
Application of Barr Tell USA Inc. for a Certificate of Public Convenience and Necessity to Provide Facilities-Based, Local Exchange, Interexchange Carrier, and Resold Telecommunications Services within the State of Utah	<p style="text-align: center;"><u>DOCKET NO. 24-2650-01</u></p> <p style="text-align: center;"><u>ORDER</u></p>
---	---

ISSUED: September 23, 2024

SYNOPSIS

The Public Service Commission (PSC) approves the application of Barr Tell USA Inc. (“Barr Tell”) for a Certificate of Public Convenience and Necessity (CPCN) and authorizes Barr Tell to provide telecommunications services within Utah.

PROCEDURAL HISTORY

On July 15, 2024, Barr Tell filed an application¹ (“Revised Application”) seeking a CPCN for authority to “provide facilities-based, resold local exchange telecommunications service[,] and Interexchange Telecommunications in the State of Utah.”² Specifically, the Revised Application represents that Barr Tell

will not be constructing any facilities[,] ... [but] will be leasing and/or renting space in neutral data centers and/or other available facilities to place its equipment that will facilitate interconnecting with the Incumbents to exchange local voice traffic [in order to] offer its services exclusively to business customers and any other nonresidential customer[s] ... that will be concentrated in the metro areas that have the highest population(s). Specifically, the services will be offered in the cities or metro areas of Salt Lake City, West Valley City, West Jordan[,] and Provo.³

¹ Barr Tell filed an application on July 10, 2024, and a revised application on July 15, 2024. This Order addresses the revised application.

² Revised Application at 1.

³ *Id.* at 4.

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

On July 16, 2024, the PSC issued a Notice of Filing and Comment Period ("Notice"), which set deadlines of August 15, 2024, and September 3, 2024, for comments and reply comments, respectively. The Notice further stated that if no opposition was filed, the PSC may adjudicate the docket informally and without a hearing under Utah Code Ann. § 54-8b-3. No opposition was filed to the Revised Application; accordingly, the PSC will adjudicate this docket informally.

The Utah Rural Telecom Association (URTA) filed comments on August 1, 2024, stating that if Barr Tell is seeking the authority to provide services in rural exchanges,⁴ it would oppose the Revised Application and its informal adjudication. However, if Barr Tell is not seeking to provide services in Rural Exchanges, URTA and its members would not oppose informal adjudication or the issuance of a CPCN.⁵ Barr Tell did not respond to URTA's comments.

The Division of Public Utilities (DPU) filed comments on July 29, 2024, recommending that the PSC approve the Revised Application. DPU states it reviewed

⁴ See URTA comments at 2. A rural exchange is 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 ("Rural Exchanges").

⁵ See *id.* at 3.

the technical, managerial, and financial abilities of Barr Tell and found Barr Tell provided the necessary information to fulfill the requirements under the PSC's rules. The DPU further states granting a CPCN to Barr Tell as requested and under the same terms and conditions granted in other CPCNs will promote the public interest. DPU recommends the PSC waive the \$100,000 bond on the basis that Barr Tell will not require customer deposits or prepayments of any kind. DPU also states that based on history, a filing of this type and with the information submitted by Barr Tell will generate no objections or opposition; therefore, DPU requests the PSC adjudicate the docket informally.

In making its recommendation, DPU discussed various representations made by Barr Tell in the Revised Application, such as:

1. In accordance with competitive entry requirements described in Utah Code Ann. § 54-8b-2.1(3)-(4), Barr Tell seeks authority to provide telecommunications services exclusively to business and nonresidential customers concentrated in high population metro areas, specifically Salt Lake City, West Valley City, West Jordan, and Provo.
2. Barr Tell will be renting or leasing space in neutral data centers or other available spaces to facilitate interconnection with incumbents to exchange local voice traffic.
3. Barr Tell proposes to provide access to directory assistance, directory listings, and emergency services directly through its own network. Additionally, Barr

Tell will offer unlimited and unrestrictive calls, regardless of whether they are intraLATA, interLATA, or interstate calls.

4. Barr Tell will implement its operation and services for business customers after receiving approval of its Revised Application and executing interconnection agreements with applicable ILEC(s).

5. Barr Tell's summaries of the professional experience and education of its managerial personnel.⁶

6. Barr Tell's financial statements filed with the Revised Application show it has a positive net worth and ample working capital.

7. Barr Tell's request that the \$100,000 bond requirement be waived because it will not require customer deposits or prepayments of any kind.

8. Barr Tell's current authorization to provide local exchange telecommunications services in California, Colorado, Connecticut, the District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

⁶ According to DPU, the summaries show that Barr Tell has considerable experience in the telecommunications industry.

9. Barr Tell 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.

10. Barr Tell's assertion that approval of its Revised Application will serve the public interest creating and enhancing competition and expanding customer service options, and 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 Revised Application, Barr Tell's representations, and DPU's comments and recommendations, and considering URTA's comments regarding Rural Exchanges, 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 Revised Application. The Revised Application does not request authority to provide services to Rural Exchanges, but instead specifically will "offer its services exclusively to business customers and any other nonresidential customer[s] ... that will be concentrated in the metro areas that have the highest population(s)[,] [s]pecifically ... in the cities or metro areas of Salt Lake City, West Valley City, West Jordan[,], and Provo[,]" and therefore URTA does not oppose the issuance of the CPCN or informal adjudication.

2. Barr Tell filed documentation containing sufficient information to support the Revised Application.
3. Barr Tell has demonstrated it is qualified to do business in Utah.
4. Barr Tell proposes to provide access to directory assistance, directory listings, and emergency services directly through its own network. Additionally, Barr Tell will offer unlimited and unrestrictive calls regardless of whether they are intraLATA, interLATA, or interstate calls.
5. Barr Tell will use its managerial expertise to support its Utah operations.
6. Barr Tell has sufficient technical resources and ability to provide the public telecommunications services it proposes to offer.
7. Barr Tell reports a positive net worth and access to sufficient working capital for its Utah operations.
8. Barr Tell's service offerings will provide customers with a wider range of choice in meeting their telecommunications needs.

CONCLUSIONS OF LAW

1. Barr Tell meets the statutory requirements of Utah Code Ann. § 54-8b-2.1 and related rules for the requested CPCN.
2. Issuance of the requested CPCN to provide public telecommunications services as described in the Revised Application is consistent with the legislative policy set forth in Utah Code Ann. § 54-8b-1.1 and is in the public interest.

3. Given that Barr Tell will not require customer deposits and has demonstrated that it has access to sufficient working capital, adequate provisions exist to protect customer deposits or other customer and state fund liabilities under Utah Admin. Code R746-349-3(1)(b).

ORDER

Based on the foregoing Findings and Conclusions, the PSC ORDERS:

1. Barr Tell is granted the CPCN attached as Exhibit A, incorporated by reference into this Order.
2. Barr Tell's CPCN is subject to the limitations stated therein.
3. The requirement stated in Utah Admin. Code R746-349-3(1)(b) 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, September 23, 2024.

/s/ Jerry D. Fenn, Chair
/s/ David R. Clark, Commissioner
/s/ John S. Harvey, Ph.D., Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#335602

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.

DOCKET NO. 24-2650-01

- 9 -

EXHIBIT A

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of Barr Tell USA Inc. for a Certificate of Public Convenience and Necessity to Provide Facilities-Based, Local Exchange, Interexchange Carrier, and Resold Telecommunications Services within the State of Utah	<p><u>DOCKET NO. 24-2650-01</u></p> <p><u>CERTIFICATE 2650</u></p>
---	--

ISSUED: September 23, 2024

The Public Service Commission of Utah (PSC), pursuant to Utah Code Ann. § 54-8b-2.1, issues a Certificate of Public Convenience and Necessity authorizing BARR TELL USA INC. to provide public telecommunications services within the PSC's jurisdiction in the State of Utah. BARR TELL USA INC. 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, September 23, 2024.

/s/ Jerry D. Fenn, Chair

/s/ David R. Clark, Commissioner

/s/ John S. Harvey, Ph.D., Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary

CERTIFICATE OF SERVICE

I CERTIFY that on September 23, 2024, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

Harold Barr (hb@barrtell.com)
Barr Tell USA Inc.

Kira M. Slawson (kslawson@blackburn-stoll.com)
BLACKBURN & STOLL, LC

Patricia Schmid (pschmid@agutah.gov)
Patrick Grecu (pgrecu@agutah.gov)
Robert Moore (rmoore@agutah.gov)
Utah Assistant Attorneys General

Madison Galt (mgalt@utah.gov)
Division of Public Utilities

Alyson Anderson (akanderson@utah.gov)
Bela Vastag (bvastag@utah.gov)
Alex Ware (aware@utah.gov)
Jacob Zachary (jzachary@utah.gov)
(ocs@utah.gov)
Office of Consumer Services

/s/ Melissa R. Paschal _____
Administrative Assistant