

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)	
CBEYOND COMMUNICATIONS, LLC , for a)	
license to provide basic local exchange service)	
in the areas served by SBC Michigan, and Verizon)	Case No. U-14165
North Inc. and Contel of the South, Inc., d/b/a)	
Verizon North Systems.)	
_____)	

At the October 14, 2004 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chair
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

OPINION AND ORDER

On June 21, 2004, Cbeyond Communications, LLC (Cbeyond), filed an application, pursuant to the Michigan Telecommunications Act (MTA), MCL 484.2101 et seq., for a license to provide basic local exchange service in the areas currently served by SBC Michigan, and Verizon North Inc. and Contel of the South, Inc., d/b/a Verizon North Systems.

At the September 15, 2004, hearing Cbeyond presented the testimony and exhibits of Julia O. Strow, its Vice President of Regulatory and Industry Relations. At the close of the hearing, the parties waived compliance with the provisions of Section 81 of the Michigan Administrative Procedures Act, MCL 24.281.

After a review of the application and testimony, the Commission finds that approval of the application is in the public interest. On numerous occasions, the Commission has found that

competition can be advantageous to the citizens of this state. Approval of the request for a license to provide basic local exchange service will expand the opportunities for competition.

Accordingly, the application should be approved. The grant of a license is conditioned on full compliance with the provisions of the MTA, as well as the anti-slamming procedures adopted in Case No. U-11900 and the number reclamation process adopted in Case No. U-12703. Failure to comply fully may result in revocation of the license or other penalties. Further, the grant of a license is conditioned upon the provision of service to customers within a reasonable time. Failure to do so may result in revocation of the license. Finally, the Commission notes that any numbers obtained by the applicant are a public resource and are not owned by the applicant. Consequently, if the applicant fails to provide service or goes out of business, any numbers assigned to it are subject to reclamation.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.

b. Cbeyond possesses sufficient technical, financial, and managerial resources and abilities to provide basic local exchange service to all residential and commercial customers within the geographic area of the license and intends to provide service within one year from the date of this order.

c. Granting Cbeyond license to provide basic local exchange service in the requested areas will not be contrary to the public interest.

THEREFORE, IT IS ORDERED that:

A. Cbeyond Communications, LLC, is granted a license to provide basic local exchange service in the areas currently served by SBC Michigan, and Verizon North Inc. and Contel of the South, Inc., d/b/a Verizon North Systems.

B. Cbeyond Communications, LLC, shall provide basic local exchange service in accordance with the regulatory requirements specified in the Michigan Telecommunications Act, MCL 484.2101 et seq., including the number portability provisions of Section 358, the anti-slamming procedures adopted in Case No. U-11900, and the number reclamation process adopted in Case No. U-12703.

C. Before commencing basic local exchange service, Cbeyond Communications, LLC, shall submit its tariff reflecting the services that it will offer and identifying the exchanges in which it will offer service.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chair

(S E A L)

/s/ Robert B. Nelson
Commissioner

/s/ Laura Chappelle
Commissioner

By its action of October 14, 2004.

/s/ Mary Jo Kunkle
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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Suggested Minute:

“Adopt and issue order dated October 14, 2004 granting Cbeyond Communications, LLC, a license to provide basic local exchange service, as set forth in the order.”