

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

In the Matter of the Application of WANRack, LLC)
for a Certificate of Convenience and Authority to) Docket No. 15-WRKT-497-COC
Provide Competitive Local Exchange Services)
Within the State of Kansas.)

ORDER AND CERTIFICATE

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and record and being fully advised in the premises, the Commission finds and concludes as follows:

I. BACKGROUND

1. On April 22, 2015, WANRack, LLC (WANRack) filed an Application requesting authority to provide Intrastate Competitive Local Exchange services throughout the State of Kansas utilizing company constructed and leased facilities.

2. On July 16, 2015, the Commission Staff (Staff) filed its Report and Recommendation dated July 14, 2015, providing its analysis and recommendation regarding WANRack's Application. Based on its review and investigation of WANRack's Application, Staff recommends the Commission grant the company's Application and certify WANRack as an Intrastate Local Exchange Services provider in the State of Kansas.

II. DISCUSSION AND ANALYSIS

3. The Commission derives its authority to supervise telecommunications public utilities from K.S.A. 2014 Supp. 66-1,188. K.S.A. 2014 Supp. 66-131(a) provides in part that:

No common carrier or public utility...governed by the provisions
of this act shall transact business in the State of Kansas until it

shall have obtained a certificate from the corporation commission that public convenience and necessity will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in this state.

In determining whether the public convenience will be promoted by the transaction of said business, Staff points out that the Commission looks at a number of factors. Regarding such factors, Staff cites K.S.A. 2014 Supp. 66-2005(w) which provides in part that:

“...telecommunications carriers that were not authorized to provide switched local exchange telecommunications services in this state as of July 1, 1996...must receive a certificate of convenience based upon a demonstration of technical, managerial and financial viability and the ability to meet quality of service standards established by the commission”.

4. According to Staff, WANRack specializes in design, deployment, and operation of customized transport networks in underserved markets. WANRack states that initially, it will, on a statewide basis, construct and lease fiber-optic communications networks, as turnkey solutions for specific multi-location customers, including K-12 school districts. In the future, following deployment of such fiber-optic communications networks, the company may provide dedicated private line services over a portion of such fiber networks on a statewide basis, as permitted by applicable law.¹ Staff further states that the company has existing fiber network customers in the states of Wyoming and Missouri and is currently in negotiations with school districts in Kansas. Staff's investigation found no evidence of any enforcement proceedings against the company and that WANRack has demonstrated the technical, managerial and financial ability to provide Intrastate Local Exchange Service in Kansas. WANRack is a Kansas limited liability company properly registered with the Secretary of State's office where its status is shown to be *active and*

¹ Application, Exhibit A.

in good standing. Based on these findings, Staff believes that it would be in the public interest to grant WANRack's Application.²

5. Staff adds that WANRack should be directed to file the required Interrogatory Reports, remain current with the Kansas Secretary of State's office, pay all Commission and Kansas Universal Service Fund (KUSF) assessments, and follow the Telecommunications Carrier Code of Conduct. Staff also recommends that WANRack be reminded of the need to notify the Commission of any changes in contact personnel, address and/or phone numbers. Concluding, Staff recommends the Commission grant WANRack's Application and issue the company a Certificate of Convenience and Authority authorizing it to provide Intrastate Local Exchange Service in the State of Kansas.

III. FINDINGS AND CONCLUSION

6. Pursuant to K.S.A. 2014 Supp. 66-1,188, the Commission has jurisdiction to supervise and control telecommunications public utilities doing business in Kansas. WANRack is a telecommunications public utility under K.S.A. 2014 Supp. 66-1,187 and is subject to the Commission's jurisdiction. The Commission adopts Staff's analysis and recommendation of July 14, 2015, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that WANRack's Application should be granted and that a Certificate of Convenience and Authority should be issued to WANRack authorizing it to engage in the business of providing Intrastate Local Exchange Services in the State of Kansas.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. WANRack, LLC's Application filed in this matter on April 22, 2015, is hereby granted and WANRack is hereby issued a Certificate of Convenience and Authority authorizing the company to provide Intrastate Local Exchange Services in the State of Kansas. WANRack

² Report and Recommendation, pages 2 and 3.

may be subject to the requirements of Section 251(f) of the Telecommunications Act of 1996 should it desire to provide local exchange service in a rural area. Section 251(f) exempts rural local exchange companies from certain competitive entry requirements and establishes an explicit procedure for lifting the exemption. Certification in a rural telephone company's service area is also governed by K.S.A. 66-2004.

B. WANRack is directed to comply with the filing, payment, and notification requirements set forth in paragraph 5 above. Failure to meet these requirements could result in revocation of the company's Certificate.

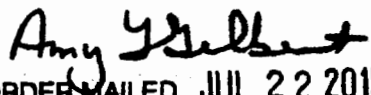
C. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2014 Supp. 77-529(a)(1).

D. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED AND CERTIFIED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: **JUL 21 2015**


ORDER MAILED JUL 22 2015

Amy L. Gilbert
Secretary

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**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Pat Apple

FROM: Paula Artzer, Senior Telecommunications Analyst
Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: July 14, 2015

SUBJECT: Docket No. 15-WRKT-497-COC

In the Matter of the Application of WANRack, LLC for a Certificate of Convenience and Authority to Provide Competitive Local Exchange Services within the State of Kansas.

EXECUTIVE SUMMARY:

WANRack, LLC (WANRack) has submitted an Application for Authority to provide Intrastate Competitive Local Exchange Services in the state of Kansas. Staff has researched the Application as part of its normal approval process and recommends approval of the Application.

BACKGROUND:

On April 22, 2015, WANRack filed an Application requesting a Certificate to provide telecommunication services in Kansas. In this Application, WANRack requests authority to provide Intrastate Competitive Local Exchange Services throughout Kansas through company constructed and leased facilities.

WANRack is a Kansas Limited Liability Company and is properly registered with the Kansas Secretary of State's Office and its status is "active and in good standing". Per the Application the Company has received Certifications in Missouri, Texas and Wyoming. They have a pending Application in Arizona.

ANALYSIS:

Pursuant to K.S.A. 66-131, no common carrier or public utility shall transact business in the state of Kansas until it shall have obtained a Certificate from the Commission that

public convenience will be promoted by the transaction of said business and permitting said applicants to transact the business of a common carrier or public utility in the state.

In making the determination as to whether the public convenience will be promoted by the transaction of said business, the Commission determined that it would look at a number of factors when determining whether a particular application is consistent with the public interest. The factors may include, but are not limited to, the provider's commitment to meet all requirements of the existing Statutes and Orders and modifications specified in House Bill 2201.

K.S.A. 2012 Supp. 66-2005 (w) states:

“...telecommunications carriers that were not authorized to provide switched local exchange telecommunications services in this state as of July 1, 1996...must receive a certificate of convenience based upon a demonstration of technical, managerial and financial viability and the ability to meet quality of service standards established by the commission”.

The combined service of the executive staff with WANRack is over thirty-seven years in telecommunications with additional background in non-telecommunications financial leadership positions. The CEO is Gerardo (Gerry) Garza. The financial records submitted support the Applicant's financial ability to operate a business. Based on the information submitted and the investigation Staff has performed, the Company appears to have the managerial, technical and financial ability to provide Local Exchange Services in Kansas.

The Application states:

WANRack specializes in design, deployment, and operation of customized transport networks in underserved markets. Initially, WANRack will, on a statewide basis, construct and lease fiberoptic communications networks, as turnkey solutions for specific multi-location customers, including K-12 school districts. In the future, following deployment of such fiber-optic communications networks, WANRack may provide dedicated private line services over a portion of such fiber networks on a statewide basis, as permitted by applicable law.

WANRack has existing fiber network customers in Wyoming and Missouri and is currently in negotiations with school districts in Kansas. The Applicant stated in their filing that the Company had no enforcement proceedings involving the Company. Staff investigated and found no evidence of any enforcement proceedings against the Company.

RECOMMENDATION:

Staff recommends the Commission approve WANRack's request for Certification as a Intrastate Local Exchange Services provider in the state of Kansas. The Applicant has shown the technical, managerial and financial ability to provide Intrastate Local

Exchange Service in Kansas. Based on the findings discussed above, Staff believes it would be in the public interest of Kansans to grant this request. Upon Commission approval, WANRack is required to file Interrogatory Reports, remain current with the Kansas Secretary of State's office, pay all Commission and Kansas Universal Service Fund (KUSF) assessments, and follow the Telecommunications Carrier Code of Conduct.

Staff also recommends the Applicant be reminded of the need to notify the Commission of any changes of contact personnel, address and/or phone numbers. Failure to meet these filing requirements could result in the revocation of its Certificate of Convenience and Authority.

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET
TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
ROSE MULVANY HENRY, ATTORNEY BRADLEY ARANT BOULT CUMMINGS LLP 1600 DIVISION ST STE 700 PO BOX 340025 NASHVILLE, TN 37203-0025		
OTTO NEWTON, LITIGATION COUNSEL 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
ROB OYLER, PRESIDENT WANRACK, LLC 25656 W. 97th Street Lenexa, KS 66227		
ROB OYLER, PRESIDENT WANRACK, LLC 25656 W. 97th Street Lenexa, KS 66227		

ORDER MAILED JUL 22 2015

The Docket Room hereby certified that on this _____ day of _____, 20_____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.