

1 ALABAMA PUBLIC SERVICE COMMISSION

2 MONTGOMERY, ALABAMA

3

4 IN RE:

5 OPTIC INTERNET PROTOCOL DOCKET NO. 31438

6 APPLICATION FOR CERTIFICATE OF PUBLIC
7 CONVENIENCE AND NECESSITY

8 (Provision of resold long distance
9 telecommunications services)

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13 TESTIMONY AND PROCEEDINGS before
14 the Honorable John Garner, Administrative
15 Law Judge, at the Carl L. Evans Chief
16 Administrative Law Judge Hearing Complex,
17 RSA Union Building, 100 North Union Street,
18 Montgomery, Alabama, on Wednesday,
19 September 15, 2010, commencing at
20 approximately 10:05 a.m.; and reported by
21 Mallory Johnson, Registered Professional
22 Reporter and Commissioner for the State of
23 Alabama at Large.

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1 APPEARANCES

2 FOR THE APPLICANT:

3 Mr. Robert C. Black, Jr.
4 WEBSTER, HENRY LYONS, WHITE
BRADWELL & BLACK, P.C.
Attorneys at Law
5 105 Tallapoosa Street
Suite 101
6 Montgomery, Alabama 36104

7 FOR THE PUBLIC SERVICE COMMISSION

8 Mr. William C. (Bill) Cook
Public Utility Analyst
9 Telecommunications Division
ALABAMA PUBLIC SERVICE COMMISSION
10 100 North Union Street
RSA Union Building
11 Montgomery, Alabama 36104

12 ALSO PRESENT:

13 Mr. Greg Allpow, President
14 Optic Internet Protocol, Incorporated

15 * * * * *

16 EXAMINATION INDEX

17 GREGORY ALLPOW
DIRECT BY MR. BLACK 6
18 CROSS BY MR. COOK 27

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1 ALJ GARNER: On the record.

2 We're here this morning on September
3 the 15th, 2010, in the matter of
4 Docket 31438, which concerns the
5 application of Optic Internet
6 Protocol, Inc., for approval of a
7 certificate of public convenience
8 and necessity, authorizing the
9 provision of resold long distance
10 telecommunications services in the
11 state of Alabama. The application
12 was filed with the Commission on or
13 about July 7th of 2010.

14 Interested parties were made
15 of aware of today's hearing pursuant
16 to a commission notice dated August
17 10th, 2010. Let the record reflect
18 that the Commission did not receive
19 any petitions to intervene in this
20 matter.

21 For the record, let's go
22 ahead and take appearances at this
23 time. Who will be representing the

1 applicant?

2 MR. BLACK: For the applicant is
3 Robert C. Black, Jr., Webster,
4 Henry, Lyons, White, Bradwell &
5 Black. And with me, I have
6 Mr. Gregory Allpow, A-L-L-P-O-W; and
7 he is our representative for today.

8 ALJ GARNER: I believe he is the
9 president of the company?

10 MR. BLACK: He is indeed.

11 ALJ GARNER: All right. Further
12 appearances?

13 MR. COOK: Bill Cook,
14 Telecommunications Division,
15 commission staff.

16 ALJ GARNER: All right. Is
17 there anyone else who needs to enter
18 an appearance?

19 Let the record reflect that
20 no one has come toward.

21 Mr. Black, any preliminary
22 matters we need to address, any
23 changes to the application, things

1 of that nature?

2 MR. BLACK: I don't believe so,
3 Your Honor. I do have a number of
4 exhibits. And I guess I would -- as
5 we go through the testimony, I can
6 submit them. I've got the sample
7 bills, marketing agreement,
8 verification of service agreements,
9 all those types of things that
10 we can --

11 ALJ GARNER: Okay.

12 MR. BLACK: -- go through during
13 the hearing.

14 ALJ GARNER: All right.
15 Mr. Cook, anything in the way of any
16 preliminary matters?

17 MR. COOK. No, sir.

18 ALJ GARNER: If not, let me go
19 ahead and swear in Mr. Allpow.
20 Stand and raise your right hand.

21 (Witness sworn)

22 ALJ GARNER: Be seated.

23 All right. Mr. Black, I turn it

1 over to you.

