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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

)
Petition of TerraCom Inc.)
d/b/a Maxsip Tel, LLC for)
designation as an Eligible)
Telecommunications Carrier)
in the State of Utah and to) DOCKET NO. 23-2642-01
participate in the Utah)
Universal Service Fund,)
)
)
)

November 7, 2023

1:13 p.m. - 1:37 p.m.

PROCEEDINGS WERE TAKEN VIA WEBEX VIDEOCONFERENCING

Reporter: Tamra J. Berry, CSR, RPR

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A P P E A R A N C E S

HEARING OFFICER:

JOHN DELANEY

FOR TERRACOM:

LANCE STEINHART
lsteinhart@telecomcounsel.com

FOR THE DIVISION OF PUBLIC UTILITIES:

PATRICK GRECU
pgrecu@agutah.gov
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FOR THE OFFICE OF CONSUMER SERVICES:

ROBERT MOORE
rmoore@agutah.gov

-oOo-

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P R O C E E D I N G S

PRESIDING OFFICER: Good afternoon, everyone. My name is John Delaney. I'm the Commission's designated presiding officer for this hearing.

Today is November 7th, 2023, and it's approximately 1:15 p.m. And this is the date and time that's scheduled for the virtual hearing on docket number 23-2642-01, which is the petition of TerraCom Inc., d/b/a Maxsip, M-a-x-s-i-p, second word Tel, T-e-l, for designation as an eligible telecommunications carrier in the State of Utah and to participate in the Utah Universal Service Fund. And we're here to consider the settlement stipulation filed by the parties.

Everyone in the right location?

MR. STEINHART: Yes.

PRESIDING OFFICER: Okay, wonderful.

Why don't we start with appearances, and I will start with the applicant, asking applicant's counsel to identify himself and his client representative and his client.

MR. STEINHART: Thank you. My name is Lance Steinhart. I'm the attorney for TerraCom,

1 Inc., dba Maxsip Tel. My business address is 1725
2 Winward Concourse, Suite 150 in Alpharetta, Georgia
3 30005. My witness today is David Tatum.

4 PRESIDING OFFICER: Thank you very much.

5 MR. STEINHART: You're welcome.

6 PRESIDING OFFICER: How about for the
7 Division? Will whomever for the Division -- it
8 sounds like maybe Mr. Grecu is representing the
9 Division today. If you'll introduce yourself and
10 your witness for this proceeding and the entity that
11 you represent.

12 MR. GRECU: Good afternoon. Patrick Grecu
13 and Patricia Schmid, Assistant Attorneys General
14 representing the Division of Public Utilities, and
15 our witness today is Ron Slusher.

16 PRESIDING OFFICER: Thank you very much.

17 And for the Office of Consumer Services,
18 if you will identify yourself, the entity with -- the
19 entity who you are representing and your witness,
20 please.

21 MR. MOORE: Yes. Robert Moore, Assistant
22 Attorney General representing the offices of
23 community -- Office of Consumer Services. With me
24 today as our witness is Alex Ware.

25 PRESIDING OFFICER: Okay, great. Did you

1 get that okay, Tamra?

2 THE REPORTER: Yes.

3 PRESIDING OFFICER: Do you all have any
4 preliminary matters that need to be addressed?

5 MR. STEINHART: No thank you from the
6 petitioner or applicant.

7 PRESIDING OFFICER: Okay. I'm hearing
8 nothing from anybody else.

9 The only preliminary matter I will raise
10 is we do have a court reporter with us today, and we
11 want to make sure that the record is appropriate. So
12 please make sure that you're speaking at an
13 appropriate pace and as clearly as you can as well as
14 loudly enough. Everyone sounds like your volume is
15 appropriate.

16 If there are any problems that the court
17 reporter is having with pace, articulation, or
18 volume, I'm welcoming her to interrupt and to stop
19 and get it straightened out, okay?

20 Okay, great. Well, we are here on this
21 matter, and it is the applicant's application. So I
22 will ask the applicant to proceed. Mr. Steinhart.

23 MR. STEINHART: Thank you very much. Good
24 afternoon, and thank you for your time today. I'd
25 like to call my witness and ask that he be sworn.

