

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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Application of Skybeam, LLC dba Rise Broadband for a Certificate of Public Convenience and Necessity to Provide Facilities-Based Public Telecommunications Services within the State of Utah	<u>DOCKET NO. 22-2638-01</u>
	<u>ORDER</u>

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ISSUED: November 25, 2022

SYNOPSIS

The Public Service Commission (PSC) approves the application of Skybeam, LLC dba Rise Broadband (“Skybeam”) for a Certificate of Public Convenience and Necessity (CPCN) and authorizes Skybeam to provide telecommunications services within Utah.

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PROCEDURAL HISTORY

On September 16, 2022, Skybeam filed an application seeking a CPCN for authority to operate as a provider of facilities-based public telecommunications services within Utah (“Application”). The Application provides information required by Utah Code Ann. § 54-8b-2.1 and Utah Admin. Code R746-349-3 regarding Skybeam’s ability to provide the public telecommunications services it seeks to offer.

On September 19, 2022, the PSC issued a Notice of Filing and Comment Period (“Notice”), which set deadlines of October 17, 2022 and November 1, 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 October 11, 2022, recommending that the PSC approve Skybeam's Application. DPU states it reviewed the technical, managerial, and financial abilities of Skybeam and found Skybeam provided the necessary information to fulfill the requirements under the PSC's rules. The DPU states granting a CPCN to Skybeam 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 Skybeam 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 Skybeam 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 Skybeam:

1. In accordance with competitive entry requirements described in Utah Code Ann. § 54-8b-2.1(3)-(4), Skybeam seeks statewide authority to provide regulated service, 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 (ILEC) with fewer than 30,000 total access lines.
2. Skybeam states that it will maintain a combination of switching, wireless transmission tower sites, fiber networks, and associated telecommunications facilities in order to provide services in Utah.
3. Skybeam does not initially seek to provide standard local exchange service to end users, including access toll calling, operator services, directory listings, and emergency services. If it does offer such services in the future, it would provide access to ordinary intraLATA

and interLATA message toll calling, operator services, directory assistance, directory listings, and emergency services through interconnection and contractual arrangements with the underlying local exchange carrier.

4. Skybeam states it anticipates offering services as soon as reasonably practicable after receiving approval of its application for a CPCN. Skybeam provides summaries of the professional experience and education of its managerial personnel.
5. Skybeam's financial statements filed with the Application show it has a positive net worth and ample working capital.
6. Skybeam requests that the \$100,000 bond requirement be waived because it will not require customer deposits or prepayments of any kind.
7. Skybeam operates as an eligible telecommunications carrier in Illinois, Iowa, Kansas, Nebraska, and Texas. It also has a CPCN to provide VoIP services in Iowa. It currently provides fixed wireless voice and broadband services in the following states: Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, Nevada, Oklahoma, South Dakota, Texas, Utah, Wisconsin, and Wyoming.
8. Skybeam claims 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.
9. Skybeam 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, Skybeam'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. Skybeam filed documentation containing sufficient information to support the Application.
3. Skybeam demonstrated it is qualified to do business in Utah.
4. Skybeam proposes to provide regulated telecommunications services throughout the state, but will not provide local exchange service within exchange areas with fewer than 5,000 access lines that are owned or controlled by an ILEC with fewer than 30,000 total access lines.
5. Skybeam will use its managerial expertise to support its Utah operations.
6. Skybeam has sufficient technical resources and abilities to provide the regulated telecommunications services it proposes to offer.
7. Skybeam reports a positive net worth and access to sufficient working capital for its Utah operations.
8. Skybeam'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. Skybeam 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 Skybeam will not require customer deposits and has demonstrated that it has access to sufficient capital, adequate provisions exist to protect 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. Skybeam is granted the CPCN attached as Exhibit A, incorporated by reference into this Order.
- b. Skybeam'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.

DOCKET NO. 22-2638-01

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DATED at Salt Lake City, Utah, November 25, 2022.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg

PSC Secretary

DW#326229

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 Skybeam, LLC dba Rise Broadband for a Certificate of Public Convenience and Necessity to Provide Facilities-Based Public Telecommunications Services within the State of Utah	<u>DOCKET NO. 22-2638-01</u> <u>CERTIFICATE 2638</u>
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ISSUED: November 25, 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 SKYBEAM, LLC DBA RISE BROADBAND to provide public telecommunications services within the State of Utah. SKYBEAM, LLC DBA RISE BROADBAND 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, November 25, 2022.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary  
DW#326229

CERTIFICATE OF SERVICE

I CERTIFY that on November 25, 2022, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

Thomas H. Rowland ([tom@telecomreg.com](mailto:tom@telecomreg.com))  
Rowland & Moore LLP  
*Attorney for Skybeam, LLC dba Rise Broadband*

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Office of Consumer Services

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Administrative Assistant