2 GREGORY ALLPOW

3 The witness, having been sworn to
4 speak the truth, the whole truth and
5 nothing but the truth, testified as follows

6 DIRECT EXAMINATION

7 BY MR. BLACK:

8 Q. Mr. Allpow, I just want you to speak
9 in a loud, clear voice so Miss Mallory
10 over here can understand and hear.

11 If you would, just for the record,
12 please state your name.

13 A. Gregory Allpow.

14 Q. And how do you spell your last name,
15 please?

16 A. A-L-L-P-O-W.

17 Q. Okay. And what is your position with
18 Optic Internet Protocol?

19 A. President.

20 Q. Okay. What is your current business
21 address?

22 A. 900 Arnold Mill Road.

23 Q. And where is that?

1 A. That is in Roswell, Georgia.

2 Q. Roswell, Georgia. Okay. And what
3 type of business is Optic Internet
4 Protocol engaged in?

5 A. Plus-one resale.

6 Q. Okay. Of telecommunications?

7 A. Telecommunications, long distance.

8 Q. Got you.

9 MR. BLACK: Okay. Now, the
10 articles of -- the articles of
11 incorporation have already been
12 attached, Your Honor, to the
13 application. And we would just ask
14 the Commission to take notice of
15 that.

16 ALJ GARNER: Notice is so taken.

17 Q. Now, just so we start off with --
18 explain the types of authority that
19 Optic Internet Protocol is seeking
20 here today.

21 A. Plus-one resale in the state of
22 Alabama.

23 Q. Okay. Thank you. Now let me ask you

1 just a couple of questions about the
2 company itself. How long has Optic
3 Internet Protocol been in operation?

4 A. '07, May of '07.

5 Q. May of '07?

6 A. Incorporated May of '07.

7 Q. Okay. And where is it incorporated?

8 A. Delaware.

9 Q. Okay. Tell me about the corporate
10 structure of Optic Internet Protocol.
11 Is it a corporation?

12 A. Yes.

13 Q. Okay. And is it -- is it a
14 subsidiary, is it owned, or is it a
15 standalone corporation?

16 A. It's independent.

17 Q. Does it have any affiliate
18 corporations?

19 A. No, sir.

20 Q. Got to speak loud so Mallory can hear
21 you.

22 A. I'm sorry.

23 Q. That's okay. Tell me, how many

1 employees does Optic Internet Protocol
2 have?

3 A. We -- we now have myself and customer
4 service. We have five customer
5 service representatives.

6 Q. And those customer service
7 representatives are in-house?

8 A. They're in-house.

9 Q. Okay. Good. Now tell me about the --
10 do y'all have any contract employees?

11 A. Sure.

12 Q. And who are the contract employees?

13 A. Counsel. Well, accountant,
14 regulatory, commission, MIS,
15 financial.

16 Q. Are those contract employees -- are
17 those people who do work with you with
18 contracts? I mean --

19 A. They're --

20 Q. Those are independent contractors?

21 A. Independent contractors.

22 Q. Okay. But those aren't contract
23 employees?

1 A. No, not under contract.

2 Q. Got you. I understand.

3 A. Pardon me.

4 Q. Okay. That's okay. That's okay.

5 I understand.

6 Now, with regard to -- to the key
7 employees of the company -- and I
8 guess that would mainly be you.

9 A. It is me.

10 Q. Tell me about your own experience in
11 telecommunications. What do you --

12 A. Oh, boy. How I got started? I guess,
13 gosh, when was in college, I worked
14 for a call center that handled
15 customer service.

16 Q. Okay.

17 A. And it also did TPV for like MCI, you
18 know, back when -- back when
19 everything was booming. Let's see.
20 Right before cell, cellular, and we
21 were getting a lot of long distance
22 phone companies. So we worked -- and
23 I worked in Atlanta at a call center,

1 essentially, is how I got started.

2 ALJ GARNER: What did you do for
3 MCI? You used an acronym.

4 THE WITNESS: Oh, I just -- ooh.
5 I can't remember the call center I
6 worked for; but we handled, you
7 know, their customer service. We
8 also handled third-party
9 verification for new customers and
10 such. MCI was just one of them.

11 A. You got me back.

12 Q. Oh, no.

13 A. You got me on that question.

14 Q. I guess the question is this. How
15 long have you been -- how long have
16 you been personally active in the
17 telecommunications?