1 Can you please state your name for the
2 record?

3 MR. TATUM: My name is David Tatum.

4 MR. STEINHART: And would you like to take
5 his oath at this point?

6 PRESIDING OFFICER: I will. Good
7 afternoon again, Mr. Tatum.

8 THE WITNESS: Good afternoon.

9 PRESIDING OFFICER: Do you swear to tell
10 the truth today?

11 THE WITNESS: I do.

12 PRESIDING OFFICER: Okay. Thank you.
13 You're sworn. Counsel may proceed.

14

15 DAVID TATUM,
16 called as a witness, having been duly sworn, was
17 examined and testified as follows:

18

19 EXAMINATION

20 BY MR. STEINHART:

21 Q. Yes. Mr. Tatum, can you state and spell
22 your name for the record, please.

23 A. David Tatum. D-a-v-i-d T-a-t-u-m.

24 Q. And, Mr. Tatum, what is your business
25 address?

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1 A. Business address is 6650 East Brainerd
2 Road, suite 200, Chattanooga, Tennessee 37421.

3 Q. And, Mr. Tatum, what is your position with
4 TerraCom?

5 A. Chief financial officer and corporate
6 secretary.

7 Q. Thank you. And the testimony that we
8 filed in this docket, was it prepared by you or under
9 your direction?

10 A. Yes.

11 Q. And if you had to make any changes right
12 now, would you like to make any changes to the
13 testimony?

14 A. No. I reread the testimony, and it is
15 still correct as of today.

16 Q. Thank you. So if I asked you the same
17 questions today, your testimony would be the same,
18 correct?

19 A. Yes.

20 Q. Thank you. And at this time would you
21 like to adopt a petition and your prior pre-filed
22 testimony as your testimony in this hearing today?

23 A. Yes, I would.

24 MR. STEINHART: Okay. I'd like to make a
25 motion to admit the testimony and a petition into the

1 record, please.

2 PRESIDING OFFICER: Thank you.

3 Any objection from the Division?

4 MR. GRECU: No objection.

5 PRESIDING OFFICER: How about for the
6 Office, any objection?

7 MR. MOORE: No objection.

8 PRESIDING OFFICER: Okay. Your motion is
9 granted.

10

11 FURTHER EXAMINATION

12 BY MR. STEINHART:

13 Q. Thank you very much. And, Mr. Tatum,
14 could you give a quick summary of TerraCom's position
15 in this docket?

16 A. Yes. My position is that the information
17 and the documentation in both the petition, excuse
18 me, and my written testimony demonstrates that
19 TerraCom meets both the state and federal
20 qualifications for designation as an ETC to offer
21 Lifeline qualified households in Utah and participate
22 in the Utah Universal Service Fund.

23 Q. Thank you, Mr. Tatum. And is it true that
24 you believe the stipulation is just and reasonable in
25 result and in the public interest?

1 A. Yes, it is.

2 MR. STEINHART: Okay. Thank you very
3 much. I would turn Mr. Tatum over for
4 cross-examination at this point.

5 PRESIDING OFFICER: Thank you very much.

6 MR. STEINHART: You're welcome.

7 PRESIDING OFFICER: Do you have any other
8 cross-examination or other questions for the witness?

9 MR. STEINHART: No questions.

10 PRESIDING OFFICER: Okay. Mr. Moore,
11 anything?

12 MR. MOORE: No questions.

13 PRESIDING OFFICER: Okay. I've got two
14 questions. And I'll pose them probably to all
15 witnesses; I'm not sure. But, Mr. Tatum, there's a
16 reference in both the petition and in the stipulation
17 regarding the Fifth Revised Compliance Plan. Do you
18 know what I'm speaking of when I say that?

19 THE WITNESS: Yes, sir, I do.

20 PRESIDING OFFICER: Okay. And I noted
21 that it was filed March 1st, 2023 with the request
22 for an expedited decision. What is the status of
23 that Fifth Compliance Plan as you sit here today?

24 THE WITNESS: I'm going to defer to Mr.
25 Steinhart. Honestly today I don't know what the

1 status of that is.

2 PRESIDING OFFICER: That's an acceptable
3 answer, sir. I'm asking you. And if you don't know,
4 that's okay; don't worry about it. Thank you.

5 Following up on that, however, there is
6 the discussion with that Fifth -- well, it's also in
7 the petition and the settlement stipulation of the
8 proposed change in ownership of TerraCom. What
9 effect, if any, will that proposed change in
10 ownership of TerraCom have on Utah consumers?

11 THE WITNESS: Generally it should be a
12 very positive effect. Maxi Tel is in a better
13 financial position than is TerraCom as a stand-alone
14 entity. Maxi Tel has some programs that they already
15 are placing in other states in the U.S. that should
16 be of interest and of value to qualified households
17 in Utah. Simply put, they have more cash than we do.

