ORDER NO. 24-093

ENTERED Apr 09 2024

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

CP 1681

In the Matter of BARR TELL USA, INC. Application for a Certificate of Authority to Provide Telecommunications Service in Oregon and Classification as a Competitive Provider.	ORDER

DISPOSITION: DOCKET CP 1681, 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 April 5, 2024, Barr Tell USA, Inc. (Applicant) filed an application for certification to provide telecommunications service in Oregon as a competitive provider.

Applicant proposes to provide intra-exchange (local exchange) switched service (i.e., local dial tone) within all exchanges of the telecommunications utilities and cooperative corporations listed in Appendices A and B to this order.

Applicant also proposes to provide interexchange switched service (toll) statewide in Oregon.

Applicant indicates that it does not intend to construct facilities and will operate as a reseller for intra-exchange and interexchange service. Applicant may purchase network elements and finished services for resale only from other certified carriers.

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).

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

FINDINGS AND CONCLUSIONS

Applicable Law

Two 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.

Second, ORS 759.050 governs Applicant's request to provide local exchange telecommunications service. Under ORS 759.050(2)(a), the Commission may authorize Applicant to provide local exchange service within the local exchange of a telecommunications utility if the Commission determines such authorization would be in the public interest. In making this determination, the Commission must consider the extent to which services are available from alternative providers, the effect on rates for local exchange service customers, the effect on competition and availability of innovative telecommunications service in the requested service area, and any other facts the Commission considers relevant. *See* Order No. 96-021.

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, Sprint Communications, Qwest Corporation, Ziply Fiber Northwest LLC, 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

Regarding 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, the Commission concludes that it is in the public interest to grant the application of Barr Tell USA, Inc. to provide local exchange telecommunications service as a competitive telecommunications provider in exchanges of the telecommunications utilities and cooperative corporations listed in the appendices, as described in the application. Further, it is in the public interest to grant statewide interexchange authority as described in the application. This finding will have no bearing on any determination the Commission may be called upon to make under sections 251 or 252 of the Telecommunications Act of 1996 (47 USC § 251, 252) regarding the telecommunications utilities and cooperative corporations in this docket.

Conditions of the Certificate

In Order No. 96-021, the Commission interpreted ORS 759.050 and established conditions applicable to competitive local exchange carriers. Also, other conditions are listed in administrative rules, including among others OAR 860-032-0007. Applicant, as a competitive provider, shall comply with the conditions adopted in Order No. 96-021, as well as all applicable laws, Commission rules, and orders related to provision of telecommunications service in Oregon.

Per ORS 759.050(2)(c) and Order No. 96-021, Applicant shall comply with the following conditions.

1. Applicant shall terminate all intrastate traffic originating on the networks of other telecommunications providers that have been issued a certificate of authority by the Commission.

2. Applicant shall make quarterly contributions to the Oregon Universal Service Fund based on a Commission approved schedule and surcharge percentage assessed on all retail intrastate telecommunications services sold in Oregon, pursuant to ORS 759.425 and OAR 860-100-0110. If Applicant bills the surcharge to its end-users, Applicant shall show the charges as a separate line item on the bill with the words "Oregon Universal Service Surcharge ____%".

3. Applicant shall offer E-911 service. Applicant has primary responsibility to work with the E-911 agencies to ensure that all users of its services have access to the emergency system. Applicant will deliver or arrange to have delivered to the correct 911 Controlling Office its customers' Automatic Number Identification telephone numbers so the lead 911 telecommunications service provider can deliver the 911 call to the correct Public Safety Answering Point. Applicant shall work with each 911

district and lead 911 telecommunications service provider to develop procedures to match Applicant's customer addresses to the 911 district's Master Street Address Guide in order to obtain the correct Emergency Service Number (ESN) for each address. Applicant shall provide the lead 911 telecommunications service provider with daily updates of new customers, moves, and changes with the correct ESN for each.

4. For purposes of distinguishing between local and toll calling, Applicant shall adhere to local exchange boundaries and Extended Area Service (EAS) routes established by the Commission. Applicant shall not establish an EAS route from a given local exchange beyond the EAS area for that exchange.

5. When Applicant is assigned one or more NXX codes, Applicant shall limit each of its NXX codes to a single local exchange or rate center, whichever is larger, and shall establish a toll rate center in each exchange or rate center proximate to that established by the telecommunications utility or cooperative corporation serving the exchange or rate center.