18 A. Just collectively, like six years.
19 seven years.

20 Q. Okay. All right. Now, let me ask you
21 about the company's financial
22 fitness. And I guess I'll just --

23 A. Yeah. Let me look at that.

1 Q. Right. I'll mark this Exhibit #1. Do
2 you recognize this document here?

3 What is this, Greg? Is that your
4 balance sheet?

5 A. Uh-huh. Yes.

6 Q. Yeah. That machine doesn't take nods
7 and shakes too good.

8 A. I'm sorry.

9 Q. Greg, does this show the -- does this
10 show the financial fitness of your
11 company?

12 A. Yeah. I would say it's accurate as of
13 the date.

14 Q. All right. And with regard to -- is
15 the company running in the red in any
16 way at this time?

17 A. No.

18 Q. Okay. All right. You're paying your
19 bills, and you're financially
20 capable --

21 A. Yeah.

22 Q. -- of maintaining business in Alabama?

23 A. Yeah. We're current.

1 Q. Okay. Good. How many company --
2 customers does Optic Internet Protocol
3 service at this time? Do you know?

4 A. Across -- across the states that we're
5 in --

6 Q. Yeah.

7 A. -- we're between eight and ten
8 thousand, I want to say.

9 Q. Okay.

10 A. Not to exceed 10,000.

11 Q. And with that being said, what states
12 does Optic Internet Protocol currently
13 have authority in?

14 A. We are in California, New York,
15 Michigan, Illinois, South Carolina,
16 Nevada, New Mexico, Florida, Texas.

17 Q. Texas. Okay. Is that it?

18 A. Yes.

19 Q. Great. All right. Now, just to make
20 sure, Optic Internet Protocol is not
21 doing -- conducting business in
22 Alabama at this time, are they?

23 A. No, sir.

1 Q. Okay. Good. All right. Has the
2 company ever been denied or revoked in
3 any jurisdiction?

4 A. No, sir.

5 Q. Okay. Has the company ever been
6 indicted in any other jurisdiction?

7 A. No, sir.

8 Q. Have any officers of the company been
9 indicted or the subject of an
10 investigation in any other
11 jurisdiction?

12 A. No, sir.

13 Q. Have you ever had any formal slamming
14 or cramming complaints filed against
15 you in any other jurisdiction?

16 A. No, sir.

17 Q. Okay. You understand what slamming
18 and cramming is?

19 A. Uh-huh.

20 Q. Is that a yes?

21 A. Yes, sir.

22 Q. Okay. Great. Okay. Has the company
23 ever been penalized for service

1 infractions, like slamming, cramming,
2 or disconnection by the underlying
3 carrier?

4 A. No, sir.

5 Q. Okay. Has the company ever -- or any
6 related companies -- have you filed
7 bankruptcy?

8 A. No.

9 Q. Now, you're seeking telecommunications
10 or resale of long distance services;
11 is that correct?

12 A. Yes, sir.

13 Q. Okay. Are you seeking this authority
14 statewide for the state of Alabama?

15 A. Yes.

16 Q. Okay. Now, just -- if you will, just
17 summarize the services that will be
18 provided if the application is granted
19 and -- and tell us how those services
20 will be provided from a technical
21 standpoint.

22 A. Well, we're going to do plus-one
23 resale to residential customers.

1 We're going to provide in-house
2 customer service.

3 Q. Okay.

4 A. We -- are you asking me this -- how --
5 marketing or --

6 Q. Let me ask you -- we'll talk about
7 that in a minute. Do you have an
8 underlying carrier?

9 A. Yes.

10 Q. And who is the underlying carrier?

11 A. We're entering an agreement with
12 Quest.

13 Q. Quest. Okay. All right. Now, do you
14 understand that if you're using Quest
15 and Quest is a facilities-based
16 company, that that company has to have
17 authority to operate in Alabama as
18 well?

19 A. Correct.

20 Q. Okay. And you understand?

21 A. I understand that.

22 Q. Good. Okay. Let's see. Do you plan
23 to build any facilities in Alabama?

1 A. No, sir.

2 Q. Okay. Do you understand that if you
3 decide that you -- in the future, if
4 you ever wanted to be facilities-based
5 or build facilities in Alabama, you
6 would have to come back and ask the
7 Commission?

8 A. I do. Right, I understand.

9 Q. Okay. Now, what is Optic's -- I'm
10 just going to call them Optic instead
11 of Optic Internet Protocol. I'm just
12 going to call them Optic. What is
13 Optic's target market?

14 A. Residential. Does that answer?

15 Q. Yeah. Are you going to try to also
16 market to businesses at some time in
17 the future?

18 A. Yeah. Yes, sir.

19 Q. Is that your intention?

20 A. Yeah, that is my intention.

21 Q. Okay. How will customers in Alabama
22 be solicited? How do you plan to do
23 that?

1 A. Initially with Alabama telemarketing
2 and subsequently through Internet
3 advertising, maybe local advertising
4 periodically or something.

5 Q. Okay.

6 A. Hopefully move toward a totally
7 inbound system.

8 Q. Okay. In other words, eventually, you
9 just want to be word of mouth?

10 A. Yeah.

11 Q. Sure.

12 A. We want to -- I want to -- want to do
13 inbound marketing only.

14 Q. Greg, let me show you what I've marked
15 as Exhibit #2. Do you recognize this
16 document? What is this?

17 A. Yes, sir. It's -- it's the agreement
18 Nexophone. Is it current? This is
19 not current. This is representative.

20 Q. This is your agreement with Nexophone.
21 And this is your marketing agreement?

22 A. Right.

23 Q. Okay. Now, in this marketing

1 agreement or with regard to your
2 marketing, what kind of training will
3 be provided for the marketers or the
4 independent marketers that you're
5 using?

6 A. We have the scripts here.

7 Q. You have scripts. Okay.

8 MR. BLACK: And you know what
9 I want to do --

10 A. There's also an initial --

11 MR. BLACK: I think what I'm
12 going to do is just to -- rather
13 than do it independently, if you
14 don't mind, Your Honor, I think I'm
15 just going to do this as a --

16 ALJ GARNER: Do them
17 collectively?

18 MR. BLACK: Yes, sir, Your
19 Honor. I'm going to do it
20 collectively.

21 Q. Exhibit #3, you recognize these to
22 be -- let me see. Do you recognize
23 these to be the scripts for your --

1 A. For our marketers.

2 Q. -- for your marketing?

3 A. Yes, I do.

4 MR. BLACK: Let me just -- did I
5 give you two standards, Judge? I
6 just want to make sure I didn't give
7 you --

8 ALJ GARNER: Yeah. It looks
9 like you did give me two standards.

10 MR. BLACK: I was afraid I did
11 that. Let me make sure you get a
12 discount and an unlimited. Which
13 one are you lacking, Judge?

14 ALJ GARNER: I think I actually
15 have the unlimited and the discount.

16 MR. BLACK: And you just got two
17 standards?

18 ALJ GARNER: I just got a
19 duplicate on the standard, yeah,
20 which I will remove one of those
21 copies.

22 MR. BLACK: If you don't mind, I
23 will give that over to Mr. Cook.

1 That was his copy I gave you.

2 ALJ GARNER: Okay. I
3 understand.

4 MR. BLACK: Thank you, Judge.

5 Q. Okay. Now, also with regard to the
6 marketing, will the company establish
7 guidelines or procedures governing the
8 activities of the telemarketers, which
9 will include provisions for
10 termination if impropriety is
11 discovered?

12 A. Yes, sir.

13 Q. And is that contained in what we
14 already have as Exhibit #2? Okay.
15 I mean, it's your understanding that
16 if somebody does something wrong, you
17 can terminate them?

18 A. Yes.

19 Q. Okay. Fair enough. Let me ask you
20 this. What kind of account
21 verification method will be used by
22 Optic?

23 A. We're using a third party with all

1 verified.

2 Q. Okay. And I'm going to show you
3 Exhibit #4. Do you recognize Exhibit
4 #4 to be your verification service
5 agreement?

6 A. Yes, sir.

7 Q. Okay. And that verification service
8 agreement contains the address of the
9 third-party verifier; is that right?

10 A. Yes, sir.

11 Q. It's in there? Okay. Good.

12 A. Uh-huh.

13 Q. All right. Let's see. With regard to
14 the verification process, I'm going to
15 show you what's Exhibit #5, I
16 believe.

17 Might want to write 5 instead of
18 4.

19 In Exhibit #5, do you recognize
20 Exhibit #5 to be the script for
21 verification with Optic Internet
22 Protocol?

23 A. Yes.

1 Q. Okay. Does the company plan to use
2 any fictitious business name or
3 d/b/a's in its advertising?

4 A. No, sir.

5 Q. Okay. Do y'all have any kind of a
6 website or Internet address at this
7 time?

8 A. Yes.

9 Q. What is that? Do you know?

10 A. It is oiptelecom.net.

11 Q. Okay. And y'all do intend to do some
12 marketing over the Internet?

13 A. Uh-huh.

14 Q. Is that a yes?

15 A. Yes.

16 Q. She doesn't take nods.

17 A. Sorry.

18 Q. It's okay. That's fine. Now let me
19 ask you this. What type of complaint
20 procedures are in place right now with
21 Optic?

22 A. We have -- well, we have an 800
23 customer service number.

1 Q. Okay.

2 A. It's included on that.

3 Q. And what is that 1-800 service? What
4 is that 1-800 number?

5 A. It is 1-800-423-4518.

6 Q. And where -- okay. And where is that
7 number located?

8 A. In --

9 Q. Where can you find that number?

10 A. On the bill, on the top right.

11 Q. On the bill. Okay.

12 Exhibit #6, is this a copy of a
13 sample bill for Optic Internet
14 Protocol?

15 A. Yes, sir.

16 Q. And contained on that is the 1-800
17 number?

18 A. Right. As I said, with numbers.

19 Q. Okay.

20 A. It will be changing shortly. I
21 haven't -- I have the new number.

22 Q. Okay. Now, let me ask you this. Is
23 the company familiar with the rules

1 and regulations of the Alabama Public
2 Service Commission regarding the
3 resale of telecommunications?

4 A. Yes, sir.

5 Q. Does the company intend to comply with
6 those rules and regulations?

7 A. Yes, sir.

8 Q. Are you aware that you will be
9 required to file annual reports and
10 pay for any supervision or inspection
11 fees?

12 A. Yes, sir.

13 Q. Okay. And do you intend to pay those
14 fees in a timely manner?

15 A. Yes, sir.

16 Q. Who is the contact person for -- for
17 Alabama tariff questions and issues?
18 Who is your --

19 A. Thomas Crow.

20 Q. Thomas Crow. Okay.

21 A. He's the counsel.

22 Q. And where is Thomas Crow located?

23 A. He is in Washington.

1 Q. Washington, D.C.?

2 A. D.C.

3 Q. Okay. He's an attorney in Washington?

4 A. Uh-huh.

5 Q. Where are the company books and
6 records maintained for Optic Internet
7 Protocol?

8 A. In Atlanta -- in Roswell, in Georgia.

9 Q. Okay. Now let me ask you this. How
10 is it that Optic Internet Protocol --
11 what special services are you going to
12 offer or what special -- what makes
13 Optic Internet Protocol special and
14 different where the people of the
15 state of Alabama would be served or
16 benefit from the granting of authority
17 to Optic?

18 A. Competitive rates. We're going to
19 have in-house customer service,
20 personal attention to phone calls.

21 Q. Okay.

22 A. Customer phone calls.

23 Q. Okay.

1 A. That essentially. That -- that's
2 the root.

3 Q. Okay.

4 MR. BLACK: Your Honor, I don't
5 think I have any further questions
6 at this time.

7 ALJ GARNER: Okay. The
8 documents are admitted subject to
9 cross-examination.

10 Mr. Cook.

11 CROSS-EXAMINATION

12 BY MR. COOK:

13 Q. Mr. Allpow, my compliments to your
14 attorney. He presented your case very
15 well. On your 800 number, which is
16 located on the bill, how is that
17 number manned?

