

Decision No. C24-0043

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0590T

IN THE MATTER OF THE APPLICATION OF BARR TELL USA, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY (CPCN) TO PROVIDE PART IV SERVICES AND A LETTER OF REGISTRATION (LOR) TO PROVIDE SWITCHED ACCESS SERVICES (4 CCR 723-2-2103).

**COMMISSION DECISION GRANTING
APPLICATION WITH CONDITIONS**

Mailed Date: January 19, 2024

Adopted Date: January 17, 2024

I. BY THE COMMISSION

A. Statement

1. By this Decision, we grant, with conditions the application of Barr Tell USA, Inc. (Barr Tell) for a Certificate of Public Convenience and Necessity (CPCN) to provide local exchange telecommunications services and a Letter of Registration (LOR) to provide emerging competitive telecommunications services throughout the State of Colorado. 4 *Code of Colorado Regulations* (CCR) 723-25-4, Commission's Rules Regulating Telecommunications Service and Providers of Telecommunications Service.

B. Background

2. On December 5, 2023, Barr Tell filed an Application for a CPCN and an LOR to provide Part IV services. Barr Tell plans to provide facilities-based and resold telephone services throughout Colorado.

3. On December 13, 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 January 12, 2024. No interventions were received in this proceeding.

4. On December 18, 2023, Barr Tell filed a statement of willingness to provide financial assurance pursuant to Commission Staff's calculation, based upon Barr Tell's projected revenues. Barr Tell agrees to provide the Commission with financial assurance in the form of a bond or a letter of credit for \$37,003 as a condition of obtaining its CPCN.

C. Discussion

5. No one has filed an intervention opposing the Application. We, therefore, find that the Application is unopposed and considered it without a formal hearing pursuant to § 406-109(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 § 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. Barr Tell in this Application is requesting authority to provide switched access services which remain subject to Commission jurisdiction and require a LOR.

7. With the issuance of this authority, Barr Tell must: (1) have an effective interconnection agreement with the underlying carrier CenturyLink, as necessary, to provide its services; (2) provide the central office name and CLLI code where Barr Tell 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).

8. Due to the financial information provided by Barr Tell, we conclude that financial assurance for the issuance of a CPCN is necessary and appropriate in the form of either a bond or a letter of credit and shall be required to be posted with the Commission under the terms and conditions specified in the Attachments to this Decision. The issuance of a bond or letter of credit is consistent with previously issued Commission decisions granting CPCNs when financial fitness is an issue. Section 40-15-503.5, C.R.S., and Commission Rule 2111 allow the Commission to impose a bond or other security as a condition of obtaining an operating authority.

9. With the issuance of this authority, Barr Tell must: (1) file a bond or letter of credit consistent with the terms and conditions in the Attachments to this Decision; and (2) comply with all applicable statutory and regulatory requirements pursuant to Rule 2103(a)(XVI), 4 CCR 723-2.

II. ORDER

A. The Commission Orders That:

1. Barr Tell USA, Inc., is granted a Certificate of Public Convenience and Necessity to provide wholesale Part IV services on a statewide basis with the conditions included herein.

2. Barr Tell USA, Inc. is granted a Letter of Registration to provide emerging competitive telecommunications services throughout the State of Colorado: switched access services.

3. Barr Tell USA, Inc. is required to provide a switched access tariff for these services. Before commencing operations under the LOR to provide switched access services, Barr Tell USA, Inc. 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* 723-2. Barr Tell USA, Inc. shall also comply with 47 *Code of Federal Regulations* § 61.26.

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

5. Barr Tell USA, Inc., is not required to create and provide tariffs to the Commission for its CPCN.

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

7. Before commencing operations under this CPCN to provide Part IV services, Barr Tell USA, Inc., shall file with the Commission, financial assurance in the form of a bond or letter of credit consistent with the terms and conditions as described in the Attachments to this Decision.

8. If Barr Tell USA, Inc., fails to file financial assurance within one year from the Mailed Date of this Decision, this CPCN to provide Part IV services shall be deemed null and void without further action of the Commission. For good cause shown, and if a proper request is filed within one year of the Mailed Date of this Decision, the Commission may grant additional time within which to file financial assurance.

9. Consistent with terms and conditions established in previous Commission decisions, Barr Tell USA, 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.

10. 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.

11. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 17, 2024.**

(SEAL)



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