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DOCKET NO. 57000

PETITION OF BRIGHTSPEED OF	§	PUBLIC UTILITY COMMISSION
NORTHERN TEXAS, INC. TO	§	
DETERMINE WHETHER A	§	OF TEXAS
CERTAIN MARKET WITH A	§	
POPULATION UNDER 100,000	§	
SHOULD REMAIN REGULATED	§	

COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION

On August 26, 2024, Brightspeed of Northern Texas, Inc. (Brightspeed Northern) filed a petition under PURA¹ § 65.052 and 16 Texas Administrative Code (TAC) § 26.134 seeking approval to deregulate the Lake Dallas exchange and to reclassify Brightspeed Northern as a deregulated company under PURA § 65.002.

On October 4, 2024, the administrative law judge (ALJ) filed Order No. 2, requiring the Staff (Staff) of the Public Utility Commission of Texas (Commission) to request a hearing or file a recommendation on final disposition by November 18, 2024. Therefore, this pleading is timely filed.

I. FINAL RECOMMENDATION

Staff has reviewed the supplemented petition and as supported by the attached memorandum of James Kelsaw of the Commission's Customer Protection Division, recommends that it meets the requirements of PURA § 65.052 and 16 TAC 26.134 for deregulation of the requested exchange. Specifically, the population of the market area of the exchange is less than 100,000 and, in addition to Brightspeed Northern, there are at least two unaffiliated competitors operating in each of the Port Aransas exchange that provide voice communications service. Therefore, Staff recommends that Brightspeed Northern's petition to deregulate the Lake Dallas Exchange be approved.

II. CONCLUSION

For the reasons detailed above, Staff respectfully recommends approval of Brightspeed Northern's petition.

¹ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001–66.016.

Date: November 18, 2024

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document will be provided to all parties of record via electronic mail on November 18, 2024, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Markel Perkins
Markel Perkins

Public Utility Commission of Texas

Memorandum

TO: Markel Perkins
Legal Division

FROM: James Kelsaw
Consumer Protection Division

DATE: November 18, 2024

RE: Docket No. 57000 *Petition of Brightspeed of Northern Texas, Inc. to Determine Whether a Certain Market with a Population Under 100,000 Should Remain Regulated*

Commission Staff's Recommendation on Final Disposition

Application

On August 26, 2024, Brightspeed of Northern Texas, Inc. (Brightspeed Northern) filed a petition (petition) with the Public Utility Commission of Texas (Commission) under PURA¹ § 65.052 and 16 Texas Administrative Code (TAC) § 26.134. Brightspeed Northern seeks Commission approval to deregulate the Lake Dallas Exchange.

Technical Analysis

Under 16 TAC § 26.134(f)(1), “an ILEC petitioning for deregulation of a market with a population of less than 100,000 shall submit with its petition the evidence in compliance with subsection (c) of this section and, if applicable, subsection (e) of this section”.

Subsection (c) requires the ILEC seeking deregulation of a market to:

Submit evidence demonstrating that the population in the market is less than 100,000 and in addition to the ILEC there are at least two competitors operating in all or part of the market that:

- (1) are unaffiliated with the ILEC; and
- (2) provide voice communications service without regard to the delivery technology, including through:
 - (A) Internet Protocol or a successor protocol;

¹ Public Utility Regulatory Act, Tex. Util. Code. §§ 11.001-66.016

- (B) satellite; or
- (C) a technology used by a wireless provider or a commercial mobile service provider, as that term is defined by PURA §64.201.

Subsection (e) provides that:

In the event that an ILEC seeking deregulation of a market area with a population of less than 100,000 has a rural exemption as provided for in 47 U.S.C §251(f)(1) “Exemption For Certain Rural Telephone Companies” of the Communications Act of 1934, a petition for the removal of that rural exemption for that market must be approved by the commission in order for the market in question not to remain regulated . . .

The petitioning company, Brightspeed Northern, holds CCN No. 40047 and is an ILEC for purposes of its petition. Attached to its petition is an affidavit by L. Scott Stringer, Director of State Regulatory and Legislative Affairs (Stringer affidavit). In his affidavit, Mr. Stringer provides evidence that the population of the Lake Dallas Exchange is below 100,000.² Mr. Stringer explains that the software used to estimate the population of the Lake Dallas Exchange used 2020 Census data as the basis for its population estimate.

Attached to the Stringer affidavit are several maps, including a map of the Lake Dallas Exchange, and wireless coverage maps of AT&T, Verizon, and T-Mobile, which show that the three wireless company coverage areas overlap all or parts of the Lake Dallas Exchange. Mr. Stringer explains that the source of the wireless coverage maps was the website for each company. Mr. Stringer also provided a map based on the FCC website which shows that the three company wireless coverage areas overlap all or parts of the Lake Dallas Exchange.

Mr. Stringer asserts that AT&T, Verizon, and T-Mobile are unaffiliated with Brightspeed Northern and that each provides wireless voice service in all or parts of the Lake Dallas Exchange, in satisfaction of the requirements of 16 TAC § 26.134(f)(1).

Finally, in its petition, Brightspeed Northern states that it is a rural carrier and that it has exercised the rural exemption provided in 47 U.S.C. § 251(f)(1).³ Brightspeed Northern then requests Commission grant removal of the rural exemption specifically for the Lake Dallas market as required by 16 TAC § 26.134(e).

² *Petition of Brightspeed of Northern Texas, Inc. to Determine Whether a Certain Market with a Population Under 100,000 Should Remain Regulated*, Docket No. 57000, Petition (Aug. 26, 2024).

³ *Id.* at 5.

Conclusion

I have reviewed Brightspeed Northern's petition to deregulate the Lake Dallas Exchange. I recommend that the petition meets the technical requirements of 16 TAC § 26.134(f)(1). Therefore, I recommend that the Commission approve the petition, remove the rural exemption under 47 U.S.C §251(f)(1) for the Lake Dallas market, and reclassify Brightspeed Northern as a deregulated company in accordance with PURA §65.052(c).

If you have any questions, please contact James Kelsaw at (512) 936-7338.