

## DECISION MEMORANDUM

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

**FROM:** MATT HUNTER  
DEPUTY ATTORNEY GENERAL

**DATE:** OCTOBER 16, 2020

**SUBJECT:** IN THE MATTER 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. On November 18, 2019, the Commission approved the Company's application for a CPCN, subject to several conditions. One of the conditions ("condition 5") 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. To date, the Commission has not received any of the reports.

On September 28, 2020, the Commission issued an Order to Show Cause, stating the claim ("Claim 1") that the Company had violated Order No. 34484 by failing to comply with condition 5. The Show Cause Order also directed the Company to appear before the Commission to show cause why "the Commission should not find the Company violated condition 5 of Order No. 34484...." Order No. 34786 at 2.

The Order to Show Cause also noted that "[t]elephone corporations that do not provide basic local exchange service are ineligible for a CPCN...." *Id.* at 1. However, the Commission did not cite failure to provide basic local exchange service as a claim against the Company.

The Commission attempted to serve the Company a copy of the Order to Show Cause by certified mail. However, the address used by the Commission was incorrect.

### STAFF RECOMMENDATION

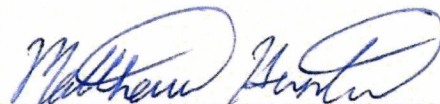
Staff notes that the incorrect address was used to serve the Company a copy of the September 28, 2020 Order to Show Cause, Order No. 34786. Therefore, the Company has not yet received notice of the show-cause hearing. Staff recommends the Commission vacate Order No. 34786 and issue a new Order to Show Cause with a new hearing date to comply with *Idaho Code* § 61-616.

If the Commission chooses to reissue its Order to Show Cause in this case, Staff recommends the Commission take the opportunity to add an additional claim to the new order. While Order No. 34786 noted that only telephone corporations providing basic local exchange service are eligible for a CPCN, Order No. 34786 does not claim the Company is not providing basic local exchange service. *See* Order No. 26665. Staff believes this claim should be made in the Commission's new order so that the Company can address the claim at its show-cause hearing. The purpose of the three reports required in condition 5 is to verify that the Company is providing basic local exchange service. The Company has not provided the reports to date; therefore, there is no evidence the Company is providing basic local exchange service to any of its customers. Staff believes the Company should show cause why the Commission should not find the Company violated the CPCN eligibility requirements in Order No. 26665.

### COMMISSION DECISION

Does the Commission wish to:

1. Vacate Order No. 34786?
2. Re-issue an Order to Show Cause in Case No. GCP-T-20-01 with a new hearing date?
  - a. If yes, does the Commission wish to add a new claim: that the Company's failure to provide basic local exchange service is a violation of the CPCN eligibility requirements in Order No. 26665?



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Matt Hunter  
Deputy Attorney General