STATE OF SOUTH CAROLINA

(Caption of Case)

Application of Broadview Networks, Inc. for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange Telecommunications Services in the State of South Carolina and for Flexible Regulation

BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

COVER SHEET

DOCKET NUMBER: 2009 - 452 - C

(Please type or print)
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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ **Emergency Relief demanded in petition**

☐ **Request for item to be placed on Commission's Agenda expeditiously**

☐ **Other:**

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
☐ Electric	☐ Affidavit	☐ Letter	☐ Request
☐ Electric/Gas	☐ Agreement	☐ Memorandum	☐ Request for Certification
☐ Electric/Telecommunications	☐ Answer	☐ Motion	☐ Request for Investigation
☐ Electric/Water	☐ Appellate Review	☐ Objection	☐ Resale Agreement
☐ Electric/Water/Telecom.	☐ Application	☐ Petition	☐ Resale Amendment
☐ Electric/Water/Sewer	☐ Brief	☐ Petition for Reconsideration	☐ Reservation Letter
☐ Gas	☐ Certificate	☐ Petition for Rulemaking	☐ Response
☐ Railroad	☐ Comments	☐ Petition for Rule to Show Cause	☐ Response to Discovery
☐ Sewer	☐ Complaint	☐ Petition to Intervene	☐ Return to Petition
☒ Telecommunications	☐ Consent Order	☐ Petition to Intervene Out of Time	☐ Stipulation
☐ Transportation	☐ Discovery	☐ Prefiled Testimony	☐ Subpoena
☐ Water	☐ Exhibit	☐ Promotion	☐ Tariff
☐ Water/Sewer	☐ Expedited Consideration	☒ Proposed Order	☐ Other:
☐ Administrative Matter	☐ Interconnection Agreement	☐ Protest	
☐ Other:	☐ Interconnection Amendment	☐ Publisher's Affidavit	
	☐ Late-Filed Exhibit	☐ Report	

Print Form Reset Form

ELLIS : LAWHORNE

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January 21, 2010

FILED ELECTRONICALLY
The Honorable Charles L.A. Terreni
Chief Clerk
South Carolina Public Service Commission
Post Office Drawer 11649
Columbia, South Carolina 29211

RE: Application of Broadview Networks, Inc. for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange Telecommunications Services in the State of South Carolina and for Flexible Regulation
Docket No. 2009-452-C, ELS File No. 582-11679

Dear Mr. Terreni:

Enclosed is the **Proposed Order** filed on behalf of Broadview Networks, Inc. in the above-referenced matter.

By copy of this letter, I am copying all parties of record with this letter and enclose my certificate of service to that effect.

With kind regards, I am

Yours truly,

John J. Pringle, Jr.

JJP/cr
cc: Nannette S. Edwards, Esquire (via electronic mail service)
Margaret Fox, Esquire (via electronic mail service)
Mr. Charles C. Hunter (via electronic mail service)
Catherine M. Hannan, Esquire (via electronic mail service)
Enclosures

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2009-452-C - ORDER NO. 2010-

JANUARY ___, 2010

IN RE: Application of Broadview Networks, Inc. for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities-Based Local Exchange Telecommunications Services in the State of South Carolina, and for Flexible Regulation	)	ORDER GRANTING REQUEST FOR EXPEDITED REVIEW AND APPLICATION FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE SERVICES

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Broadview Networks, Inc. ("Broadview" or "the Company") requesting the authority to provide resold local exchange service in South Carolina. The Commission has previously granted Broadview authority to provide intrastate interexchange telecommunications services within the State of South Carolina in Docket No. 2007-413-C. By this Application, the Company plans to offer local exchange services to South Carolina customers on a resold basis.

Further, Broadview requests that the Commission regulate its local telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C.

The Application of Broadview was filed pursuant to S.C. Code Ann. Section 58-9-280, and the Rules and Regulations of the Commission.

The Commission's Executive Director instructed Broadview to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") on November 25, 2009.

On December 7, 2009, counsel for the SCTC filed with the Commission an executed Stipulation in which Broadview stipulated that it would seek authority only in non-rural local exchange carrier ("LEC") service areas of South Carolina and not provide any local service to any customer located in a rural incumbent's service area, unless and until Broadview provided written notice of its intent prior to the date of the intended service. Broadview also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Broadview agreed to abide by all State and Federal laws and to participate to the extent that Broadview may be required to do so by the Commission to support universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of statewide Certificates of Public Convenience and Necessity to Broadview provided the conditions contained in the Stipulation are met.

On December 2, 2009, Broadview provided the Commission with the Verified Testimony of Charles C. Hunter, Broadview's Executive Vice President and General Counsel, and evidence that the Company possesses the financial, operational, and managerial resources required to provide high quality local exchange telecommunications services at competitive rates, terms and conditions.

Broadview entered into a Settlement Agreement with the Office of Regulatory Staff ("ORS"), which was filed with the Commission on December 23, 2009, whereby the Applicant has agreed to make the tariff changes proposed by the ORS. On December 23, 2009, Broadview subsequently filed a Request for Expedited Review.