6. Applicant shall pay an annual fee to the Commission 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.

7. Pursuant to Oregon Laws 1987, chapter 290, sections 2-8, and to OAR chapter 860, division 033, Applicant shall ensure that the Residential Service Protection Fund surcharge is remitted to the Commission. This surcharge is assessed against each retail subscriber at a rate that is set annually by the Commission.

Competitive Zones

All exchanges of the telecommunications utilities and cooperative corporations listed in the appendices to this order are designated competitive zones pursuant to ORS 759.050(2)(b).

Pricing Flexibility

Dedicated Transmission Service

The telecommunications utilities listed in Appendix A are granted pricing flexibility for dedicated transmission service in their respective exchanges by this order. *See* Order No. 93-1850, Docket UM 381.

Local Exchange Switched Service

Cooperative telephone companies are generally not regulated by the Commission for local exchange services, and therefore already have pricing flexibility. Any telecommunications utility exempt under ORS 759.040, listed in Appendix A, has pricing flexibility for local exchange service. By Order No. 96-021, at page 72, pursuant to ORS 759.050(5), the Commission established procedures whereby telecommunications utilities would be granted pricing flexibility for local exchange switched services. Qwest has complied with those procedural requirements for all except two of its exchanges. Ziply Fiber Northwest LLC has complied with those procedural requirements for all but one of its exchanges.

ORDER

IT IS ORDERED that:

1. The application of Barr Tell USA, Inc. is granted with conditions described in this order.

2. Applicant is designated as a competitive telecommunications provider for intra-exchange service in the local exchanges of the telecommunications utilities and cooperative corporations listed in Appendices A and B. In addition, Applicant is designated as a competitive telecommunications provider for interexchange service statewide in Oregon.

3. The local exchanges of the telecommunications utilities and cooperative corporations listed in Appendices A and B are designated as competitive zones.

4. Any obligation regarding interconnection between Applicant and the telecommunications utilities and cooperative corporations listed in Appendices A and B shall be governed by the provisions of the Telecommunications Act of 1996 (the Act). Commission Order No. 96-021 will govern the interconnection obligations between such parties for the provision of switched local services, unless otherwise addressed by an interconnection agreement or subsequent Commission order.

5. No finding contained in this order shall have any bearing on any determination the Commission may be called upon to make under sections 251 or 252 of the Act with regard to the telecommunications utilities and cooperative corporations listed in the appendices to this order.

6. The telecommunications utilities listed in Appendix A shall receive pricing flexibility on an exchange-by-exchange basis as set forth in this order.

Made, entered, and effective Apr 9, 2024.

Nolan Moser
Chief Administrative Law Judge

A party may request rehearing or reconsideration of this order under 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 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

APPENDIX A

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EXCHANGES ENCOMPASSED BY THE APPLICATION:

ALL EXCHANGES OF THE TELECOMMUNICATIONS UTILITIES LISTED BELOW

Telecommunications Utilities Not Exempt Pursuant to ORS 759.040

CenturyTel of Eastern Oregon, Inc. dba CenturyLink
CenturyTel of Oregon, Inc. dba CenturyLink
Qwest Corporation dba CenturyLink QC
United Telephone Company of the Northwest dba CenturyLink
Ziply Fiber Northwest LLC
Ziply Fiber of Oregon LLC

Telecommunications Utilities Exempt Pursuant to ORS 759.040

Asotin Telephone Company
Cascade Utilities, Inc.
Eagle Telephone System, Inc.
Helix Telephone Company
Home Telephone Company
Monroe Telephone Company
Nehalem Telecommunications, Inc.
North-State Telephone Company
Oregon Telephone Corporation
Oregon-Idaho Utilities, Inc.
People's Telephone Company
Pine Telephone System, Inc.
Roome Telecommunications, Inc.
Trans-Cascades Telephone Company

APPENDIX B

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EXCHANGES ENCOMPASSED BY THE APPLICATION:

ALL EXCHANGES OF THE COOPERATIVE
CORPORATIONS LISTED BELOW

Beaver Creek Cooperative Telephone Company
Canby Telephone Association
Clear Creek Mutual Telephone
Colton Telephone Company
Gervais Telephone Company
Molalla Telephone Company
Monitor Cooperative Telephone Co.
Pioneer Telephone Cooperative
Scio Mutual Telephone Association
St. Paul Cooperative Telephone Association
Stayton Cooperative Telephone Co.