

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-464T

IN THE MATTER OF THE APPLICATION OF ORBITCOM, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES AND FOR A LETTER OF REGISTRATION TO PROVIDE EMERGING COMPETITIVE TELECOMMUNICATIONS SERVICES.

ORDER GRANTING APPLICATION

Mailed Date: December 1, 2003
Adopted Date: November 26, 2003

I. BY THE COMMISSION

A. Statement and Findings of Fact

1. On October 22, 2003, OrbitCom, Inc. (OrbitCom), filed an application for a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services and a Letter of Registration to provide emerging competitive telecommunications services throughout the State of Colorado. 4 *Code of Colorado Regulations* (CCR) 723-25-4.

2. Notice of the application was posted on the Commission's web site on October 24, 2003. Interventions were due on or before November 13, 2003. None were filed.

3. On October 30, 2003, OrbitCom filed supplemental information at the request of Commission Staff. The responses supplemented and clarified the outstanding items in the docket.

4. Granting the application of OrbitCom is consistent with the legislative policy statements contained in §§ 40-15-101, 40-15-501, and 40-15-502, C.R.S.

5. Before providing local exchange and emerging competitive telecommunications services, OrbitCom must: (1) have effective tariffs for its services on file with the Commission; and (2) comply with all statutory and regulatory requirements applicable to telecommunications providers subject to the jurisdiction of the Commission. *See* 4 CCR 723-25-4.1.10.

II. ORDER

A. The Commission Orders That:

1. OrbitCom, Inc.'s (OrbitCom) application is deemed complete.
2. OrbitCom is granted a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services throughout the State of Colorado. A detailed description of the applicant's service territory will be delineated in the local exchange maps filed with the tariff.
3. OrbitCom's local exchange telecommunications services will be regulated under the default regulatory scheme contained in 4 *Code of Colorado Regulations* (CCR) 723-38.
4. OrbitCom is granted a Letter of Registration to provide the following emerging competitive telecommunications services throughout the State of Colorado: intraLATA toll, interLATA toll, and switched access services..
5. OrbitCom's emerging competitive telecommunications services will be regulated under the default regulatory scheme contained in 4 CCR 723-38.
6. OrbitCom shall serve customers in its service territory on a non-discriminatory basis. "Service territory" shall be defined as that portion of Colorado included in the local

exchange maps provided with the applicant's tariffs. However, OrbitCom shall not be required to extend service to customers where the underlying facilities-based provider has no facilities.

7. Unless the Commission orders otherwise, OrbitCom shall begin providing local exchange and emerging competitive telecommunications services within three years after the grant of this Certificate of Public Convenience and Necessity. *See* 4 CCR 723-25-6.

8. Before commencing operations under this Certificate of Public Convenience and Necessity to provide local exchange telecommunications services and Letter of Registration to provide emerging competitive telecommunications services, OrbitCom shall file an Advice Letter containing local exchange maps, local calling areas, and a proposed tariff to become effective on not less than 30 days' notice. *See* 4 CCR 723-1-41. OrbitCom may also file a separate price list with the proposed tariff.

9. If OrbitCom fails to file an effective tariff within three years from the Mailing Date of this Order, this Certificate of Public Convenience and Necessity to provide local exchange telecommunications services and this Letter of Registration to provide emerging competitive telecommunications services shall be deemed null and void. For good cause shown, and if a proper request is filed within three years of the Mailing Date of this Order, the Commission may grant OrbitCom additional time within which to file a tariff.

10. In accordance with the Commission's Rules of Practice and Procedure, OrbitCom will be required to maintain its books of accounts and records using Generally Accepted Accounting Principles. *See* 4 CCR 723-1-25(c).

11. Consistent with terms and conditions established in previous Commission decisions, OrbitCom will be required to contribute to the Public Utilities Commission's Fixed

Utilities Fund, the Colorado High Cost Support Mechanism, the Telecommunications Relay Services for the Disabled Telephone Users Program, the Emergency Telephone Access Act Program (Low Income Fund), and other financial support mechanisms that may be created in the future by the Commission to implement §§ 40-15-502(4) and (5), C.R.S.

12. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 26, 2003.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners