

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION )  
OF LIBERTY-BELL TELECOM, LLC FOR ) CASE NO. LBT-T-10-01  
A CERTIFICATE OF PUBLIC )  
CONVENIENCE AND NECESSITY ) ORDER NO. 32153  
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On June 23, 2010, Liberty-Bell Telecom, LLC (“LBT” or “Company”) filed an Application, including a copy of its illustrative tariff, for a Certificate of Public Convenience and Necessity (“CPCN”), pursuant to *Idaho Code* §§ 61-526 through -528<sup>1</sup>, *Idaho Code* § 62-604, IDAPA 31.01.01.111 (Rule 111), IDAPA 31.42.01 (Rule 202) and Procedural Order No. 26665, to provide facilities-based local exchange, switched exchange access and non-facilities-based interexchange telecommunications services in Idaho. *Application* at 1. On October 12, 2010, LBT filed a revised copy of its illustrative tariff.

On November 24, 2010, the Commission issued a Notice of Application and Modified Procedure with a 21-day comment period. Thereafter, Commission Staff was the only party to submit written comments within the established comment period.

### THE APPLICATION

LBT is a Colorado corporation and lists its principal place of business as Denver, Colorado. *Id.* at 2. LBT is registered with the Idaho Secretary of State as a foreign corporation and lists CT Corporation System, 1111 West Jefferson, Suite 530, Boise, Idaho 83702, as its Idaho registered agent for service. *Id.* at 2, Exhibit C.

LBT states in its Application that it “proposes to offer competitive local exchange services initially including, basic local exchange services and custom calling features for residential and commercial subscribers.” *Id.* at 2. Subsequently, the Company “proposes to offer exchange access services to interconnecting carriers.” *Id.* The Company’s local exchange services “will be provided on a facilities-based basis[,]” utilizing the unbundled network elements of its underlying carriers. *Id.* “[I]nterexchange services will be offered exclusively on a resold, non-facilities-based basis.” *Id.* LBT has no current plan to construct facilities or deploy equipment in Idaho. *Id.* at 5.

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<sup>1</sup> Pursuant to the Idaho Telecommunications Act of 1988, specifically *Idaho Code* § 62-604(1)(a), LBT is exempt from Title 61 regulation.

LBT's proposed Idaho service territory will include all areas of Idaho currently being served by "Qwest Corporation, its sole incumbent local exchange carrier competitor." *Id.* LBT attached a copy of its illustrative tariff to its Application. *See id.* at 7, Exhibit A. The Company states that it will begin negotiating an interconnection agreement with Qwest Corporation following the Commission's decision regarding its Application. *Id.* at 8. LBT "averts that it has reviewed all of the Commission's rules and agrees to comply with such rules." *Id.* at 9. LBT requests a waiver of the escrow account requirement because it will not require its customers to submit advance payments or deposits in exchange for service. *Id.*

#### **STAFF COMMENTS AND RECOMMENDATION**

Staff stated that it worked with LBT and its attorney to bring the Company's illustrative price list into compliance with the Commission's Customer Relations Rules and Idaho statutes. After numerous corrections and revisions, Staff now believes that the Application and price list comport with the Commission's Rules and Idaho statutes.

On December 14, 2010, a Consent Decree was issued and adopted between the Enforcement Bureau of the Federal Communications Commission ("Bureau") and LBT. The Consent Decree terminated a Bureau investigation regarding potential violations of the Communications Act of 1934 and corresponding rules. Staff noted that this Consent Decree is a result of alleged international violations and does not have intrastate certification implications that would negatively impact the Company's Application for a CPCN.

Staff recommended that the Commission grant LBT's Application for CPCN, subject to the following conditions:

- a. LBT must comply with number pooling and reporting requirements of the North American Numbering Plan Administrator, as set forth in Commission Order No. 30425;
- b. LBT must provide all necessary reports and make appropriate contributions to the Idaho Universal Service Fund, Idaho Telecommunications Relay System, Idaho Telecommunications Service Assistance Program, and comply with all future reporting requirements deemed appropriate by the Commission for competitive telecommunications providers; and
- c. LBT shall relinquish its Certificate and all telephone numbers if, within one year of the issuance of a CPCN, the Company is not providing basic

local exchange telecommunications services in Idaho as defined by *Idaho Code* § 62- 603(1).<sup>2</sup>

Finally, Staff recommended that the Company's request for a waiver of the escrow account requirement be granted.

### **COMMISSION FINDINGS AND DECISION**

Based upon our review of LBT's Application and the record in this case, including Staff's comments regarding the importance of securing the Company's compliance with all federal and state guidelines pertaining to the Idaho area code and contribution to the Idaho Universal Service Fund, Idaho Telecommunications Relay System, and Idaho Telecommunications Service Assistance Program, the Commission finds that LBT's filing satisfies the requirements of the Commission's Rules and Procedural Order No. 26665. Thus, we approve LBT's Application for a Certificate of Public Convenience and Necessity, subject to the conditions detailed in Staff's comments, to allow the Company to provide local exchange telecommunications services in the State of Idaho. Inasmuch as the Company does not collect deposits from its Idaho customers, the Commission waives the escrow requirement.

### **ORDER**

IT IS HEREBY ORDERED that the Application of Liberty-Bell Telecom, LLC for a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services within the State of Idaho is granted.

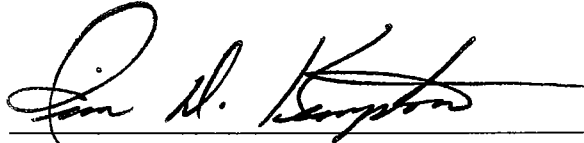
IT IS FURTHER ORDERED that the Company's Certificate of Public Convenience and Necessity shall be subject to the following conditions: (1) compliance with the Number Pool Administrator and Order No. 30425 mandating number resource utilization forecast (NRUF) reporting; (2) contribution to the Idaho Universal 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 of a final and complete price list with the Commission containing all of the Company's rates, terms and conditions for service; and (4) an agreement from the Company to relinquish its Certificate and any telephone numbers if, within one year of the issuance of a CPCN, the Company is not offering local exchange telecommunications services in Idaho.

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<sup>2</sup> "Basic local exchange service" means the provision of access lines to residential and small business customers with the associated transmission of two-way interactive switched voice communication within a local exchange calling area.

THIS IS A FINAL ORDER. Any person interested in the Order may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to 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.

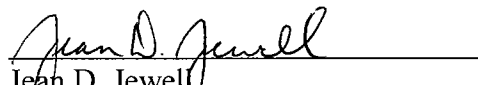
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 29<sup>th</sup> day of December 2010.

  
JIM D. KEMPTON, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
MACK A. REDFORD, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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