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BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
EVULKAN, INC., d/b/a BEMANY!)
) No. 00 -0482
Application for a certificate)
of local and interexchange)
authority to operate as a)
reseller of telecommunications)
services throughout the entire)
State of Illinois.)

Chicago, Illinois
September 28, 2000

Met pursuant to notice at 10:00 a.m.

BEFORE:

MS. DEBORAH KING, Administrative Law Judge.

APPEARANCES:

MS. CATHERINE M. HANNAN
1620 I Street Northwest, Suite 701
Washington, D.C. 20006
Appearing via telephone for
eVulkan, Inc., d/b/a beMANY!;

1 APPEARANCES: Continued

2 MS. BARBARA LANKFORD and
3 MR. ROBERT KOCH
4 527 East Capitol Avenue
5 Springfield, Illinois 62794
6 Appearing via telephone for
7 Illinois Commerce Commission Staff.
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21 SULLIVAN REPORTING COMPANY, by
22 Giraida B. Bordabeheres, CSR

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I N D E X

Witnesses:	Direct	Cross	Re - direct	Re- cross	By Examiner
Richard U. Stubbs, Jr.	8	10			
		21			

E X H I B I T S
For Identification

In Evidence

Applicant's					
1 and 2	late filed				22

1 JUDGE KING: Pursuant to the authority of the
2 Illinois Commerce Commission, I now call Docket
3 No. 00-0482. This is the application of eVulkan,
4 Inc., doing business as beMANY!

5 May I have the appearances for the
6 record.

7 MS. HANNAN: Catherine M. Hannan on behalf of
8 eVulkan; Mr. Richard Stubbs who will be testifying
9 on behalf of the company this morning.

10 JUDGE KING: Ms. Hannan, if you can give your
11 business address.

12 MS. HANNAN: 1620 I Street Northwest, Suite 701,
13 Washington D.C. 20006.

14 MR. STUBBS: And, your Honor, Richard Stubbs,
15 again, general counsel, head of regulatory
16 compliance, eVulkan, Inc., doing business as beMANY!
17 Our address as of this week and next week is 100
18 Broadway, 21st floor, New York, New York 10271.
19 We're finally finishing the completion of our
20 move-in. Telephone number there is (212) 732-1170.

21 JUDGE KING: And staff.

22 MS. LANKFORD: This is Barb Lankford, Consumer

1 Services Division, Illinois Commerce Commission, 527
2 East Capitol Avenue, Springfield, Illinois.

3 MR. KOCH: Robert Koch, K-o-c-h,
4 Telecommunications Division, Illinois Commerce
5 Commission, 527 East Capitol Avenue, Springfield,
6 Illinois.

7 JUDGE KING: We're here to commence with the
8 evidentiary hearing and we have one witness who will
9 be testifying.

10 (Witness sworn.)

11 JUDGE KING: I don't know, Attorney Hannan, if
12 you have a direct case that you would like to
13 present.

14 MS. HANNAN: Your Honor, at this time I'd like to
15 move into evidence, please, both the application and
16 exhibit and to present Mr. Stubbs for -- as a
17 witness.

18 JUDGE KING: Well, the application is already a
19 part of the record. Was there prefiled testimony?

20 MS. HANNAN: There was testimony associated with
21 the application and supplemental testimony submitted
22 thereafter.

1 JUDGE KING: Are there any changes to that
2 testimony?

3 MS. HANNAN: Actually, there are no changes to
4 the testimony, it is -- if the testimony of
5 Mr. George Jankovic, the president of the company,
6 Mr. Stubbs, as an employee and general counsel for
7 the corporation is prepared today to adopt that
8 testimony as his own.

9 JUDGE KING: And you said that there was some
10 supplemental testimony; when was that filed?

11 MS. HANNAN: It was submitted to the Commission
12 on the 25th of August.

13 JUDGE KING: What I would ask if you can do
14 because this was filed through the e-docket system
15 and because there are changes reflecting that there
16 is a new witness who will be adopting this
17 testimony, I would ask if you could just prepare the
18 testimony with Mr. Stubbs and with both the original
19 and the amended testimony, if you can prepare that
20 and file it again.

