

Decision No. C22-0645

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22U-0391T

IN THE MATTER OF THE BANDWIDTH.COM CLEC LLC DBA BANDWIDTH.COM
PETITION FOR DECLARATION OF INTENT TO SERVE WITHIN THE TERRITORY OF A
RURAL TELECOMMUNICATIONS PROVIDER AS PROVIDED IN RULES 2003(A)(III)
AND 2017.

COMMISSION DECISION GRANTING PETITION

Mailed Date: October 25, 2022

Adopted Date: October 19, 2022

I. BY THE COMMISSION

A. Statement

1. On September 8, 2022, Bandwidth.com CLEC, LLC (Bandwidth), filed a petition stating its Declaration of Intent to Serve Within the Territory of a Rural Telecommunications Provider (Petition) pursuant to Rules 2003(a)(III) and 2107 of the Rules Regulating Telecommunications Services and Providers of Telecommunications Services, 4 *Code of Colorado Regulations* (CCR) 723-2.

2. Bandwidth is authorized to provide facilities-based and resold local exchange services and emerging competitive communications services.

3. The services to be provided are located in the service territory of Bijou Telephone Cooperative Association, Inc (Bijou), the company intends to provide services in the Byers and Deer Trail exchanges. Bandwidth will also provide services in the territory of CenturyTel of Eagle, Inc. d/b/a CenturyLink (CenturyTel), specifically in the Dinosaur exchange.

4. Bandwidth has represented in its Petition that it has directly notified Bijou Telephone Cooperative Association, Inc and CenturyTel of Eagle, Inc d/b/a CenturyLink the rural incumbents affected, by first class mail, of their Declaration of Intent to Serve. This is a requirement of Rule 2107.

5. No petition to intervene or notice of intervention has been filed, and thus the Petition is uncontested. Accordingly, the Petition will be determined without a formal hearing in accordance with § 40-6-109(5), C.R.S., and Rule 1403 of the Rules of Practice and Procedure, 4 CCR 7231.

B. Discussion

6. The service territory of Bijou is currently open to competitive providers and competition. The service territory of Bijou is also subject to competition as demonstrated by interconnection agreements (including Proceeding No. 21T-0454 Level 3 Communications).

7. The service territory of CenturyTel is currently open to competitive providers and competition. The service territory of Bijou is also subject to competition as demonstrated by interconnection agreements (including Proceeding Nos. 08T-087T ZippyTech, Inc and 19T-0028 Onvoy, LLC).

8. Bandwidth was granted a Certificate of Public Convenience and Necessity (CPCN) to provide local exchange telecommunications by Decision No. C08-0216, in Proceeding No. 07A-414T, mailed date of February 27, 2008.

9. In 2014, the General Assembly passed telecom deregulation legislation that reclassified many services into Part 4 of Title 40, Article, 15. See § 40-15-401, C.R.S. Subject to certain exceptions, including those for basic service as provided in § 40-15-401(1)(b), C.R.S., products, services, and providers listed in § 40-15-401, C.R.S. (Part 4), “are exempt from

regulation under this article or under the ‘Public Utilities Law’ of the state of Colorado.” § 40-15-401(1), C.R.S. Section 402 also emphasizes the deregulatory status of services listed in section 401, by stating: “Nothing in articles 1 to 7 of this title [40] or parts 2 and 3 of this article [15] shall apply to deregulated services and products pursuant to this part 4.” § 40-15-402(1), C.R.S.

10. We acknowledge that Bandwidth’s services are no longer regulated under Part 2 of § 40-15-201, C.R.S., but Bandwidth is requesting approval of its intent to serve pursuant to Rule 2107 adopted September 1, 2017. The Commission, by this Decision, is not asserting jurisdiction over Bandwidth’s services.

11. The Commission updated its existing telecommunications rules to be consistent with the 2014 Telecommunications Reform Legislation. *See Proceeding No. 16R-0453T*. The 2014 Telecommunications Reform Legislation made changes that no longer require Commission authorization (a CPCN) to offer deregulated local exchange services.

12. The Commission will consider Bandwidth’s Petition but affirms that it does not assert any jurisdiction over deregulated services of local exchange services. The Company intends to provide these services in the Byers, Deer Trail, and Dinosaur exchanges.

13. We find that granting Bandwidth’s Petition is consistent with the legislative policy statements contained in §§ 40-15-101, 40-15-501, and 40-15-502, C.R.S., the Telecommunications Act of 1996, 47 U.S.C. § 251, and with the public interest in Bandwidth to provide competitive services in the requested rural exchanges.

II. ORDER

A. The Commission Orders That:

1. The Petition filed by Bandwidth.com CLEC, LLC on September 8, 2022, stating its Declaration of Intent to Serve Within the Territory of a Rural Telecommunications Provider to

serve in the Byers, Deer Trail, and Dinosaur exchanges is granted. Notwithstanding the granting of the Petition, the Commission is not exerting jurisdiction over Bandwidth.com CLEC, LLC.

2. The 20-day time period provided by § 40-6-114, C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Decision.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 19, 2022.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners