



# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL  
TEN FRANKLIN SQUARE  
NEW BRITAIN, CT 06051

DOCKET NO. 05-12-05 APPLICATION OF CLEARLIX NETWORK  
CORPORATION FOR A CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY TO PROVIDE  
FACILITIES-BASED TELECOMMUNICATIONS SERVICES

March 15, 2006

By the following Commissioners:

Jack R. Goldberg  
John W. Betkoski, III  
Anthony J. Palermino

**DECISION**

## DECISION

### **I. INTRODUCTION**

#### **A. SUMMARY**

This docket addresses ClearLinx Network Corporation's (ClearLinx or Company) request for a Certificate of Public Convenience and Necessity (CPCN) to operate as a facilities based provider of non-switched transport telecommunications services to wireless service providers (WSPs) in Connecticut. In this Decision, the Department of Public Utility Control (Department) finds that the Company meets the managerial, financial and technical criteria to operate as a facilities-based provider of telecommunications services. The Department also finds the Company's proposal to be in the public interest and grants the certificate.

#### **B. BACKGROUND OF THE PROCEEDING**

By application received, December 16, 2005 (Application), filed pursuant to § 16-247g of the General Statutes of Connecticut (Conn. Gen. Stat.) and § 16-247c-3 of the Regulations of Connecticut State Agencies (Conn. Agencies Regs.), ClearLinx requested the Department's approval for a CPCN to operate as a facilities-based provider of non-switched, non-dominant and non-discriminatory point-to-point services on demand throughout Connecticut to WSPs. Under the authorization requested, ClearLinx will not provide retail telecommunications service to residential or business end-user customers. ClearLinx also does not intend to provide local exchange service. Application, Exhibit B-1.

#### **C. CONDUCT OF THE PROCEEDING**

By Notice dated January 9, 2006, the Department acknowledged receipt of the Application. Pursuant to Conn. Gen. Stat. § 16-247g, the Department determined that a hearing in this matter was not necessary and none was held.

#### **D. PARTIES AND INTERVENORS**

The Department recognized ClearLinx Network Corporation, 1901 S. Meyers Road, Suite 190, Oakbrook Terrace, Illinois, 60181 and the Office of Consumer Counsel, Ten Franklin Square, New Britain, Connecticut 06051 as Parties to this proceeding.

### **II. DEPARTMENT ANALYSIS**

#### **A. FINANCIAL RESOURCES, MANAGERIAL ABILITY AND TECHNICAL COMPETENCY**

ClearLinx must obtain a CPCN to offer and provide intrastate telecommunications services. To grant a CPCN, the Department must find that the Company "possesses and demonstrates adequate financial resources, managerial ability

and technical competency to provide the proposed service.” Conn. Gen. Stat. § 16-247g(c).

ClearLinx was organized in 2002 in Delaware with principal offices in Oakbrook Terrace, Illinois. Application, Exhibit A-8. ClearLinx proposes to offer point-to-point, non-switched dedicated transport service to other telecommunications companies, generally WSPs. ClearLinx deploys point-to-point Distributed Antenna System (DAS) network facilities in locations where there are holes or dead spots in cellular and/or PCS wireless signal coverage and/or where existing wireless networks require additional capacity. Deployment of the Company’s DAS network facilities allows its WSP customers to extend their wireless signal coverage and to increase their wireless capacity in existing service areas thereby extending and strengthening services for the WSPs’ retail telecommunications consumers. Application, Exhibit B-1. ClearLinx registered to conduct business with the Connecticut Secretary of the State on October 14, 2005. Response to Interrogatory TE-1. ClearLinx has significant management experience in the telecommunications industry. Application, Exhibit E-2. The Department has reviewed ClearLinx’s financial statements and qualifications and concludes that the Company possesses adequate financial resources to provide the proposed services. Application, Exhibit C-1; Response to Interrogatory TE-5. For these reasons, the Department finds that ClearLinx possesses and demonstrates adequate financial resources, managerial ability and technical competency to provide the proposed services in Connecticut.

ClearLinx estimates that in its first two years of operation, it will expend \$3,050,000 for the provision of telecommunications services in Connecticut. Application, Exhibit D-2; Response to Interrogatory TE-6.

The Department has reviewed the Company’s capital budget and its proposed plans to operate as a facilities-based provider and finds them acceptable.

## **B. PUBLIC INTEREST CONSIDERATIONS**

Conn. Gen. Stat. § 16-247a(c) sets forth the goals of the State in the provision of telecommunications services:

- (1) Ensure the universal availability and accessibility of high quality, affordable telecommunications services to all residents and businesses in the state, (2) promote the development of effective competition as a means of providing customers with the widest possible of services, (3) utilize forms of regulation commensurate with the level of competition in the relevant telecommunications service market, (4) facilitate the efficient development and deployment of an advanced telecommunications infrastructure, including open networks with maximum interoperability and interconnectivity, (5) encourage shared use of existing facilities and cooperative development of new facilities where legally possible, and technically and economically feasible, and (6) ensure that providers of telecommunications services in the state provide high quality customer service and high quality technical service.

ClearLinx states that approval of the Application will serve the public interest and foster competition. Specifically, approval of the Application will protect the affordability of basic local exchange telephone services and will assure the continuation of quality interexchange and local exchange telephone services. ClearLinx also states that its entry as a competitive service provider will provide and enhance the range of telecommunications services currently offered in the state, increase customer choice, encourage more efficient service at lower prices, provide users of telecommunications services with greater reliability and stimulate more responsive customer service. Application, Exhibit G-1. Additionally, ClearLinx states that its entry into the telecommunications market will provide customers with a wider array of choices for service providers and services. ClearLinx further contends that customers will reap the benefits of interexchange and local competition through lower prices, increased quality of service and advanced technology and telecommunications services. *Id.* Moreover, ClearLinx claims that the primary telecommunications services that it plans to offer initially comprises non-switched dedicated point-to-point circuits carried over fiber optic facilities. According to ClearLinx, these point-to-point circuits will carry WSPs Radio Frequency traffic between ClearLinx's newly deployed shared DAS networks and the WSPs' existing facilities or through collocation facilities leased to WSPs by ClearLinx. ClearLinx states that these fiber-fed shared DAS networks will extend wireless networks thereby improving quality, coverage and capacity with community-friendly solutions. ClearLinx also claims that these services will address the increasing demand from WSPs for a solution to long-standing service coverage problems and will provide network enhancements that add capacity to accommodate localized needs and/or high speed data applications. Lastly, the Company states that its DAS network will accommodate up to four WSPs before additional physical capacity expansion of the network will be required. ClearLinx also emphasizes that since the basic infrastructure is already in place, additional physical capacity expansion of the network will require minimal construction. Application, Exhibit G-1.

The Department finds that the addition of ClearLinx to the Connecticut market will allow customers to benefit directly, as a result of competitively priced service offerings and indirectly, as the Company's presence in the marketplace will increase the incentives for other telecommunications providers to operate more efficiently, reduce prices, and offer more innovative services. The Department also finds that ClearLinx's customer service and technical policies and procedures will ensure that high quality customer and technical services are provided to its Connecticut customers. Therefore, the Department finds that ClearLinx's offering of the proposed services furthers the goals of Conn. Gen. Stat. § 16-247a(a) and is in the public interest.

The Department notes that ClearLinx did not submit any construction projects for its review. Prior to the construction of any facilities in the public rights of way, ClearLinx is required to submit its construction plans as mandated in the Conn. Agencies Regs. §16-247c-5.

### C. POST-CERTIFICATION REPORTING REQUIREMENTS

In the Decision dated March 15, 1995 in Docket No. 94-07-03, at pages 29-30, the Department set forth the post-certification filing requirements for certified telecommunications companies. Those requirements are as follows:

- Pursuant to statute the Department is required to report to the General Assembly on an annual basis regarding the telecommunications market in Connecticut. Conn. Gen. Stat. § 16-247i. To meet its statutory obligations, the Department requires each authorized telecommunications provider to submit responses to the Department's annual data requests on the basis of an October 1 – September 30 fiscal year; the Department compiles the information at the conclusion of the third calendar quarter of each year.
- To evaluate the financial, managerial and technical adequacy of a certified provider periodically, as contemplated by Conn. Gen. Stat. § 16-247g(d), the Department requires each certified provider to submit on an annual basis a copy of the company's annual report, annual return or a summary financial statement.
- The following information filings are also required to be submitted to the Department:

--current listings of rates and charges for all certified services.