21 MS. HANNAN: Absolutely, your Honor, I will.

22 JUDGE KING: And if you can send me a hard copy

1 of that or fax it to me.

2 MS. HANNAN: Certainly.

3 JUDGE KING: And I will admit that testimony then
4 as Applicant's Exhibit 1 and 2.

5 MS. HANNAN: Thank you, your Honor. We will do
6 that.

7 JUDGE KING: Okay. There's no objection to the
8 admission of the testimony, staff?

9 MS. LANKFORD: No.

10 MR. KOCH: No.

11 JUDGE KING: All right, then. Is there anything
12 further as far as direct -- your direct case would
13 go?

14 MS. HANNAN: Your Honor, at this time I would
15 like to call Mr. Stubbs to testify in this matter.

16 JUDGE KING: All right.

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1 RICHARD U. STUBBS, JR.,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MS. HANNAN:

7 Q. Please state your name and business address
8 for the record.

9 A. My name is Richard U. Stubbs, Jr.,
10 S-t-u-b-b-s. My business address is eVulkan, Inc.,
11 d/b/a beMANY! 100 Broadway, 21st Floor, New York,
12 New York 10271.

13 Q. What is your current position with eVulkan?

14 A. I am general counsel for eVulkan, in which
15 capacity I am head of regulatory compliance and I
16 also have certain responsibilities for business
17 development.

18 Q. Are you appearing here today to sponsor the
19 application of eVulkan for application for a
20 certificate of local and interexchange authority and
21 to operate as a reseller of telecommunications
22 services throughout the entire state of Illinois?

1 A. Yes, I am.

2 Q. Are you familiar with the application and
3 its contents?

4 A. Yes, I am.

5 Q. Are you familiar with the testimony and
6 supplemental testimony submitted in this matter?

7 A. Yes, I am.

8 Q. Ratifying and confirming the statements and
9 representations made in the application?

10 A. Yes, I do.

11 Q. And do you adopt as your own the testimony
12 and the supplemental testimony in this matter?

13 A. Yes, I do.

14 Q. Is eVulkan willing and able to conform to
15 the laws of the State of Illinois and rules and
16 regulations of the Illinois Commerce Commission?

17 A. Absolutely.

18 Q. Does this complete your testimony and
19 support of eVulkan's application?

20 A. Certainly.

21 MS. HANNAN: Your Honor, this witness is tendered
22 for cross-examination.

1 JUDGE KING: All right.

2 MS. LANKFORD: This is Barb Lankford and I have a
3 few questions.

4 CROSS-EXAMINATION

5 BY

6 MS. LANKFORD:

7 Q. In No. 2 of the application, are you sure
8 that you don't want any facilities-based services?

9 A. We have no intention of making any
10 facilities. We are a reseller. Our -- we will be a
11 reseller. Our business model is primarily Internet -
12 based and heavily geared toward creating a value for
13 the customer in customer care and easability and
14 such. It's not our core competency to pursue
15 facilities.

16 Q. Okay. In No. 3 of the application in regard
17 to the 735 waiver, are you requesting this waiver
18 for long-distance service?

19 A. We are -- for -- if you could just bear with
20 me. Is the 735 waiver the directory listing waiver
21 or the billing records?

22 Q. That's the billing.

1 A. I'm sorry. Yeah, we are asking for that
2 waiver for both, ma'am; both local and long distance
3 and would maintain in the event the waiver was
4 granted all records at the New York office.

5 Q. Staff has never approved a waiver for Part
6 735 for local exchange service. I don't know if
7 you're aware of that, but --

8 A. I was not aware of that, ma'am.

9 Q. Okay. No. 19 of the application, you state
10 that you have procedures in place to prevent
11 slamming. What about cramming? Will you have
12 guidelines in place for cramming?

13 A. Yes, ma'am, we will -- just to give you some
14 background on the way we operate. We are primarily
15 an Internet-based company, and our marketing will be
16 accordingly on-line and Web-based. We are hoping
17 that with the increasing use of the Internet for
18 services, potential customers will come to our Web
19 site, understand the proposition that we are making
20 and now we can save people time and money and
21 hassle. And part of this -- the key component is to
22 gain the customer's trust.

