

Decision No. C21-0196

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0079T

IN THE MATTER OF THE JOINT APPLICATION OF CLEAR RATE HOLDINGS, INC. AND CLEAR RATE COMMUNICATIONS, INC. FOR APPROVAL OF THE TRANSFER OF CONTROL OF CLEAR RATE COMMUNICATIONS, INC. TO CLEAR RATE HOLDINGS, INC.

**COMMISSION DECISION
APPROVING JOINT TRANSFER**

Mailed Date: March 31, 2021

Adopted Date: March 31, 2021

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of a Joint Application filed by Transferee Clear Rate Holdings, Inc. (Holdings) and Transferor Clear Rate Communications, Inc. (Clear Rate) on February 17, 2021. The applicants request Commission authorization for the transfer of control of Clear Rate from direct control of several entities that hold direct equity interest in Clear Rate, to Holdings, a company that will have its equity ownership restructured.

2. We will construe this filing as an application for approval of the transfer of control of the Commission issued telecommunications authority held by Clear Rate pursuant to 4 *Code of Colorado Regulations* 723-2-2110 of the Commission's Rules Regulating Telecommunications Services and Providers of Telecommunications Services.

3. Clear Rate acquired a Letter of Registration (LOR) for the provision of switched access service in Proceeding No. 16A-0246T with Decision No. C16-0597 on July 1, 2016. Clear

Rate is also authorized by the Federal Communications Commission (FCC) to provide interstate and international telecommunications services. An application for authorization to transfer control of Clear Rate's FCC licenses to Holdings was filed on January 21, 2021, with the FCC.

4. Holdings is a Delaware corporation and a holding company established as an acquisition vehicle solely for purposes of this Transaction. L Four, LLC will be the manager of the co-investment vehicle L4-CR Co-Invest, LLC that will hold a majority of the stock of Holdings.

5. Applicants, therefore, request Commission approval of the transfer of control of Clear Rate to Holdings and also request approval for Clear Rate to engage in the Pro Forma Restructuring prior to the closing of the transaction with Holdings. Holdings does not possess any Commission issued telecommunications authorities.

6. On February 19, 2021, a notice of the Joint Application was provided to all persons, firms, or corporations interested in or affected by the grant or denial of the requested relief. Interventions were due on or before March 22, 2021. No interventions were filed.

7. On March 1, 2021, Clear Rate filed a supplement to its Joint Application, submitting a correction to its application. It clarified that Clear Rate Communications, Inc. holds an LOR under Decision No. C16-0597 in lieu of a Certificate of Public Convenience and Necessity (CPCN), as initially stated in its application.

B. Discussion

8. The Commission has jurisdiction over this Joint Application pursuant to §§ 40-5-105, 40-15-204, and 40-15-303, C.R.S.

9. The application contains all of the information required by the applicable Commission Rules and is therefore deemed complete.

10. The application is unopposed and therefore may be considered without a formal hearing, pursuant to § 40-6-109(5), C.R.S.

11. Applicants request Commission approval of the transfer of control of Clear Rate to Holdings and also request approval for Clear Rate to engage in the Pro Forma Restructuring prior to the closing of the transaction with Holdings. Holdings does not hold any Commission issued telecommunications authorities.

12. The application represents that the Pro Forma Restructuring will have no effect on Clear Rate, its customers or operations, but will facilitate the sale to Holdings. Clear Rate will continue to provide robust communications solutions to their customers in order to better compete in the Colorado telecommunications marketplace. Holdings is managerially, technically, and financially well-qualified to complete the transaction and assume indirect ownership and control of Clear Rate.

13. Clear Rate is a competitive provider with Commission issued authority. Except for limited circumstances (such as for providers that are recipients of state high cost support and for the provision of basic emergency services), certifications to provide basic local exchange services are no longer regulated by the Commission. *See* § 40-15-401(1)(b), C.R.S. Similarly, the provision of any other emerging competitive services such as advanced features, premium services, intraLATA toll, non-optional operator services, and private line services, except switched access services and basic emergency services, are no longer regulated by the Commission. *See* §§ 40-15-401(1)(e), (k), (n), (o), (s), (t), C.R.S. Consequently, the Commission does not have the authority to approve the transfers of the CPCNs or those parts of the LORs addressing advanced features, premium services, intraLATA toll, non-optional operator services, and private line services.

14. Switched access services and the provision of basic emergency services have not been deregulated. As a result, we have the authority to review and approve/deny the transfers and encumbrances of the part of authorities held by providers that address those services.

15. We remind applicants that public utilities remain subject to Commission oversight that includes but is not limited to, reporting and payment obligations to the Colorado High-Cost Support Mechanism and the Telecommunications Relay Services Program.

16. We find that the proposed transfer of control of the telecommunications authority held by Clear Rate is not contrary to the public interest and therefore grant the Joint Application for transfer of control to that extent. The Joint Application recognizes the Commission's jurisdiction as it now exists. Entities that hold Commission issued authorities remain obligated to comply with any applicable requirements or regulations as stated in Article 15 of Title 40.

II. ORDER

A. The Commission Orders That:

1. The joint application to transfer filed by Clear Rate Holdings, Inc. (Holdings) and Clear Rate Communications, Inc. (Clear Rate) is deemed complete. The request to transfer control of the Commission issued authority held by Clear Rate to Holdings is granted.

2. Holdings and Clear Rate or their authorized representatives shall jointly notify the Commission if the transfer has been terminated or is not completed within 60 days of the proposed effective date stated in the application or if the proposed transfer terms are changed prior to the consummation date. The notice shall include the proceeding and decision numbers which granted the authority to execute the transfer.

3. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 31, 2021.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners