

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Petition to Expand or)
Restate the Certificate of Public and) DOCKET NO. 07-2218-01
Convenience and Necessity of Frontier)
Communications of America to Include) REPORT AND ORDER AMENDING
Facilities-Based Operations) CERTIFICATE
)

ISSUED: June 19, 2007

SYNOPSIS

By this Report and Order, the Public Service Commission of Utah (the “Commission”) grants the request of Frontier Communications of America (“Applicant”) amending its Certificate of Public Convenience and Necessity (“Certificate”) to authorize Applicant to provide facilities-based public telecommunications services. The Commission, having considered the record in this proceeding and the applicable law, hereby makes, adopts, and enters the following Report and Order.

By the Commission:

PROCEDURAL HISTORY

On May 14, 2007, Frontier Communications of America (“Applicant”) filed its Petition to Expand or Restate the Certificate of Public Convenience and Necessity of Frontier Communications of America to Include Facilities-Based Operations (“Application”) seeking Commission order amending its Certificate of Public Convenience and Necessity (“Certificate”) to explicitly authorize Applicant to provide facilities-based public telecommunications services. On May 18, 2007, the Division of Public Utilities (“Division”) filed a memorandum recommending the Commission amend Applicant’s Certificate to include provision of facilities-based public telecommunications services.

BACKGROUND AND DISCUSSION

As stated in the Application, by Report and Order issued December 27, 1996, in Docket No. 96-2218-01 (“1996 Order”), this Commission granted Applicant’s predecessor, Citizens Telecommunications Company (d/b/a Citizens Telecom), a Certificate of Public Convenience and Necessity to provide public telecommunications services within the State of Utah, except in exchanges with fewer than 5,000 access lines owned or controlled by an incumbent local exchange carrier with fewer than 30,000 lines within the State. Citizens Telecommunications Company subsequently sought and obtained approval from this Commission to change its name to Citizens Long Distance (“CLD”) pursuant to Report and Order issued May 7, 2001, in Docket No. 01-2218-01. Not quite two years later, CLD acquired Applicant and changed its name a second time, this time to Frontier Communications of America (“FCA”). This Commission approved CLD’s acquisition of FCA and its name change to FCA by an Order on Consolidation and Name Change issued March 31, 2003, in Docket No. 03-2218-02 (“2003 Order on Consolidation”).

As recounted in the 1996 Order, a representative of Applicant’s predecessor company testified that its plans were limited to reselling retail services. Furthermore, paragraph 3 of the 1996 Order’s “Conclusions of Law” states that issuing FCA’s predecessor a Certificate “for which it has applied” is in accordance with the Legislature’s policy declarations. Therefore, the 1996 Order may be read to have awarded a Certificate restricted to the resale of public telecommunications services.

Likewise, the 2003 Order on Consolidation may also be read to have transferred to FCA a Certificate restricted to resale. Paragraph 1 of the ordering section states: “The proposed name change and transfer of its certificate to resell local exchange services is approved . . .”

According to Applicant, its business plans have recently changed, and it now intends to begin offering public telecommunications services in Utah using its own facilities and has sought numbering resources from NeuStar, the North American Numbering Plan Administrator. Neustar has denied Applicant’s request for numbering resources on the basis that the 1996 Order and the 2003 Order on Consolidation restricted Applicant’s Certificate to resale activities and that Applicant must be certificated as a facilities-based carrier to obtain numbering resources. As is its policy, NeuStar refuses to assign telephone numbers to FCA on the grounds that as a reseller FCA is not entitled to obtain telephone numbers.

The Division believes Applicant’s request that its Certificate be amended to include facilities-based operations is reasonable and recommends the Commission issue said amendment.

Incumbent Local Exchange Carriers have been notified of the Application and have not requested intervention. *Utah Administrative Code* Rule 746-110-1, authorizes the Commission to adjudicate a matter informally under *Utah Code Annotated* § 63-46b-5 when the Commission “determines that the matter can reasonably be expected to be unopposed and uncontested.” There appearing no reasonable expectation of opposition to the Application, we determine to proceed informally without hearing. Accordingly, the Commission, having been

fully advised in the premises, enters the following Report, containing Findings of Fact, Conclusions of Law, and the Order based thereon.

FINDINGS OF FACT

1. In its provision of facilities-based public telecommunications services, Applicant will be subject to competition from other certified telecommunications services providers.
2. Applicant's provision of facilities-based public telecommunications services will provide customers with a wider range of choices in meeting their telecommunications needs and will support the development of competition.
3. The amendment of Applicant's Certificate to include provision of facilities-based public telecommunications services is in the public interest.

CONCLUSIONS OF LAW

1. It is in the public interest to convert this matter to an informal proceeding, pursuant to §63-46b-4(3), UCA 1953, as amended.
2. Applicant meets each of the statutory requirements of §54-8b-2.1, *et. seq.*, UCA 1953, as amended, for authorization to provide the facilities-based public telecommunications services for which it seeks amendment to its Certificate.
3. The amendment of Applicant's Certificate as requested is in accord with the legislative policy declarations set forth in §54-8b-1.1, UCA 1953, as amended.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. This matter be, and it is, converted to an informal proceeding pursuant to §63-46b-4(3), UCA 1953, as amended.
2. The proposed amendment of Certificate of Public Convenience and Necessity number 2218 issued by Report and Order on December 27, 1996, in Docket No. 96-2218-01 is tentatively approved and the records of the Commission are tentatively amended to reflect that said Certificate authorizes Frontier Communications of America to provide facilities-based public telecommunications services.
3. Absent meritorious protest, this Order shall automatically become effective without further action twenty (20) days from the date of this Order.
4. Persons desiring to protest this Order may file said protest prior to the effective date of this Order. If the Commission finds said protest to be meritorious, the effective date shall be suspended pending further proceedings.

Pursuant to *Utah Code Annotated* §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission 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 Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah

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Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of *Utah Code Annotated* §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 19th day of June, 2007.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#53475