1 And we do not believe in hidden fees.
2 We believe in frequently making use of text links on
3 the Web site so that people can understand what they
4 are paying for, what they're ordering so that if,
5 for instance, someone signs up for long-distance,
6 there will be a link there explaining that they are
7 going to be getting local toll, local in-state
8 long-distance or interstate long-distance, whatever
9 the plan that we are offering might have. So, that
10 it will be available for people to know before they
11 enter into any agreement with us just what they're
12 getting.

13 Q. Okay. Do you plan to provide voice-grade
14 service at some point in time in the future?

15 A. I'm sorry, ma'am, what kind of service?

16 Q. Did you plan to provide voice-grade phone
17 service at some time in the future?

18 A. When you say voice-grade, are you --

19 Q. Yes.

20 A. What we are -- this is not voiceover IP
21 telephony, is that what you're asking about? This
22 is Worldcom-backed long-distance and local or SPC

1 Ameritech-backed local phone that we are preparing
2 to resell.

3 Q. Who would the Consumer Services Division
4 contact if there were any type of complaint?

5 A. The Consumer Division should feel free to
6 contact me as a representative of the company,
7 and/or if it makes more sense and is more convenient
8 to you, feel free to contact Catherine Hannan as our
9 outside regulatory counsel.

10 Q. Can you describe your company's internal
11 process for complaint resolution, the escalation
12 process and when a customer is notified that they do
13 have a right to contact the Illinois Commerce
14 Commission for assistance?

15 A. Certainly. Could you break that down,
16 ma'am, into --

17 Q. Okay. First if you could describe your
18 company's internal process for complaint resolution.

19 A. Certainly. Well, we will be offering 24/7,
20 365 customer service, customer service at any time
21 of day. It really goes not only to our need to
22 comply with the law, but really to the heart of what

1 we want to bring to the consumer. That in these
2 days of an increasing confusion over the
3 telecommunications as well as deregulation in other
4 areas and when customer turn and frequent
5 telemarketing is seen by consumers, we want to be an
6 antidote to that so that the customers will want to
7 stay with us.

8 So, customer care is not something that
9 we take on simply because we have to. It's going to
10 be a core part of our business. We want the
11 customer to feel very comfortable calling us at any
12 time asking about anything that might relate to
13 their service and we're going to be prepared to be
14 there for them. We encourage customers to call and
15 therefore we have a toll-free number. We also make
16 available customer care through the Internet using
17 email. We really -- we feel that the only way that
18 we are going to make it long term is if we gain
19 people's trust and hopefully they'll refer our name
20 to their friends. And so customer care is just key.
21 We -- I can't emphasize it enough.

22 Q. Well, at what point would a customer be

1 notified if they do have the right to contact the
2 Illinois Commerce Commission for assistance?

3 A. Certainly in their bill they would have
4 notice of that. My belief is that the Web site when
5 fully functional will have state-by-state links for
6 indicating each person's respective rights to
7 contact governmental authorities. People will be
8 invited to click on depending on their state and
9 certainly among them would be Illinois.

10 Q. What about if someone called in to your
11 customer service area? At what point -- I mean,
12 would they be told that they have the right to
13 contact the Illinois Commerce Commission?

14 A. I preface that by saying if that's what the
15 Commission would expect of us, absolutely. I'm just
16 thinking -- I'm not sure if that's something that
17 would be said over the -- right off the bat by a
18 customer care representative. However, it can
19 certainly be part of our protocols that in the event
20 someone expresses dissatisfaction that they be told
21 they have a right to call the Illinois Consumer
22 Counsel and Consumer Commission.

1 Q. Okay. All right. Will you be doing
2 business in Illinois as eVulkan or under the beMANY!
3 name?

4 A. We will be doing business under the beMANY!
5 name. Just to give you a very brief history. Our
6 CEO and founder's grandmother's last name was Vulkan
7 and he fully intended to maintain the Web site under
8 eVulkan until he was told by enough people it was a
9 little too personal to him. So, it still -- the
10 company's corporate name, however, we will do
11 business under the beMANY! brand.

