

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF)
TAMARACK VIDEO & TELECOM LLC FOR A) CASE NO. TAM-T-05-1
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY TO PROVIDE FACILITIES-)
BASED LOCAL EXCHANGE.) ORDER NO. 29808
_____)**

On March 15, 2005, Tamarack Video & Telecom LLC filed an Application for a Certificate of Public Convenience and Necessity (CPCN) to provide facilities-based local exchange telecommunications services in the State of Idaho. Tamarack filed an Amended Application on April 15, 2005. On May 12, 2005, the Commission solicited comments regarding the Company's Application. *See* Order No. 29783. Comments were filed by the Commission Staff and two members of the public. The Commission Staff and one private individual supported the Application; the remaining individual opposed both the Application and the Commission's use of Modified Procedure. After reviewing the Application and comments, the Commission approves the Application.

THE APPLICATION

Tamarack Video & Telecom is an Idaho limited liability company with a corporate office and registered agent located in Boise, Idaho. Tamarack Video & Telecom is wholly-owned by Tamarack Resort, LLC.

The Application requests authority to offer facilities-based local exchange telecommunications services in Adams and Valley County. Nonetheless, Tamarack Video & Telecom initially plans to provide telecommunications services exclusively to residential and commercial customers at the Tamarack Resort in Valley County, Idaho.

The Application indicates that the Company will compete primarily with the incumbent local exchange carrier, Frontier. However, Frontier does not currently have an interconnection agreement with the Company and has no facilities at the Tamarack Resort.

COMMENTS

Comments from the Public

On May 19, 2005, a private citizen filed the first comment in this case. This comment supports the Application under the assumption that the Company's service offering will provide necessary competition to Frontier.

On May 31, 2005, Matthew Castrigno, a private citizen who owns a home in the Tamarack Resort, filed a comment in opposition to both the Company's filing and the Commission's use of Modified Procedure. Mr. Castrigno's comments highlight a number of problems associated with Tamarack Video & Telecom's Application and service offerings. Mr. Castrigno expressed concerns regarding: the Company offering local exchange service prior to obtaining a license; the characterization of the Company as a competitive carrier; the characterization of the services provided as Voice Over Internet Protocol (VoIP); the inability of the Company to provide precise location information through its 911 service; and the required use of a proprietary phone.

Staff Comments

On June 2, 2005, the Commission Staff filed comments in support of the Application. Staff supports the Application on the basis that the Company has met all CPCN requirements and the Illustrative Price List complies with the Commission's Rules and the Idaho Code.

Staff reviews all requests for a CPCN certificate pursuant to *Idaho Code* §§ 61-526 through -528, IDAPA 31.01.01.111 and 112 (Rules 111 and 112), and Procedural Order No. 26665. In order to be issued a CPCN, a public utility must provide the Commission with the following information: (1) name, address, and form of business; (2) the date on which the applicant proposes to begin construction or anticipates that it will provide service, including a written description of customer classes and services proposed to be offered; (3) the proposed service territory; (4) certain financial information; (5) maps regarding the proposed service area; (6) a proposed initial tariff and price sheets; (7) contact information; (8) interconnection agreements if any; (9) an agreement to comply with the Commission's Rules; and (10) an escrow account with a bonded escrow agent if the company requires advanced deposits from its customers. Order No. 26665.

Through its review of the Application and numerous discussions with the Company, Staff determined the Company's filing complies with the requirements of the Commission. Staff

believes that the Company understands and agrees to comply with the Commission rules and requirements. Staff further believes that the Company possesses the requisite financial, managerial, and technical qualifications necessary to operate as a provider of telecommunications services. Therefore, based on its review of the Application, Commission Staff recommends approval of the Application for a Certificate.

In addition, after reviewing the other comments filed in this case, Staff determined that the comments did not raise a material issue with regard to the Application. Recognizing that there have been some consumer complaints associated with the Company's service offering and that the Company initially provided local telephone service without a CPCN, Staff nonetheless believes that the Company has been very responsive to these concerns and has worked hard to meet all regulatory requirements.

COMMISSION FINDINGS

Based upon our review of the filing and the record in this case, the Commission finds that Tamarack Video & Telecom's filing satisfies the requirements of the Commission's Rules and Procedural Order No. 26665. Therefore, even though we sympathize with the concerns expressed by Mr. Castrigno, we approve Tamarack Video & Telecom's Application for a Certificate of Public Convenience and Necessity to allow the company to provide telecommunications services in Adams and Valley County.

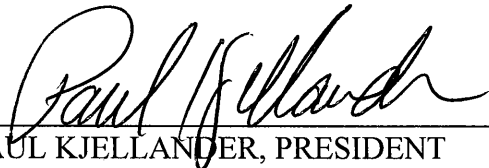
The Commission finds that the failure of Tamarack Video & Telecom to apply for a CPCN before service was offered was the result of a misunderstanding between the Company and Commission Staff regarding the service Tamarack Video & Telecom would be providing and not the result of willful avoidance. In addition, the Commission notes that there is no actual facilities-based competition in local telephone service within the Tamarack Resort, because Frontier lacks both the facilities and an interconnection agreement with Tamarack Video & Telecom. Finally, while the local service offering appears to be at very high rates, we have no ratemaking jurisdiction over Tamarack Video & Telecom, a competitive carrier under federal and state telecommunications law.

ORDER

IT IS HEREBY ORDERED that the Application of Tamarack Video & Telecom for a Certificate of Public Convenience and Necessity is granted to enable the Company to provide resold local exchange and interexchange services in Valley and Adams County.

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 and 62-619.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 24th day of June 2005.



PAUL KJELLANDER, PRESIDENT

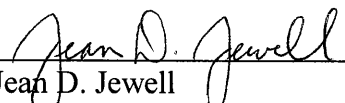


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary