

DECISION MEMORANDUM

TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: NEIL PRICE
DEPUTY ATTORNEY GENERAL

DATE: MARCH 11, 2010

SUBJECT: APPLICATION OF BROADVIEW NETWORKS, INC. FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY,
CASE NO. BVN-T-09-01

On November 13, 2009, Broadview Networks, Inc. (“Broadview” or “Company”) filed an Application for a Certificate of Public Convenience and Necessity (“CPCN”), pursuant to Title 62 of the Idaho Code¹ and IDAPA 31.01.01.111, to provide local exchange telecommunications services within the state of Idaho. *Application* at 1.

On February 4, 2010, Broadview filed a Revised Proposed Tariff. On February 17, 2010, the Commission issued a Notice of Application and Modified Procedure with a 21-day comment period. *See* Order No. 31008. Commission Staff was the only party to submit comments regarding Broadview’s Application.

THE APPLICATION

Broadview is a New York corporation and lists its principal place of business as Rye Brook, New York. *Id.* at 2. Broadview is registered with the Idaho Secretary of State as a foreign limited liability company and lists CT Corporation Service, 1111 W. Jefferson, Suite 530, Boise, Idaho 83702, as its Idaho registered agent for service. *Id.* Broadview has received authority to provide local and/or interexchange services in the following states: California, Connecticut, the District of Columbia, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, Nevada, New York, Ohio, Oregon,

¹ Broadview’s Application requests a CPCN pursuant to Title 62 of the Idaho Code. However, the Commission issues CPCN’s to telephone corporations pursuant to Title 61 of the Idaho Code.

Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia and Washington. *Id.* at 1.

Broadview requests “authority to allow the company to offer its customers facilities-based and resold competitive local exchange telecommunications and interexchange telecommunications services throughout the entire state of Idaho, or to the extent the facilities of its underlying carriers permit.” *Id.* at 2. Broadview states that it does not anticipate installing physical plant, fiber optic or copper cables within the state. *Id.* at 2. The Company may “collocate switching, signaling systems and other equipment of ILEC and non-ILEC collocation facilities such as carrier hotels, and may lease capacity on fiber circuits from other carriers.” *Id.*

Broadview will focus on providing service to small and medium-sized businesses and residential customers. *Id.* at 5. Initially, the Company plans to “offer basic two-way local residential and business service, supplemented by a variety of customer calling services (i.e., three-way calling, call forwarding, call waiting, distinctive ringing, and speed calling) and CLASS features (i.e., caller I.E., automatic redial/recall, and customer-originated trace).” *Id.* Later, Broadview envisions an expansion of these services “to include advanced telecommunications services, data services and private line services throughout the service area of the incumbent provider(s).” *Id.*

Broadview’s proposed Idaho service territory is likely to include areas being served by ILECs Qwest North, Qwest South and Verizon Northwest. *Id.* The Company has yet to initiate negotiations with ILECs in Idaho. *Id.* at 8. The Applicant affirms that it has “reviewed all of the Commission’s rules applicable to competitive local exchange telecommunications service providers and agrees to comply with those rules except to the extent that any such rules are explicitly waived generically for carriers in the same class.” *Id.* at 9

STAFF ANALYSIS AND RECOMMENDATION

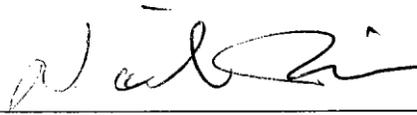
Staff reviewed Broadview’s Application and determined that the Company has complied with the requirements of Procedural Order No. 26665 and IDAPA 31.01.01.111 (Commission Procedural Rule 111). *See* Staff Comments at 3. Staff believes that Broadview possesses the requisite financial, managerial, and technical qualifications necessary to operate as a telecommunications provider within the state of Idaho. *Id.*

Based upon its review, Staff recommends that the Company be granted a CPCN subject to the following conditions: (1) compliance with the Number Pool Administrator and

Order No. 30425 mandating number resource utilization forecast (NRUF) reporting requirements; (2) contribution to the Idaho Universal Service Fund, Idaho Telecommunications Relay System (TRS), Idaho Telephone Assistance Program (ITSAP) and any future reporting requirements deemed appropriate for competitive telecommunication providers; (3) filing a final and complete price list with the Commission containing all of its rates, terms and conditions; and (4) the Company shall relinquish its Certificate and any telephone numbers if, within one year of the issuance of its CPCN, the Company is not offering telecommunications services in Idaho. *Id.*

COMMISSION DECISION

Does the Commission wish to approve Broadview's Application for a Certificate of Public Convenience and Necessity?



Neil Price
Deputy Attorney General

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