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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

CP 1139

In the Matter of)	
)	
INMARK, INC. dba PREFERRED BILLING)	ORDER
)	
Application for a Certificate of Authority to)	
Provide Telecommunications Service in Oregon)	
and Classification as a Competitive Provider.)	

DISPOSITION: APPLICATION GRANTED

Note: By issuing this certificate, the Commission makes no endorsement or certification regarding the certificate holder's rates or service.

The Application

On January 13, 2003, Inmark, Inc. dba Preferred Billing, (Applicant) filed an application for certification to provide telecommunications service in Oregon as a competitive provider. The application requests authority to provide interexchange telecommunications service on a resale basis statewide in Oregon.

Applicant proposes to provide interexchange switched service (toll) and private line (dedicated transmission service) statewide in Oregon. Applicant will operate as a reseller of interexchange service. Applicant may not construct its own facilities or purchase unbundled network elements for resale from other certified carriers for interexchange and intraexchange service.

Applicant will not directly provide operator services as defined in OAR 860-032-0001 and will not be an 'operator service provider' as defined in ORS 759.690(1)(d).

Procedural History

Inmark, Inc. dba Preferred Billing was first granted a certificate of authority to provide telecommunications service in Oregon as a competitive provider on January 10, 1997. *See* Order No. 97-018, docket CP 258. On January 2, 2001, that certificate of authority was canceled by Order No. 01-049 for failure to respond to Commission requests to file required reports and fees with the Commission for the year 2000. Subsequently, the company filed the required forms and payments and the cancellation order was rescinded on May 4, 2001 by Order No. 01-394. The company again failed to respond to Commission requests to file required forms and payments, this time for the year 2001. The authority was canceled again on July 27, 2001 by Order No. 01-658.

The application before us now requests the same authority as the two prior certificates. At the time of filing, the company was delinquent with payment of required fees, had been operating for two years without a certificate of authority, and the assumed business name was not active with the Secretary of State. The Commission had questions regarding the public interest of granting another certificate to a company who consistently did not comply with Commission regulations.

On May 28, 2003, Inmark, Inc. dba Preferred Billing filed a letter with the Commission acknowledging that the company has faced a series of difficulties leading to its failure to comply with Commission regulations. The letter also requested that any outstanding concerns the Commission had be resolved on an informal basis. On May 29, 2003, the Commission issued a ruling granting the company's request. On June 16, 2003, the Commission issued a data request for information from the company assuring future compliance with Commission regulations and payments of required fees. The Commission received a response to the data request on June 30, 2003. The response indicated that Inmark, Inc. dba Preferred Billing has added staff specifically to ensure that the company complies with Commission regulations.

The Commission served notice of the application on February 12, 2003. No protests or requests to be made parties of the proceeding were filed.

Based on the record in this matter, the Commission makes the following:

FINDINGS AND CONCLUSIONS

Applicable Law

Several statutory provisions apply to this application. First, ORS 759.020 governs Applicant's request to provide telecommunications as a competitive provider.

Under ORS 759.020(5), the Commission shall classify Applicant as a competitive provider if Applicant demonstrates that its services are subject to competition, or that its customers or those proposed to become customers have reasonably available alternatives. In making this determination, the Commission must consider the extent to which services are available from alternative providers that are functionally equivalent or substitutable at comparable rates, terms and conditions, existing economic or regulatory barriers to entry, and any other factors deemed relevant.

ORS 759.425 and OAR 860-032-0008(2) governs the obligation of competitive providers to comply with Oregon Universal Service Fund (OUS) requirements. ORS 759.020, OAR 860-032-0013 and OAR 860-032-0005 govern the requirement that all telecommunications providers must have a certificate of authority to provide telecommunications service for hire in Oregon. This statute and rule also govern Applicant's request to provide telecommunications as a competitive provider. OAR 860-032-0007 generally describes the conditions of certificates of authority, but specifically, sections (11), (12), and (15) addresses the requirements of responding to Commission inquiries, submitting required reports, and timely paying all Commission taxes, fees or assessments. OAR 860-032-0095 governs annual fees payable to the Commission by a competitive provider. ORS 759.050(2) and OAR 860-032-0005 address the public interest criteria the Commission may use to determine whether to grant a certificate of authority.

