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Sana D. Coleman

September 1, 2000

PUBLIC SERVICE COMMISSION
RECEIVED

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VIA FEDERAL EXPRESS

SEP 05 2000

Ms. Janet H. Deixler
Secretary
New York Public Service Commission
Agency Building 3
Three Empire State Plaza
Albany, NY 12223-1350

FILES
ALBANY, N.Y.

Re: Petition of Mpower Communications Corp. for Authority to Enter Into a Senior Secured Credit Facility Agreement and to Pledge Certain Assets and Stock as Security; Case Number 00-C-0239

Dear Ms. Deixler:

Enclosed herewith for filing with the New York Public Service Commission please find an original and 9 copies of the above-captioned Petition. In addition, please also find a duplicate of this filing and a self-addressed, stamped envelope. Please date-stamp the duplicate upon receipt and return it in the envelope provided.

ack/h

Please contact the undersigned with any questions concerning this matter.

Very truly yours,

Sana D. Coleman

Enclosure

cc: Francis D. R. Coleman
Douglas G. Bonner, Esq.

Before the
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

ORIGINAL

Petition of Mpower Communications Corp.)
for Authority to Enter Into a Senior Secured)
Credit Facility Agreement and to Pledge)
Certain Assets and Stock as Security) Case _____ - _____ - _____

PETITION

Mpower Communications Corp. ("Mpower" or the "Petitioner") f/k/a MGC Communications, Inc. d/b/a Mpower Communications Corp., by its attorneys, hereby respectfully requests authority from the New York Public Service Commission (the "Commission"), pursuant to N.Y. Pub. Serv. Law § 101, to engage in the financing arrangement described in this Petition.

On February 3, 2000 Mpower, then MGC Communications, Inc., filed with the Commission an Application for a Certificate of Public Convenience and Necessity in Case 00-C0-239 (the "Certification Application"). On February 29, 2000, the Commission approved Mpower's Certification Application.

Mpower seeks to obtain a senior secured credit facility of up to \$500 million. Mpower expects to secure the credit facility with some or all of Mpower's assets, including the assets and stock of its affiliate, BroadSpan Communications, Inc. d/b/a Primary Network Communications, Inc., ("BroadSpan"), a Missouri corporation. In support of this Petition, Mpower provides the following information:

I. Mpower Communications Corp.

Mpower is a publicly-held Nevada corporation. Its principal offices are located at 175 Sully's Trail, Suite 300, Pittsford, New York 14534. Mpower provides competitive

telecommunications services throughout several jurisdictions. Mpower is certificated to provide competitive facilities-based and resold local exchange and exchange access telecommunications services in the jurisdictions of Arizona, California, Colorado, District of Columbia, Florida, Georgia, Illinois, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin. Mpower provides services to approximately 150,676 access lines, primarily in the residential and small business market. Mpower's facilities-based local exchange and interexchange operations, particularly through the offering of local exchange services, are expected to continue to grow.

As described in Mpower's (then MGC) Petition in Case 00-C-0854, Mpower, via a holding company level transaction, acquired Primary Network Holdings, Inc. and its affiliates, including BroadSpan Communications, Inc. d/b/a Primary Network Communications, Inc. ("BroadSpan"), a Missouri corporation, and BroadSpan's wholly-owned subsidiary, Harvest Telecom, Inc. which is certificated and operational in the State of Oklahoma. BroadSpan is the only Mpower affiliate certificated under the Commission's jurisdiction which would be affected by the proposed senior secured credit facility transaction described herein.

BroadSpan's current principal place of business is 11756 Borman Drive, Suite 101, St. Louis, Missouri 63146-4133. BroadSpan filed with the Commission an Application for a Certificate of Public Convenience and Necessity to provide interexchange services in the State of New York (the "BroadSpan Application"). The BroadSpan Application was filed as case number 99-C-1264. On December 2, 1999, the Commission approved the BroadSpan Application (the "BroadSpan CPCN Order").