18 PRESIDING OFFICER: Okay, thank you.

19 Okay. I don't have any additional
20 questions. Thank you very much, Mr. Tatum.

21 THE WITNESS: You're welcome.

22 PRESIDING OFFICER: Why don't we move to
23 the Division.

24 Mr. GRECU, if you would like to call
25 Mr. Slusher.

1 MR. GRECU: Thank you. The Division would
2 like to call Mr. Slusher.

3 PRESIDING OFFICER: Good afternoon, Mr.
4 Slusher. Do you swear to tell the truth?

5 MR. SLUSHER: I do.

6 PRESIDING OFFICER: Thank you. You're
7 sworn. Please proceed.

8
9 RON SLUSHER,
10 called as a witness, having been duly sworn, was
11 examined and testified as follows:

12
13 EXAMINATION

14 BY MR. GRECU:

15 Q. Mr. Slusher, could you please state and
16 spell your name for the record.

17 A. My name is Ron Slusher. S, as in Sam,
18 l-u-s-h-e-r.

19 Q. And by whom are you employed?

20 A. I'm employed by the Division of Public
21 Utilities.

22 Q. And what is your business address?

23 A. My business address is Heber M. Wells
24 Building, 160 East 300 South, Fourth Floor, Salt Lake
25 City, Utah.

1 Q. And what is your position with the
2 Division?

3 A. I am a utility technical consultant.

4 Q. And how long have you worked there?

5 A. Just shy of 20 years.

6 Q. Could you provide an overview of your
7 educational background?

8 A. Yes. I have a bachelor's degree in
9 computer science.

10 Q. And could you please briefly describe some
11 of your work experience as relevant to this docket?

12 A. I have participated in numerous telecom
13 applications for -- excuse my, my mind went blank --
14 CPCNs, and I know what you're going to ask me what
15 that stands for. And it's Certified Public telephone
16 provider and water companies and power regulation for
17 Rocky Mountain Power.

18 Q. And have you participated in this docket
19 on behalf of the Division?

20 A. Yes.

21 Q. Did you review the company's petition and
22 supporting exhibits and its pre-filed testimony?

23 A. I have.

24 Q. And did you participate in the settlement
25 negotiations that resulted in the settlement

1 stipulation currently before the Commission?

2 A. Yes, I did.

3 Q. And did you have the opportunity to review
4 the settlement stipulation itself?

5 A. Yes.

6 Q. Is it the Division's position that the
7 settlement stipulation is just and reasonable in
8 result?

9 A. Yes, it is.

10 Q. And based upon your knowledge and
11 experience with the Division, do you believe that
12 approving the settlement stipulation would be just,
13 reasonable, and in the public interest?

14 A. Yes.

15 Q. Do you have a summary to share that
16 provides the Division support for approval of the
17 settlement stipulation?

18 A. I do.

19 Q. Please proceed.

20 A. The Division of Public Utilities
21 recommends the Public Service Commission approve the
22 stipulation and settlement agreement as filed by
23 TerraCom Inc. d/b/a Maxsip Tel, the Division, and the
24 Office of Consumer Services. There are a number of
25 elements in this stipulation that the Division would

1 like to highlight for the Commission. TerraCom is a
2 commercial mobile radio service provider and a common
3 carrier that provides prepaid wireless
4 telecommunication services to consumers using
5 underlying wireless networks of AT&T Mobility LLC and
6 T-Mobile USA Inc. on a wholesale basis. TerraCom
7 seeks designation as an eligible telecommunications
8 carrier, or ETC, for the purpose of receiving Federal
9 Universal Lifeline Support for qualified Utah
10 customers, Federally Enhanced Tribal Universal
11 Support Services for qualified Utah customers, and
12 Lifeline Support from Utah Universal Service Fund for
13 qualified customers.

14 TerraCom meets the requirements for
15 Federal ETC designation and for receiving state
16 Lifeline support from the Utah Universal Service
17 Fund. In its Lifeline and Link Up reform order the
18 FCC granted forbearance from owner facilities
19 requirement contained in section 214(e)(1)(a) of the
20 Federal Act to carriers seeking Lifeline only ETC
21 designation, subject to certain conditions including
22 FCC approval of compliance plan. As a condition for
23 this forbearance, TerraCom filed the compliance plan
24 with the FCC, which the FCC approved on May 25th,
25 2012.