OAR 860-032-0015 authorizes the Commission to suspend or cancel the certificate if the Commission finds that (a) the holder made misrepresentations when it filed the application, or (b) the certificate holder fails to comply with the terms and conditions of the certificate.

Factual Findings

Applicant has been canceled twice for failure to respond to Commission requests, failure to file annual reports and fees, and failure to file OUS reports and fees. The company operated without a certificate of authority and had done so since July 27, 2001. At the time of filing, the assumed business name of Preferred Billing was not active with the Secretary of State.

Applicant has supplied the Commission with assurance of future compliance with all regulations regarding operating as a competitive telecommunications provider in Oregon. Applicant reactivated the assumed business name with the Secretary of State and is up to date in all delinquent fees and reports.

Designation as a Competitive Provider

Applicant has met the requirements for classification as a competitive telecommunications service provider. Applicant's customers or those proposed to become customers have reasonably available alternatives. The incumbent telecommunications utilities and cooperative corporations listed in the appendices provide the same or similar local exchange services in the local service area requested by Applicant. AT&T, WorldCom, Sprint Communications, Qwest Corporation, Verizon Northwest Inc., and others provide interexchange telecommunications service in the service area requested by Applicant. Subscribers to Applicant's services can buy comparable services at comparable rates from other vendors. Economic and regulatory barriers to entry are relatively low.

Public Interest

With regard to the general factual conclusions relevant to this proceeding, the Commission adopts the Commission's findings in Order No. 93-1850 and Order No. 96-021. Based on a review of those findings, as well as information contained in the application, and from the data request response, the Commission concludes that it is in the public interest to grant the application of Inmark, Inc. dba Preferred Billing, to provide statewide interexchange authority as described in the application.

If this certificate is canceled once again because Applicant does not follow rules applicable to the certificate despite its assurances to the contrary, and Applicant files yet another application, the Commission will seriously consider whether it is in the public interest to grant a certificate of authority to Inmark, Inc. when the company has demonstrated that it repeatedly ignores Commission rules.

Conditions on the Certificate

There are several conditions listed in the application. Oregon Administrative Rules relating to certificates of authority are generally included in OAR chapter 860, division 032. Conditions applicable to certificate holders include, but are not limited to the following: OARs 860-032-0007, 860-032-0008, 860-032-0011, 860-032-0012, 860-032-00013, 860-032-0015, 860-032-0020, 860-032-0045, 860-032-0060, 860-032-0090, and 860-032-0095. The conditions listed in the application and those contained in Oregon Administrative Rules are adopted and made conditions of this certificate of authority. A condition of this certificate of authority is that Applicant shall comply applicable laws, Commission rules, and Commission orders related to provision of telecommunications service in Oregon.

1. Applicant shall not take any action that impairs the ability of other certified telecommunications service providers to meet service standards specified by the Commission.
2. Applicant shall comply with all conditions listed in the application.
3. Applicant shall pay an annual fee to the Public Utility Commission of Oregon pursuant to ORS 756.310 and 756.320 and OAR 860-032-0095. The minimum annual fee is \$100. Applicant is required to pay the fee for the preceding calendar year by April 1.
4. Applicant shall pay a quarterly amount to the Oregon Universal Service Fund based on a Commission approved surcharge percentage assessed on all retail telecommunications services sold in Oregon, pursuant to ORS 759.425(4). establish an EAS route from a given local exchange beyond the EAS area for that exchange.
5. If applicant provides services to a subscriber who, in turn, resells the services, including operator services, then Applicant and subscriber must comply with ORS 759.690 and OAR 860-032-0007.

ORDER

IT IS ORDERED that:

1. The application of Inmark, Inc. dba Preferred Billing, is granted with conditions described in this order.
2. Applicant is designated as a competitive telecommunications provider for interexchange service statewide in Oregon.
3. Applicant may provide authorized services statewide in Oregon.
4. Applicant shall comply with all conditions of the certificate.

Made, entered, and effective _____.

John Savage
Director
Utility Program

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.