II. Designated Contacts

The designated contacts for questions concerning this application are:

Douglas G. Bonner, Esq.
Sana D. Coleman, Esq.
Arent Fox Kintner Plotkin & Kahn, PLLC
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
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Copies of any correspondence should also be sent to the following designated representative of Mpower:

Francis D. R. Coleman, Esq.
Vice President, Regulatory Affairs
Mpower Communications Corp.
175 Sully's Trail
Suite 300
Pittsford, New York 14534
Tel: (716) 218-6568
Fax: (716) 218-0165
Email: fcoleman@mpowercom.com

III. Description of the Transactions

Mpower is making the necessary arrangements for its near-term financial needs to assure its ability to continue and accelerate its growth and to offer its varied services to an even larger portion of its potential customer base. Accordingly, Mpower is taking the following steps:

A. Long-term Financing. Mpower seeks to enter into a financing agreement whereby Mpower would obtain a senior secured credit facility of up to \$500 million. The senior secured credit facility would be secured by some or all of Mpower's assets, including the assets of, and stock of, its subsidiaries. Mpower expects that the senior secured credit facility will be a

combination of revolver and term loans; the term being three (3) to seven (7) years. The loan rate would be based on LIBOR with a spread tied to Mpower's then current bond rating and other financial ratios. The actual amount issued will be subject to future capital requirements of Mpower and the market conditions at the time debt instruments are issued.

There will also be a mechanism in the senior secured credit facility agreement to allow for the formation of a holding company while preserving the status of the lender. In that event, which will occur only after receipt of all necessary governmental approvals, Mpower, as the certificated entity, would expect to guarantee the repayment of the debt instruments by its new parent. Because the maximum possible impact on Mpower is the same if Mpower were to guarantee the debt, it is respectfully requested that the Commission approve both the debt incurred by Mpower and Mpower's ability to guarantee the repayment of this debt, in the event of a restructuring, without the need to seek further approval of the Commission for such guarantee.

B. Expansion. The primary purpose of the senior secured credit facility is to increase financing capacity and to enhance flexibility for changes in Mpower's business plans including, but not limited to, expansion of its network to provide competitive local telecommunications services in an increased number of local exchanges.

IV. Public Interest Analysis

Approving this proposal would serve the public interest because it would enable Mpower to raise capital under favorable market conditions, thus enhancing its ability to grow and compete in the highly competitive telecommunications markets in the State of New York and nationwide. The proposed senior secured credit facility would provide Mpower with the additional financial

resources needed to introduce new products and services, continue its rapid growth and respond to the highly competitive telecommunications environment.

Mpower intends to compete in the State of New York and in other markets with numerous other interexchange carriers and enhanced network providers as well as the incumbent local exchange carrier and other competitive local exchange carriers. Because it is a non-dominant and competitive carrier, Mpower is not subject to rate of return regulation and its capital structure and debt should not be a matter of concern to the Commission. In addition, because of the highly competitive environment in which it operates, the rates Mpower charges customers are subject to market discipline and the services it offers are also offered by other carriers. As a result, Mpower's source of funds and capital structure, the interest rate on its debt and debt securities or its repayment obligations would have little effect on customers in the State of New York or elsewhere. In the unlikely event that Mpower's capital structure becomes too costly and its rates rise, its customers may simply migrate to other carriers with preferred rates. Thus, any adverse consequences from Mpower's financing decisions would have an impact only on its shareholders, not its customers, and any favorable consequences benefit both shareholders and consumers through higher profits, lower rates and better services.

The approval of this application is not expected to directly affect Mpower's rates or services in any way, or result in any change in the control of Mpower. In addition, Mpower notes that as a publicly-held corporation it is subject to the jurisdiction of the U.S. Securities and Exchange Commission. This serves to protect the interests of Mpower's investors and customers in the State of New York.

WHEREFORE, Mpower Communications Corp. respectfully requests the Commission to issue an order allowing Mpower to enter into a senior secured credit facility agreement for up to \$500 million with terms as described above and grant such additional relief as the Commission deems appropriate.

Respectfully submitted,

MPOWER COMMUNICATIONS CORP.

By. 

Douglas G. Bonner, Esq.

Sana D. Coleman, Esq.

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Attorneys for Mpower Communications Corp.

Dated: September 1, 2000

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