1 TerraCom filed its fourth revision
2 compliance plan on October 3rd of 2016, which the FCC
3 approved on November 8th of 2016, identifying a
4 transfer control and making a revision to comply with
5 the rule changes since the 2012 Lifeline reform
6 order.

7 TerraCom filed its Fifth Revised
8 Compliance Plan, which remains pending. And as
9 required by the FCC due to the proposed change in
10 ownership, TerraCom's described in its position and
11 direct testimony. TerraCom's petition to provide the
12 change in ownership will not close until all
13 regulatory approvals have been obtained, including
14 approval for the Fifth Revised Compliance Plan.

15 The services offered by TerraCom to
16 low-income Utah customers meet or exceed both the
17 FCC's Lifeline minimum service standards and the
18 Commission's Utah Universal Service Fund Plan
19 requirements.

20 Services offered by TerraCom for
21 non-tribal customers include 1,583 voice minutes,
22 unlimited text messages, and 4.5 gigabytes of data
23 per month. For tribal customers TerraCom offers
24 1,583 voice minutes, unlimited text messages, and 10
25 gigabytes of data per month. Both options will have

1 zero cost to the customers after application of
2 Lifeline and Universal Fund Support. As discussed in
3 the stipulation, TerraCom agrees to include
4 additional requirements in its provision of Lifeline
5 Universal Service Fund's offering. TerraCom will use
6 a Utah specific fact sheet that provides customers
7 with concise and complete information about the
8 services they will receive. TerraCom will comply
9 with all applicable state service, quality, and
10 consumer protection requirements.

11 If making any changes to its Lifeline
12 offering, TerraCom will timely file a notice with the
13 Division and the Office describing these changes.
14 TerraCom acknowledges that approval of the petition
15 and ongoing receipt of universal -- or Utah Universal
16 Service Fund support are conditioned upon the
17 verifying payments of all applicable state and local
18 regulatory fees, including but not limited to
19 universal service fees, emergency service, and
20 regulated services.

21 Because TerraCom meets the federal
22 requirements for ETC designation, will follow
23 applicable service quality rules, pay all applicable
24 regulatory fees, offer services that meet or exceed
25 the requirements outlined by the FCC and the

1 commission, and has agreed to use its Utah specific
2 fact sheet, it is the Division's position that the
3 stipulation is just and reasonable in result and in
4 the public interest. The Division recommends the
5 Commission approve the stipulation and settlement
6 agreement as submitted by the parties. This
7 concludes my summary.

8 MR. GRECU: Thank you. At this point, if
9 I may, I'd like to make a motion to admit the
10 settlement stipulation that was filed on
11 November 1st, 2023.

12 PRESIDING OFFICER: Applicant,
13 Mr. Steinhart, any objection to that motion?

14 MR. STEINHART: No. Thank you. We
15 support the motion.

16 PRESIDING OFFICER: Okay. Mr. Moore, any
17 objection to that motion?

18 MR. MOORE: No objection. Thank you.

19 PRESIDING OFFICER: Okay, thank you. The
20 motion is granted. The stipulation is admitted.

21 MR. GRECU: Thank you. At this point the
22 witness is now available for cross-examination and
23 hearing from the presiding officer.

24 PRESIDING OFFICER: Thank you very much.
25 Mr. Steinhart, any questions or -- cross-examination

1 or other questions for Mr. Slusher?

2 MR. STEINHART: No thank you.

3 PRESIDING OFFICER: Okay. Mr. Moore, any
4 questions from the Office?

5 MR. MOORE: No questions, thank you.

6 PRESIDING OFFICER: Okay, thank you. I
7 don't have any questions.

8 Thank you very much, Mr. Slusher.

9 THE WITNESS: Thank you.

10 PRESIDING OFFICER: Okay. Mr. Moore, why
11 don't we have the Office's presentation. If you'll
12 call your first witness, please.

13 MR. MOORE: The Office of Consumer
14 Services calls Alex Ware to the stand or calls Alex
15 Ware and asks that he be sworn.

