

Decision No. C23-0510

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0326T

IN THE MATTER OF THE APPLICATION OF NEXTCITY NETWORKS COLORADO, LLC FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (CPCN) TO PROVIDE PART IV SERVICES (4 CCR 723-2-2103).

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

Mailed Date: August 2, 2023
Adopted Date: August 2, 2023

I. BY THE COMMISSION

A. Statement

1. By this Decision, we grant the application of NextCity Networks Colorado, LLC (NextCity) for a Certificate of Public Convenience and Necessity (CPCN) to provide Part IV services in Colorado, as discussed below.

B. Background

2. On June 20, 2023, NextCity filed an Application for a CPCN to provide Part IV services. NextCity plans to construct and deploy fiber networks throughout the state of Colorado, pursuant to Rule 2103 of the Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 *Code of Colorado Regulations* (CCR) 723-2.

3. On June 22, 2023, notice of the Application was provided to all persons, firms, or corporations, interested in, or affected by the grant or denial of the request. Interventions were due on or before July 24, 2023. No interventions were received in this proceeding.

C. Discussion

3. No one has filed an intervention opposing the Application. We, therefore, find that the Application is unopposed and consider it without a formal hearing pursuant to § 406-109(5), C.R.S.

4. NextCity represents that it will not be offering any retail telecommunications services and intends to build out and deploy fiber networks in order for its customers to be able to provide retail services.

5. The Commission modified its Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 CCR 723-2 (Proceeding No. 16R-0453T, with an effective date of 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 § 40-15-503.5, 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.

6. With the issuance of this authority, NextCity must: comply with all statutory and regulatory requirements pursuant to Rule 2103(a)(XVI), 4 CCR 723-2.

II. ORDER

A. The Commission Orders That:

1. NextCity is granted a Certificate of Public Convenience and Necessity to provide wholesale Part IV services on a statewide basis.

2. If NextCity intends to provide retail services, it will need to amend this Certificate of Public Convenience and Necessity and file an application consistent with Rule 2105, 4 CCR 723-2.

3. NextCity is not required to create and provide tariffs to the Commission.

4. NextCity shall not unjustly discriminate among customers in the same class of service, per Commission Rule 4 *Code of Colorado Regulations* 723-2-2103.

5. Consistent with terms and conditions established in previous Commission decisions, NextCity 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.

6. 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.

7. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 2, 2023**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners