

## DECISION MEMORANDUM

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

**FROM:** MATT HUNTER  
DEPUTY ATTORNEY GENERAL

**DATE:** SEPTEMBER 9, 2020

**SUBJECT:** IN THE MATTER OF THE INVESTIGATION OF GC PIVOTAL, LLC  
DBA GLOBAL CAPACITY'S ELIGIBILITY TO HOLD CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY NO. 530; CASE NO. GCP-T-  
20-01.

GC Pivotal, LLC dba Global Capacity ("Company") holds Certificate of Public Convenience and Necessity ("CPCN") No. 530. Commission Staff believes the Company has failed to comply with Order No. 34484, and therefore recommends the Commission commence proceedings to require the Company to show cause why it remains eligible for a CPCN.

### BACKGROUND

On November 18, 2019, the Commission approved the Company's application for a CPCN, subject to several conditions. One of the conditions is:

The Company must provide three reports to the Commission indicating the number of basic local exchange customers it has and the services being offered. These reports will be due on: February 19, 2020; June 17, 2020; and October 18, 2020. If the Company fails to provide the three reports, the Company shall relinquish its CPCN and all telephone numbers.

Order No. 34484 at 2.

On December 13, 2019, the Commission issued the Company CPCN No. 530. To date, the Company has failed to file the first two reports.

### STAFF RECOMMENDATION

Staff recommends the Commission commence a proceeding directing the Company to show cause why it remains eligible to hold a CPCN. Having not received either of the required



reports, Staff believes the Company has not met the condition quoted above, and therefore the Company must relinquish its CPCN. The reporting requirement is not purposeless; a Title 62 telephone corporation is only eligible for a CPCN if it provides basic local exchange service. *See* Order Nos. 26665 and 34130. The reports are designed to confirm that the Company is indeed providing basic local exchange service. The Company has provided no evidence it provides this service.

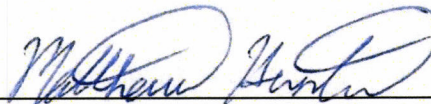
Staff believes Modified Procedure, IDAPA 31.01.01.201 through .204, is appropriate for this proceeding and affords ample due process to the Company. The inquiry is a simple one: does the Company meet the eligibility requirements for a CPCN? Staff believes a formal hearing is unnecessary to answer this question. If, however, the Company wants a formal hearing, it may request one. *See* IDAPA 31.01.01.203.

Therefore, Staff recommends the Commission issue a Notice of Complaint and Modified Procedure, directing the Company and any interested persons to provide any written comments to Staff's Complaint by October 15, 2020. Staff also recommends the Commission direct Staff to provide any reply comments by October 29, 2020.

#### COMMISSION DECISION

Does the Commission wish to:

1. Issue a Notice of Complaint and Modified Procedure, setting an October 15, 2020 comment deadline for the Company and any interested persons, and an October 29, 2020 reply comment deadline for Staff?
2. If not, does the Commission wish to
  - a. Issue a Notice of Complaint;
  - b. Order the Company to appear before the Commission to show cause why the Company remains eligible to hold a CPCN; and
  - c. Set a date for the show-cause hearing?



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Matt Hunter  
Deputy Attorney General