized switching of local service customers by the Applicant, its employees, or agents.

The Applicant asserts that approval of its application will serve the public interest creating and enhancing competition and expanding customer service options. Additionally, the approval of this application will expand the availability of innovative, high quality, reliable and competitively priced telecommunications services in the State of Utah.

Conclusion

Based on the Division's review of the filing, we conclude the public interest will be promoted by the Commission granting BIF IV Intrepid OpCo LLC a CPCN and request the Commission approve the application.

cc: Adam Weinacker, Attorney, Parsons Behle & Latimer
Hadley Peer Marshall, Managing Director, BIF IV Intrepid OpCo LLC.
Justin Jetter, Assistant Attorney General, State of Utah
Office of Consumer Services, State of Utah