--annual reports on the provider's Connecticut operations within 60 days of the close of its fiscal year, including at a minimum: the number of customers for each certified service, a description of physical changes in or additions to existing facilities expected for the next fiscal year and any changed uses of those facilities, and any changes in the information which was filed with the Department in the certification proceeding; and

--copies of the Form 10-K with the Securities and Exchange Commission (SEC), (if required to file a Form 10-K), and any other informational filings at the time filed with the SEC.

ClearLinx will be subject to the above-detailed post-certification filing requirements, as are all certified providers in this state.

### D. TARIFFS

The Company has filed proposed Connecticut-specific tariffs. Application, Exhibit B-1. In the Decision in Docket No. 87-08-24, DPUC Investigation into Authorization of Competition for Intrastate Interexchange Telecommunications Services Pursuant to Public Act 87-415, issued on March 15, 1989, the Department required that Connecticut local exchange carriers and competitive service providers be subject to virtually the same tariff application and review procedures. The Department finds that sufficient data have been presented during this proceeding to indicate ClearLinx's rates and charges will exceed the respective costs of its services. Therefore, the Department finds that

ClearLinx has provided adequate cost justification for its proposed intrastate service rates and charges and finds them to be acceptable as filed.

#### **E. LIFELINE CREDIT AND TELECOMMUNICATIONS RELAY SERVICES FUNDING REQUIREMENTS**

The Department issued a Decision in Docket No. 94-07-09, DPUC Exploration of the Lifeline Program Policy Issues, on May 3, 1995. In that Decision, the Department concluded that funding mechanisms based on market share as measured by total intrastate and interstate revenues are the most equitable method of recovering telecommunications relay service (TRS) and Lifeline costs. As a telecommunications service provider operating in Connecticut, ClearLinx will participate in TRS and Lifeline funding as discussed in the aforementioned Decisions, and will be so ordered below.

### **III. FINDINGS OF FACT**

1. ClearLinx possesses and demonstrates adequate financial resources, managerial ability and technical competency to provide the proposed services.
2. ClearLinx's participation in the funding program to recover Connecticut's Lifeline and TRS costs is in keeping with the Department's commitment to further Universal Services.
3. In the first two years of operation, ClearLinx plans to expend approximately \$3,050,000 in capital expenditures.
4. ClearLinx plans to operate as a facilities-based provider of non-switched, non-dominant and non-discriminatory point-to-point services on demand throughout Connecticut to WSPs.

### **IV. CONCLUSION AND ORDERS**

#### **A. CONCLUSION**

ClearLinx's request to offer non-switched, non-dominant and non-discriminatory point-to-point services on demand to WSPs in Connecticut furthers the goals of Conn. Gen. Stat. § 16-247a(a) and is in the public interest. The Department hereby grants ClearLinx's request for a Certificate of Public Convenience and Necessity, subject to the Orders below.

#### **B. ORDERS**

For the following Orders, please submit an original and 12 copies of the requested material, identified by Docket Number, Title and Order Number to the Executive Secretary.

1. ClearLinx shall file revised tariffs consistent with this Decision no later than March 29, 2006. The effective date of the Company's tariffs shall be March 15, 2006.
2. ClearLinx shall comply with post-certification filing requirements set forth in the Department's March 15, 1995 Decision in Docket No. 94-07-03. Regarding the requirement that ClearLinx file with the Department annual reports on its Connecticut operations, ClearLinx shall do so no later than April 30<sup>th</sup> of each year beginning in 2007. Such annual reports shall include at a minimum the following information:
  - (a) The number of customers for each certified service;
  - (b) number of lines subscribed;
  - (c) total intrastate revenues;
  - (d) intrastate minutes of use on a total service basis;
  - (e) a description of physical changes in or additions to existing facilities expected for the next fiscal year and any changed uses of those facilities; and
  - (f) any changes in the information which was filed with the Department in this proceeding.
3. ClearLinx shall participate in the Lifeline Credit and TRS funding program as described in Section II, E. above.

DOCKET NO. 05-12-05 APPLICATION OF CLEARLINX NETWORK CORPORATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE FACILITIES-BASED TELECOMMUNICATIONS SERVICES

This Decision is adopted by the following Commissioners:

Jack R. Goldberg

John W. Betkoski, III

Anthony J. Palermino

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Department of Public Utility Control, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.

*Louise E. Rickard*

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Louise E. Rickard  
Acting Executive Secretary  
Department of Public Utility Control

March 17, 2006

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Date