

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF XO COMMUNICATIONS SERVICES,) CASE NO. XOC-T-04-1
INC. FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO)
PROVIDE COMPETITIVE)
TELECOMMUNICATIONS SERVICES) ORDER NO. 29624
WITHIN THE STATE OF IDAHO)**

On July 27, 2004, XO Communications Services, Inc. (XO or Company) filed an Application for a Certificate of Public Convenience and Necessity to provide competitive facilities-based and resold local exchange and interexchange telecommunications services within the State of Idaho. In the Notice of Application and Modified Procedure issued October 6, 2004, the Commission sought comments regarding XO Communications Services Application. Order No. 29608. No comments were received other than those submitted by Commission Staff. Based upon the comments, the law, and the record, the Commission grants XO's Application.

THE APPLICATION

The Application states that XO Communications Services intends to offer a complete set of telecommunications services, which includes local and long distance voice, Internet access, Virtual Private Networking (VPN), Ethernet, Wavelength, Web Hosting, and Integrated voice and data services. The proposed service area is statewide. The Application states that the Company will provide services primarily to small and medium-sized business customers, as well as large business enterprises (e.g., national customers with multiple locations), governmental entities, and institutional end users.

According to the Application, XO Communications Services, the Applicant, and XO Idaho, Inc. are both wholly owned, direct subsidiaries of XO Communications, Inc. XO Idaho is currently authorized to provide competitive local exchange and interexchange telecommunications services pursuant to a Certificate of Public Convenience and Necessity granted by this Commission in Case No. GNR-T-99-1, Order No. 28134. XO Communications Services states that the purpose of the Application is to complete an internal corporate reorganization whereby, upon the Commission's grant of authority requested by the Application, XO Idaho will transfer its intrastate telecommunications assets and customers to XO

Communications Services through a merger between the two subsidiaries. After the merger, XO Idaho will cease to exist and XO Communications Services will assume all of XO Idaho's current operations and customers.

STAFF COMMENTS

In its evaluation of the Company's Application, Staff determined that XO Communications Services is incorporated in the State of Delaware, with Company headquarters in Reston, Virginia. The Company obtained a Certificate of Authority to transact business as a foreign corporation from the Idaho Secretary of State on August 13, 2004. XO has provided the appropriate contact information for its registered agent for service of process within Idaho.

With this Application, the Company proposes to provide Idaho business consumers with a complete set of facilities-based and resold telecommunications services, including local and long distance and integrated voice and data services. Following the merger, and with the Commission's approval, XO Idaho will assign to XO Communications Services, Inc., its existing interconnection agreements with Qwest Corporation, Case No. QWE-T-02-2, and with Verizon Northwest Inc., Case No. VZN-T-04-3.

Based on the Application, XO Communications, Inc., the parent company, through its subsidiaries, currently offers facilities-based broadband services within and between more than 70 markets, intrastate interexchange services virtually nationwide, and competitive local exchange services in 47 states. The Company further states that it is one of the nation's largest holders of fixed wireless spectrum, covering 95% of the population of the 30 largest cities in the United States. The parent company is authorized by the FCC to provide interstate and international telecommunications services.

Staff has reviewed the Application submitted by XO Communications Services, Inc., and believes the Company understands and agrees to comply with the Commission rules and requirements. Based upon its review, Staff recommends that the Company's filing fulfills the requirements of the Commission's Rules and Procedural Order No. 26665. Staff believes the Company possesses the requisite financial, managerial, and technical qualifications necessary to operate as a provider of telecommunications services. Therefore, Staff recommends approval of the Company's Application for a Certificate of Public Convenience and Necessity. Additionally, since the Company indicates that the merger and transfer from XO Idaho to XO Communications Services, Inc. should be complete by January 2005, Staff recommends that the Certificate of

Public Convenience and Necessity currently held by XO Idaho terminate or expire on January 31, 2005, as that company will no longer exist.

COMMISSION FINDINGS

Based upon the comments, the law, and the record, the Commission grants the Application. When considering an application for a Certificate, the Commission must determine if the applicant has the necessary qualifications to provide service while still fostering competition in the local telecommunications market. Based upon our review of the filing and the record in this case, the Commission finds that XO's filing satisfies the requirements of the Commission's Rules and Procedural Order No. 26665. *Id.* Thus, we approve XO Communications Services, Inc.'s Application for a Certificate of Public Convenience and Necessity to allow the Company to provide telecommunications services statewide. This is consistent with our previous Orders granting statewide authority to provide telecommunications services to carriers meeting the established requirements.

ORDER

IT IS HEREBY ORDERED that XO Communications Services, Inc. is granted a Certificate of Public Convenience and Necessity to provide competitive telecommunications services within the state of Idaho.

IT IS FURTHER ORDERED that the Certificate of Public Convenience and Necessity previously granted to XO Idaho, Inc. in Case No. GNR-T-99-1, Order No. 28134, shall terminate and expire on January 31, 2005.

THIS IS A FINAL ORDER. Any person interested in this 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 4th
day of November 2004.



PAUL KJELLANDER, PRESIDENT



MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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