18 A. We have five people on staff now that
19 are manning it. Is that the answer
20 you're looking for?

21 Q. No. Is it manned 8 to 5 or 24/7?

22 A. Oh. Previously -- I mean currently,
23 it's going to be 24/7. And I --

1 I feel like I should submit the
2 updated number. As I was saying, I --

3 MR. BLACK: You now have an
4 updated one?

5 Oh, I'm sorry. I'm cutting
6 into you.

7 THE WITNESS: Yeah. I'm sorry.

8 A. Yeah, we plan to be 24/7. And
9 currently -- currently, it is.

10 Q. Okay. And it's 800-423-4518 will be
11 the number or --

12 THE WITNESS: May I?

13 MR. BLACK: Yeah. If you've got
14 a different --

15 A. The new number is 1-866-925-1048. I
16 believe the old number is also -- is
17 also active still.

18 Q. Okay. So if somebody had a problem at
19 twelve o'clock at night, they can call
20 that number and talk to a live person?

21 A. Yeah, absolutely. That's the --

22 Q. It doesn't go to a we'll-call-you-
23 back-tomorrow?

1 A. No, not at this time.

2 Q. Okay. I want to make sure that we
3 understand that you -- you're
4 basically just seeking long distance
5 resale.

6 A. Correct.

7 Q. You don't plan on constructing any
8 equipment in Alabama?

9 A. No, sir.

10 Q. You have no intentions of
11 interconnecting or co-locating a
12 switch or anything with any company?

13 A. No. No.

14 Q. Okay. And -- and Quest is going to
15 haul your traffic?

16 A. Uh-huh.

17 Q. Underlying carrier. I'm sorry.

18 A. Yeah.

19 MR. BLACK: And he said uh-huh,
20 which means yes.

21 THE WITNESS: I'm sorry.

22 MR. BLACK: That's okay.

23 MR. COOK: I don't have any

1 other questions, Your Honor.

2 ALJ GARNER: Yeah, I would agree
3 that Mr. Black was very thorough in
4 his presentation.

5 MR. BLACK: Thank you, Your
6 Honor.

7 ALJ GARNER: Applicant's
8 Exhibits #1 through #6 are
9 admitted.

10 The only question I would
11 have, Mr. Allpow, is your financials
12 are dated I believe end of the year
13 2009. What is your financial
14 condition at present? Would you
15 describe it as similar to what the
16 financials that have been submitted
17 reflect or better or worse? What is
18 your characterization?

19 THE WITNESS. Yeah. Similar.
20 We can -- we can -- I'm sorry for
21 that. We can get something. I can
22 get you something up to date
23 before --

1 ALJ GARNER: You have more
2 recent financials available?

3 THE WITNESS: I would think so.

4 ALJ GARNER: All right. If you
5 would submit some revised
6 financials, the most current that
7 you have, posthearing.

8 MR. BLACK: We'll do that, Your
9 Honor.

10 ALJ GARNER: That would be
11 helpful. Other than that, I believe
12 Mr. Black covered everything that I
13 would normally inquire about. So
14 anything you want to touch on,
15 Mr. Black, before we close out?

16 MR. BLACK: I think -- I hope
17 I've covered it all, Your Honor.

18 ALJ GARNER: You have.

19 MR. BLACK: Thank you, sir.

20 ALJ GARNER: Trust me. We would
21 ask you if you haven't.

22 All right. If there's
23 nothing further to add, this matter

1 is taken under advisement. And that
2 will conclude the hearing.

3 MR. BLACK: Thank you, sir.

4 * * * * *

5 END OF PROCEEDINGS

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1 REPORTER'S CERTIFICATE

2 STATE OF ALABAMA

3 MONTGOMERY COUNTY

4 I, Mallory M. Johnson, Certified
5 Court Reporter and Commissioner for the
6 State of Alabama at Large, hereby certify
7 that on Wednesday, September 15, 2010, I
8 reported the TESTIMONY AND PROCEEDINGS in
9 the matter of the foregoing cause, and that
10 pages 3 through 32 contain a true and
11 accurate transcription of said proceedings.

12 I further certify that I am neither
13 kin nor of counsel to the parties to said
14 cause, nor in any manner interested in the
15 results thereof.

16 This 26th day of September, 2010.

17

18

19 /s/Mallory M. Johnson
20 MALLORY M. JOHNSON, CCR, RPR
21 Commissioner for the
22 State of Alabama at Large
23 CCR 443, Expires 09/30/11

22 MY COMMISSION EXPIRES: 2/24/13

23