

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of BIF IV Intrepid OpCo LLC for a Certificate of Public Convenience and Necessity to Provide Facilities-Based Public Telecommunications Services within the State of Utah	<u>DOCKET NO. 22-2634-01</u> <u>REPORT AND ORDER</u>
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ISSUED: June 2, 2022

SYNOPSIS

The Public Service Commission (PSC) approves the application of BIF IV Intrepid OpCo LLC (“Intrepid”) for a Certificate of Public Convenience and Necessity (CPCN) and authorizes Intrepid to provide telecommunications services within Utah.

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PROCEDURAL HISTORY

On March 7, 2022, Intrepid filed an application seeking a CPCN for authority to operate as a provider of facilities-based public telecommunications services within Utah.

The Application provides information required by Utah Code Ann. § 54-8b-2.1 and Utah Admin. Code R746-349-3 regarding Intrepid’s ability to provide the public telecommunications services it seeks to offer.

On March 9, 2022, the PSC issued a Notice of Filing and Comment Period (“Notice”), which set deadlines of April 6, 2022, and April 21, 2022, for comments and reply comments, respectively. The Notice stated that if no opposition is filed, the PSC will adjudicate the docket informally and without a hearing under Utah Code Ann. § 54-8b-3(1)(b). No opposition was filed to the Application; accordingly, the PSC will adjudicate this docket informally.

DPU filed comments on March 29, 2022, recommending that the PSC approve Intrepid’s application. DPU states it reviewed the technical, managerial, and financial abilities of Intrepid

and found Intrepid provided the necessary information to fulfill the requirements under the PSC's rules. The DPU concludes granting a CPCN to Intrepid as requested and under the same terms and conditions granted in other CPCNs will promote the public interest. DPU recommends that the \$100,000 bond be waived on the basis Intrepid will not require customer deposits or prepayments of any kind. DPU states that based on history, a filing of this type and with the information submitted by Intrepid will generate no objections or opposition; therefore, DPU requests the PSC adjudicate the docket informally. In making its recommendation, DPU emphasized the following representations made by Intrepid:

1. In accordance with competitive entry requirements described in Utah Code Ann. § 54-8b-2.1(3)-(4), Intrepid seeks statewide authority to provide point-to-point telecommunications services, but states that it will not provide local exchange service within exchange areas with fewer than 5,000 access lines that are owned or controlled by an incumbent local exchange carrier with fewer than 30,000 total access lines.
2. Intrepid states that it intends to provide services to other communications carriers on a wholesale basis. In the future it may provide services to end users. Intrepid states that its current business plan is to primarily provide point-to-point telecommunications services for high-speed data transport to wholesale customers.
3. Intrepid 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. If Intrepid 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.

4. Intrepid does not currently own or lease facilities in Utah but plans to construct facilities to provide its services. Intrepid proposes to build a fiber-based network in Utah and plans to construct facilities to customer locations. Intrepid will provide services primarily using its own facilities, including fiber optic cable and other equipment and facilities, to originate, terminate, and amplify signals.
5. Intrepid states it will start offering services in Utah as soon as reasonably practicable after receiving approval of its Application and completing the construction of its network.
6. Intrepid provides summaries of the professional experience and education of its managerial personnel.<sup>1</sup>
7. Intrepid's financial statements filed with the Application show it has a positive net worth and ample working capital.
8. Intrepid requests that the \$100,000 bond requirement be waived because it will not require customer deposits or prepayments of any kind.
9. Intrepid is s 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.

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<sup>1</sup> According to DPU, the summaries show that Intrepid has considerable experience in the telecommunications industry.

10. Intrepid asserts that it has never had any complaints nor has any investigation been undertaken against it or any of its affiliates involving unauthorized switching, which is sometimes known as slamming, or any other illegal activities. Intrepid 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 itself, its employees, or agents.
11. Intrepid asserts that approval of its Application will serve the public interest creating and enhancing competition and expanding customer service options. Additionally, approval will expand the availability of innovative, high quality, reliable, and competitively priced telecommunications services in the State of Utah.

Based on the PSC's review of the Application, Intrepid's representations, and DPU's comments and recommendations, and considering there is no opposition, 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. Intrepid filed documentation containing sufficient information to support the Application.
3. Intrepid is a start-up company as that term is used in Utah Admin. Code R746-349-3(10)(c).
4. Intrepid demonstrated it is qualified to do business in Utah.
5. Intrepid proposes to provide point-to-point wholesale (public) telecommunications services throughout the state, but does not request authority to provide local exchange

service outside of the service area of CenturyLink as explained in this order and the Application.

6. Intrepid will use its managerial expertise to support its Utah operations.
7. Intrepid has sufficient technical resources and abilities to provide the public telecommunications services it proposes to offer.
8. Intrepid reports a positive net worth and access to sufficient working capital for its Utah operations.
9. Intrepid's service offerings will provide customers with a wider range of choice in meeting their telecommunications needs and will foster competition in the marketplace.

#### CONCLUSIONS OF LAW

1. Intrepid meets the statutory requirements of Utah Code Ann. §§ 54-8b-1.1 *et seq.* and related rules for the requested CPCN.
2. 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.
3. Given that Intrepid will not require customer deposits and has demonstrated that it has access to sufficient start-up capital, adequate provisions exist to protect customer deposits or other customer and state fund liabilities under Utah Admin. Code R746-349-3(A)(2).

ORDER

In light of the PSC's Findings and Conclusions, the PSC ORDERS:

- a. Intrepid is granted the CPCN attached as Exhibit A, incorporated by reference into this Order.
- b. Intrepid's CPCN is subject to the limitations stated in its CPCN.
- c. The requirement stated in Utah Admin. Code R746-349-3(A)(2) that an applicant submit proof of a bond in the amount of \$100,000 is waived.

Any person may protest this Order within 20 days from the date of the Order. If the PSC finds the protest to be meritorious, the PSC will suspend the effective date of this Order pending further proceedings. Otherwise, this Order takes effect 20 days from the signature date below.

DATED at Salt Lake City, Utah, June 2, 2022.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary  
DW#324295

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 30 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 BIF IV Intrepid OpCo LLC for a Certificate of Public Convenience and Necessity to Provide Facilities-Based Public Telecommunications Services within the State of Utah	<u>DOCKET NO. 21-2634-01</u> <u>CERTIFICATE 2634</u>
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ISSUED: June 2, 2022

The Public Service Commission of Utah, pursuant to Utah Code Ann. § 54-8b-2.1, issues a Certificate of Public Convenience and Necessity authorizing BIF IV INTREPID OPCO LLC to provide public telecommunications services within the State of Utah. BIF IV INTREPID OPCO LLC may not provide local exchange service 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, June 2, 2022.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary



CERTIFICATE OF SERVICE

I CERTIFY that on June 2, 2022, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

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Office of Consumer Services

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Administrative Assistant