

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0432T

IN THE MATTER OF THE APPLICATION OF EMERY TELECOMMUNICATIONS & VIDEO, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (CPCN) TO PROVIDE PART IV SERVICES (4 CCR 723-2-2002(B) AND 723-2-2103, AND A LETTER OF REGISTRATION (LOR) TO PROVIDE SWITCHED ACCESS SERVICES IN THE STATE OF COLORADO.

**COMMISSION DECISION DEEMING APPLICATION
COMPLETE AND GRANTING APPLICATION**

Issued Date: October 29, 2024

Adopted Date: October 23, 2024

I. BY THE COMMISSION

A. Statement

1. By this Decision, we grant the Application filed by Emery Telecommunications & Video, Inc. (“Emery”) to obtain a Certificate of Public Convenience and Necessity (“CPCN”) and a Letter of Registration (“LOR”) to provide emerging competitive telecommunications services in the non-tribal areas of Mesa, San Miguel, Dolores, and Montezuma Counties pursuant to 4 *Code of Colorado Regulations* (“CCR”) 723-25-4, Commission’s Rules Regulating Telecommunications Service and Providers of Telecommunications Service.

B. Background

2. On October 8, 2024, Emery filed an Application requesting a CPCN and LOR to provide broadband and telecommunications services. Emery intends to seek funding from the Colorado Broadband Office ("CBO") grant program under the Broadband Equity, Access, and Deployment ("BEAD") program. This federal initiative aims to provide funding for the expansion

of high-speed internet access in underserved and unserved areas. To be eligible for federal support, entities must apply through the CBO by October 28, 2024. As part of the Application to the CBO, the entity must hold or have applied for a CPCN and or an LOR from the Commission at the time of its application to the CBO.

3. In its Application, Emery requested a shortened notice and intervention period to meet the deadline for the application to the CBO. This request was granted by the Commission on October 9, 2024, in Decision No. C24-0730-I.

4. Decision No. C24-0730-I served as a notice of the Application to all persons, firms, or corporations, interested in, or affected by the grant or denial of the request. Interventions were due on or before October 18, 2024. No interventions were received in this proceeding.

C. Discussion

5. No one has filed an intervention opposing the Application. We, therefore, find that the Application is unopposed and considered without a formal hearing pursuant to § 406109(5), C.R.S.

6. The Commission modified its Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 CCR 723-2 (Proceeding No. 16R-0453T, effective September 1, 2017). The modified rules allow providers offering Part IV services under §40-15-401, C.R.S., to apply to the Commission to obtain a CPCN. No CPCN is required for services classified in Part IV of Article 15 of Title 40 of the Colorado Revised Statutes. Pursuant to § 4015-503.5, C.R.S., and Commission Rule 2111, 4 CCR 723-2, the Commission may require an applicant requesting an operating authority to post a bond or provide other security as a condition of obtaining a Commission operating authority. Emery, in this Application, is

requesting authority to provide switched access services which remain subject to Commission jurisdiction and require an LOR.

7. With the issuance of this authority, Emery must: (1) have an effective interconnection agreement with the underlying carrier Qwest Corporation, doing business as CenturyLink QC, as necessary, to provide its services; (2) provide the central office name and CLLI code where Emery has collocated its telecommunications equipment; (3) file and have an effective switched access tariff on file with the Commission; and, (4) comply with all statutory and regulatory requirements pursuant to Rule 2103(a)(XVI).

II. ORDER

A. The Commission Orders That:

1. The Application, filed by Emery Telecommunications & Video, Inc. on October 8, 2024, is deemed complete within the meaning of § 40-6-109.5, C.R.S. Emery Telecommunications & Video, Inc. is granted a Certificate of Public Convenience and Necessity to provide Part IV services in the non-tribal areas of Mesa, San Miguel, Dolores, and Montezuma Counties.

2. Emery Telecommunications & Video, Inc. is granted a Letter of Registration (“LOR”) to provide the following emerging competitive telecommunications services in the non-tribal areas of Mesa, San Miguel, Dolores, and Montezuma Counties.: switched access services.

3. Emery Telecommunications & Video, Inc. is required to provide a switched access tariff for these services. Before commencing operations under the LOR to provide switched access services, Emery shall file an Advice Letter and accompanying tariff, on not less than 30 days’ notice and in a new Advice Letter Proceeding, to be effective within one year from the mailed date

of this Decision. The proposed tariff shall contain all the information required under Rule 2122 of the Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 *Code of Colorado Regulations* (“CCR”) 723-2. Emery shall also comply with 47 Code of Federal Regulations § 61.26.

4. Before commencing operations under this LOR to provide switched access telecommunications services, Emery Telecommunications & Video, Inc., as necessary, shall have an effective interconnection agreement with the underlying provider, Qwest Corporation, doing business as CenturyLink QC.

5. Emery Telecommunications & Video, Inc. is not required to create and provide tariffs to the Commission for its CPCN.

6. Emery Telecommunications & Video, Inc., shall not unjustly discriminate among customers in the same class of service, per Commission Rule 4 CCR 723-2-2103.

7. Consistent with terms and conditions established in previous Commission decisions, Emery Telecommunications & Video, Inc. will be required to contribute, as prescribed by statute, rule, or order of the Commission, based on the entirety of its intrastate services regardless of the technology, to the Public Utilities Commission’s Telecommunications Utilities Fund, the Colorado High-Cost Support Mechanism, the Colorado Telephone Users Disabilities Fund, the Statewide 9-1-1 Surcharge Trust Cash Fund, the Statewide 9-8-8 Surcharge, and other financial support mechanisms that may be created in the future by the Commission to implement §§ 4015-502(4) and (5), C.R.S.

8. The 20-day period provided for in § 40-6-114, C.R.S., within which to file an Application for Rehearing, Reargument, or Reconsideration begins on the first day following the effective date of this Decision.

9. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 23, 2024.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners