

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

**FROM: MATT HUNTER
DEPUTY ATTORNEY GENERAL**

DATE: OCTOBER 9, 2020

**SUBJECT: IN THE MATTER OF ENVISION NETWORKS LLC'S ELIGIBILITY TO
HOLD CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
NO. 529; CASE NO. ENL-T-20-01**

Envision Networks LLC (“Company”) holds Certificate of Public Convenience and Necessity (“CPCN”) No. 529. The Commission’s order approving the Company’s application for a CPCN was subject to several conditions. One of these conditions (“condition 4”) was that the “Company must provide three reports to the Commission indicating the number of basic local exchange customers it has and the services being offered.” Order No. 34443 at 2. Condition 4 also required the Company to provide the three reports by specific dates: the first by January 15, 2020; the second by May 15, 2020; and the third by September 15, 2020. *Id.*

At the Commission’s September 15, 2020 decision meeting, Commission Staff asserted the Company had failed to provide the three reports to the Commission.

On September 28, 2020, the Commission issued a show-cause order. Order No. 34785. The show-cause order stated one claim: that the Company had failed to comply with condition 4. *Id.* The show-cause order required the Company to appear before the Commission on October 20, 2020, at 2:30 PM (MDT) to show cause a) why the Commission should not find the Company violated condition 4 of Order No. 34443, and b) why the Commission should not rescind Order No. 34443 based on the Company’s failure to meet condition 4, thus revoking the Company’s CPCN. *Id.* The show-cause order was served on the Company’s registered agent. *See Idaho Code* § 61-615.

On October 5, 2020, the Company filed all three reports with the Commission. Each of the reports indicated the Company has “0” basic local exchange customers.

STAFF RECOMMENDATION

Staff notes that even though the Company filed the three reports required under condition 4, the Company has still failed to comply with condition 4 because all three reports were late. The last report under condition 4 was required by September 15, 2020, but all three reports were received on October 5, 2020.

Additionally, Staff believes the Company’s late-filed reports indicate the Company is ineligible to hold a CPCN. The Commission has stated multiple times that Title 62 telephone corporations not providing basic local exchange service are ineligible for a CPCN. *See* Order Nos. 26665 at 1, and 32059 at 2-3. In its three reports, the Company admits it is not providing basic local exchange service to any of its customers.

Therefore, an additional claim against the Company is that it has failed to provide basic local exchange service as required by Order No, 26665. If the Commission wishes to consider this claim at its show-cause hearing and subsequent deliberations, however, Staff recommends the Commission serve a new show-cause order that includes the claim. The new show-cause order would also need to reschedule the show-cause hearing to comply with *Idaho Code* § 61-616.

Staff makes no recommendation as to whether the Commission should add the above claim in this case. Again, it is Staff’s belief that the Company has still failed to comply with condition 4 because the reports were not filed by the Commission’s deadlines.

COMMISSION DECISION

Does the Commission wish to amend its September 28, 2020 show-cause order to include a new claim and a new hearing date, and serve the amended show-cause order on the Company?



Matt Hunter
Deputy Attorney General