FINDINGS OF FACT

1. Broadview is organized as a corporation under the laws of the State of New York and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State. The Company's corporate headquarters are located in Rye Brook, New York.

2. Broadview was authorized to operate as a provider of interexchange telecommunications by this Commission in Docket No. 2007-413-C and now wishes to expand its services to include local exchange services.

3. The Commission finds that Broadview possesses the necessary experience, capability, and financial resources to provide local exchange telecommunications in South Carolina. S.C. Code Ann. Section 58-9-280(B)(1).

4. The Commission finds that Broadview will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280(B)(4).

5. The Commission further finds that Broadview will provide communications services that will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2).

6. The Commission finds that the provision of local exchange service by Broadview "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280(B)(5).

7. Following Broadview's execution of a Stipulation with the SCTC, the SCTC withdrew its opposition to the Application. No further protests or Motions for Intervention were filed in this matter. By Broadview's Request for Expedited Review, the Applicant has waived its right to a formal hearing under S. C. Code Ann. Sec. 58-9-280.

CONCLUSIONS OF LAW

1. The Commission concludes that Broadview possesses the managerial, technical, and financial resources to provide the competitive local exchange telecommunications services as described in its Application.

2. The Commission concludes that Broadview's "provision of service will not adversely impact the availability of affordable local exchange service."

3. The Commission concludes that Broadview will participate in the support of universally available telephone service at affordable rates to the extent that Broadview may be required to do so by the Commission.

4. The Commission concludes that Broadview will provide services that will meet the service standards of the Commission.

5. The Commission concludes that the provision of local exchange service by Broadview will not otherwise adversely impact the public interest.

6. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Broadview to provide competitive intrastate local exchange services only to customers located in the non-rural areas of the state. The terms of the Stipulation between Broadview and SCTC are approved, and adopted as a part of this Order. Therefore, any proposal to provide local telecommunications service to rural service areas is subject to the terms of the Stipulation.

7. The Settlement Agreement reached between ORS and Broadview is approved and is also adopted as part of this Order. Broadview has agreed to make the tariff changes proposed by the ORS.

8. The Commission concludes Broadview's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for Broadview's competitive local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, Broadview's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. Broadview's Request for Expedited Review is granted on the basis of the facts as stated in this Order and on the basis that Broadview has previously been found fit to provide telecommunications services in South Carolina (See Order No. 2008-439) and the instant Application seeks merely to expand that authority to include local exchange services.

2. A Certificate of Public Convenience and Necessity is granted to Broadview to provide competitive local exchange telecommunications services via resale.

3. The terms of the Stipulation between Broadview and the SCTC are approved and adopted as a part of this Order. The Stipulation is attached as Order Exhibit 1. Any proposal to provide competitive local exchange telecommunications services to rural service areas is subject to the terms of this Stipulation.

4. Broadview shall file, prior to offering local exchange services in South Carolina, its final local service tariff with the Commission.

5. Broadview shall be required to comply with Title 23, Chapter 47, South Carolina Code of Laws Ann. which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Broadview to contact the appropriate authorities regarding 911 service in the counties and cities where Broadview will be operating. Contact with the appropriate

911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. Broadview may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, Broadview shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

6. The FCC in July of 2000 required all telecommunications carriers throughout the United States to implement three-digit, 711, dialing for access to all Telecommunications Relay Services (TRS). The Commission issued a memorandum in March of 2001 instructing all South Carolina telecommunications carriers to implement the service completely by October of 2001. All competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) were instructed to include language in their tariffs introducing 711 as a new service offering with deployment by July 1, 2001, and to translate 711 dialed calls to 1-800-735-2905. All Payphone Service Providers (PSPs) were instructed to modify their programmable phones to translate calls dialed as 711 to the assigned TRS toll free number 1-800-735-2905 in order to route 711 calls to the TRS provider before October 2, 2001. Additionally, telephone directories were required to be updated and bill inserts promoting 711 were also required. Broadview must comply with the applicable mandates. For complete information on compliance with

this FCC and Commission requirement, go to the Commission's website at http://www.psc.sc.gov/reference/forms.asp.

7. Broadview is required to file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipts report will necessitate the filing of intrastate information. Therefore, Broadview shall keep financial records on an intrastate basis for South Carolina in order to comply with the Commission's requirements for filing an annual report and a gross receipts report. The form Broadview shall use to file its annual financial information with the Commission can be found on the Commission's website at http://www.psc.sc.gov/forms.asp. The form is entitled "Annual Report for Competitive Local Exchange Carriers", and shall be filed with the Commission by April 1st of each year. Commission gross receipts forms are due to be filed with the Commission no later than August 31st of each year. The appropriate form for remitting information for gross receipts is entitled "Gross Receipts Form for Utility Companies" and may also be found on the Commission's website at http://www.psc.sc.gov/forms.asp.

8. Additionally, Broadview shall file with the Commission a quarterly report entitled "CLEC Service Quality Quarterly Report." The proper form for this report is found on the Commission's website at http://www.psc.sc.gov/forms.asp.

9. Broadview shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

_____
Elizabeth B. Fleming, Chairman

ATTEST:

_____
John E. Howard, Vice Chairman

(SEAL)