16 PRESIDING OFFICER: Good afternoon, Mr.
17 Ware.

18 MR. WARE: Good afternoon.

19 PRESIDING OFFICER: Pretend you're on the
20 stand. Do you swear to tell the truth?

21 MR. WARE: I do.

22 PRESIDING OFFICER: Okay. Thank you.
23 You're sworn. Please proceed.

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ALEX WARE,

called as a witness, having been duly sworn, was
examined and testified as follows:

EXAMINATION

BY MR. MOORE:

Q. Please state and spell your name for the
record.

A. My name is Alex Ware. That's A-l-e-x
W-a-r-e. And I think that's what you asked for,
right?

Q. That's correct. What is your business
address, and how are you employed?

A. My business address is 160 East 300 South,
Salt Lake City, Utah. I'm a utility analyst with the
Office of Consumer Services.

Q. In your capacity as utility analyst have
you reviewed the application and the testimony filed
in this docket?

A. Yes.

Q. Were you involved in the negotiations
resulting in the settlement stipulation that is the
subject of this hearing?

A. Yes, I was.

Q. Have you reviewed the final draft of the

1 settlement stipulation?

2 A. Yes, I have.

3 Q. In your opinion is the settlement
4 stipulation taken as a whole just and reasonable in
5 result?

6 A. Yes.

7 Q. Have you prepared a statement summarizing
8 the Office of Consumer Services position on the
9 settlement stipulation?

10 A. Yes, I have.

11 Q. Please proceed.

12 A. TerraCom, doing business as Maxsip Tel,
13 petitioned in this case to be designated as an
14 eligible telecommunications carrier with a Lifeline
15 offering in the State of Utah to receive Federal
16 Lifeline support and to participate in the Utah
17 Universal Service Fund. TerraCom's Utah Lifeline
18 program offering of 1,583 voice minutes and 4.5
19 gigabytes of data each month meets or exceeds the
20 minimum requirements for a wireless
21 telecommunications provider to receive Lifeline
22 funds. And the addition to the offering of unlimited
23 text messages each month meets Utah specific
24 requirements and adds value for potential Lifeline
25 customers in Utah. TerraCom Wireless will offer

1 trial customers 1,583 voice minutes, unlimited text
2 messages, and 10 gigabytes of data monthly. The OCS
3 believes that the stipulation before the Commission
4 is just and reasonable in result and in the public
5 interest and recommends that the commission approve
6 it. That concludes my statement.

7 MR. MOORE: Mr. Ware is now available for
8 Cross and questions from the hearing officer.

9 PRESIDING OFFICER: Thank you very much.
10 For the Division, any cross-examination or other
11 questions?

12 MR. GRECU: No questions from the
13 Division.

14 PRESIDING OFFICER: Thank you.
15 Mr. Steinhart, any cross-examination or other
16 questions for Mr. Ware?

17 MR. STEINHART: No, thank you. No
18 questions.

19 PRESIDING OFFICER: Okay. I have no
20 questions. Thank you very much, Mr. Ware.

21 THE WITNESS: Thank you.

22 PRESIDING OFFICER: Okay. Is there
23 anything else that we need presented here today on
24 the record?

25 MR. STEINHART: Nothing from the

1 applicant. Thank you.

2 PRESIDING OFFICER: Okay. I'm seeing one
3 head shake.

4 Mr. Moore, nothing else from the office,
5 correct?

6 MR. MOORE: No.

7 PRESIDING OFFICER: Okay. Well, thanks
8 everybody for your efforts to be prepared for today's
9 hearing and the effort you put into being able to log
10 on. I'm glad we had it. We'll issue an order in due
11 course, and we are adjourned. Thank you very much.

12 MR. STEINHART: Great. Thank you very
13 much.

14 (Concluded at 1:37 p.m.)

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REPORTER'S CERTIFICATE

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

I, Tamra J. Berry, Registered Professional Reporter in and for the State of Utah, do hereby certify:

That on November 7, 2023, that the testimony of said witnesses was reported by me in stenotype and thereafter transcribed, and that a full, true, and correct transcription of said testimony is set forth in the preceding pages;

I further certify that I am not kin or otherwise associated with any of the parties to said cause of action and that I am not interested in the outcome thereof.

WITNESS MY HAND AND OFFICIAL SEAL this 26th day of November, 2023.



Tamra J. Berry, RPR, CSR

[1 - bachelor's]

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[designated - grecu]

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Utah Rules of Civil Procedure
Part V. Depositions and Discovery

Rule 30

(E) Submission to Witness; Changes; Signing.

Within 28 days after being notified by the officer that the transcript or recording is available, a witness may sign a statement of changes to the form or substance of the transcript or recording and the reasons for the changes. The officer shall append any changes timely made by the witness.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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