

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF LXI-CLEC, LLC AND) CASE NO. LXI-T-20-05
FATBEAM, LLC’S APPLICATION FOR) FZ4-T-20-02
APPROVAL TO ASSIGN THE)
CERTIFICATE OF PUBLIC CONVENIENCE) ORDER NO. 34912
AND NECESSITY HELD BY LXI-CLEC, LLC)
TO FATBEAM, LLC)**

On November 17, 2020, LXI-CLEC, LLC (“LXI”) and Fatbeam, LLC (“Fatbeam”) (collectively the “Applicants”) applied for authority for LXI to transfer its Certificate of Public Convenience and Necessity No. 498 (“CPCN”) and other assets to Fatbeam (“Application”).

On December 29, 2020, the Commission issued a Notice of Application and Notice of Modified Procedure establishing comment and reply deadlines. Staff submitted comments supporting the Application subject to several conditions. No other comments were received. Fatbeam did not reply. We now approve the Application as described herein.

BACKGROUND

Fatbeam provides facilities-based Internet access, private line, and Wide Area Network services in Idaho. Fatbeam intends to offer basic local exchange services utilizing unbundled network elements obtained via assignment of LXI’s interconnection agreement with incumbent local exchange carrier, Qwest. Fatbeam serves customers in northern and eastern Idaho.

THE APPLICATION

Fatbeam signed an Asset Purchase Agreement (“Agreement”) in which Fatbeam will acquire certain assets from LXI and associated companies Tekfinity, LLC, Tek-Hut, Inc. and Random Investments, LLC (collectively the “Companies”). The assets include regulatory authorizations (LXI’s CPCN), telecommunications equipment and facilities, certain customer and vendor contracts, and certain rights and agreements with third parties and government agencies.

Fatbeam seeks authority to offer telecommunications services in all areas that are or will become open to competition, including areas currently served by Frontier and CenturyLink. Fatbeam expects to compete with CenturyLink.

Under the Agreement, Fatbeam will acquire the Companies’ fixed wireless and/or wireline facilities in southcentral and southwest Idaho.

THE COMMENTS

Staff filed the only comments, and recommended the Commission approve the Application. After reviewing the Application, Staff opined that Fatbeam possessed the requisite financial, managerial, and technical qualifications to provide telecommunication services, and believed Fatbeam understands the Commission's rules and requirements related to the provision of telecommunication services in Idaho. Therefore, Staff recommended the Commission approve the transfer of LXI's CPCN to Fatbeam on the following conditions. Fatbeam must: (1) comply with the North American Number Plan Administrator requirements; (2) comply with all reporting and contribution requirements prescribed by the Idaho Universal Service Fund, Idaho Telecommunications Relay System, and Idaho Telecommunications Service Assistance Program, and must comply with all future reporting requirements deemed appropriate by the Commission for competitive telecommunications providers; (3) file with the Commission a final price list outlining its rates, terms, and conditions before transfer of LXI's CPCN; (4) provide the Commission with three reports during the next twelve months, indicating the number of basic local exchange customers it has and the services being offered; and (5) recognize that if Fatbeam is not providing basic local exchange service by the time the third report is due, the Commission by its own motion will revoke Fatbeam's CPCN.

DISCUSSION AND FINDINGS

Based on our review of the record, we find that the Application to transfer LXI's CPCN to Fatbeam is reasonable. Fatbeam has provided all needed information in the Application. Fatbeam also has the financial, managerial, and technical qualifications needed to operate as a telecommunications service provider, and it has reviewed and agreed to comply with this Commission's rules. We thus find it reasonable to approve the Application to transfer LXI's CPCN to Fatbeam, subject to these conditions:

- 1) Fatbeam must comply with North American Number Plan Administrator requirements, as outlined in Commission Order No. 30425.
- 2) Fatbeam must comply with all reporting and contribution requirements prescribed by the Idaho Universal Service Fund, Idaho Telecommunications Relay Services, and Idaho Telecommunications Service Assistance Program, and must comply with all future reporting requirements deemed appropriate by the Commission for competitive telecommunications providers.

- 3) Before the transfer of LXI's CPCN to Fatbeam, Fatbeam must file with the Commission a final price list outlining its rates, terms, and conditions.
- 4) Fatbeam must provide three reports to the Commission indicating the number of basic local exchange customers it has and the services being offered. These reports are due on: June 21, 2021; October 18, 2021; and February 21, 2022. If Fatbeam fails to provide the three reports, Fatbeam shall relinquish its CPCN and all telephone numbers it has been assigned or the Commission will by its own motion revoke Fatbeam's CPCN.
- 5) If Fatbeam is not providing basic local exchange service by the time the third report is due, the Commission by its own motion will revoke Fatbeam's CPCN.

ORDER


IT IS HEREBY ORDERED that the Application to authorize the transfer of LXI's CPCN No. 498 to Fatbeam is approved, subject to the conditions described in this Order.

IT IS FURTHER ORDERED that CPCN No. 498 will be reissued to Fatbeam upon the Commission's receipt of Fatbeam's price list.

THIS IS A FINAL ORDER. Any person interested in this order (or in issues finally decided by this order) may petition for reconsideration within twenty-one (21) days of the service date of this order regarding any matter decided in this order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code §§ 61-626 and 62-619.*

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DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 8th
day of February 2021.



PAUL KJELLANDER, PRESIDENT

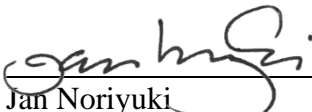


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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