12 Q. Now, the authority to transact business in
13 Illinois that we received is under the eVulkan name,
14 so I'm not sure --

15 MS. HANNAN: If I might interject. As Exhibit 2
16 to the application, I believe the company's
17 application which was docketed by the Secretary of
18 State Department of Business Services did include an
19 application to adopt an assumed corporate name.

20 MS. LANKFORD: I'm looking for that here.

21 MS. HANNAN: That would be as the back -- there's
22 a Secretary of State certificate of authority to

1 transact business in the company's name.

2 Immediately following the application associated
3 with that is the assumed name.

4 MS. LANKFORD: Okay. All right.

5 BY MS. LANGFORD:

6 Q. At the time of this filing, are you
7 providing any local or long-distance services in any
8 other state?

9 A. No, we have -- we essentially filed
10 nationwide or at least in the continental United
11 States simultaneously for local and long-distance
12 reseller status. And currently we have received
13 back approximately 40 approvals for the sale of
14 long-distance, about ten for local with the
15 remainder of all other local and long-distance
16 applications still pending. We have not been
17 denied, rejected or otherwise receive any adverse
18 ruling on any of our applications.

19 Our intent is upon being certificated
20 and licensed in the great majority of those states,
21 then going live negotiating -- after having
22 negotiated local and interexchange agreements with

1 Worldcom, Ameritech SBC and perhaps other carriers.

2 Q. Okay. In No. 23 of the application, I
3 needed for you to clarify. You answered that
4 Americom Communications. Can you explain what that
5 means?

6 A. Yes, we entered into an agreement with
7 Americom whereby in the process of putting together
8 our technology team, our billing team, our telecom
9 products team in parallel with our pursuit of
10 regulatory authority, we negotiated with Americom an
11 agreement where, essentially, down the road upon
12 becoming certificated, we might negotiate with them
13 and do business with them as a reseller.

14 In the interim to learn the process, to
15 be able to work our systems, we agreed to be a --
16 act as a reseller -- excuse me -- a sales agent for
17 Americom. We are not engaged in marketing, we
18 are -- other than the website. We have minimal
19 customers as a sales agent on behalf of Americom.
20 It's really employees and families, but it's meant
21 to -- during this process where we have, say, six to
22 seven to eight months before becoming a reseller, we

1 thought we better learn along the way how to do it.
2 You know, if you don't know, you don't know is what
3 we were told. So, we have minimal revenue then as a
4 sales agent on behalf of Americom.

5 Q. Okay. In the testimony on Page 9, Question
6 19, I just want to clarify that you are offering
7 prepaid service for long-distance only?

8 A. That's correct, ma'am.

9 Q. And No. 26 of the application, I want to
10 clarify that you do plan to provide pay phone
11 services in Illinois?

12 A. Yes, not on a facilities basis but, yes, our
13 customers will be able to access pay phones with our
14 services.

15 MS. HANNAN: If I might interject. Mr. Stubbs, I
16 believe Ms. Lankford may be asking whether the
17 company is intending to actually operate as a pay
18 phone service provider. I believe that -- was that
19 the question, Ms. Lankford?

20 MS. LANKFORD: Yes.

21 THE WITNESS: We are not going to be a pay phone
22 service provider.

1 MS. LANKFORD: Okay.

2 THE WITNESS: We will -- I'm not sure, maybe I
3 wasn't answering the question correctly. What I
4 thought the question involved was could one take our
5 prepaid long-distance calling card and use it from a
6 pay phone and the answer would be yes.

7 BY MS. LANKFORD:

8 Q. Well, on the application it was marked
9 "yes." It says if applicant intends to provide pay
10 phone services, and that was --

11 A. Oh, again, I mean, I guess I'm not sure if
12 I'm interpreting the question correctly.

13 Q. I'm just trying to clarify if you were going
14 to provide actual pay phone services, if you're
15 wanting to provide actual pay phone services. That
16 was my question.

17 A. And my belief is we don't have that intent
18 other than to provide the access to the pay phones
19 through the prepaid calling cards.

20 MS. LANKFORD: Okay. All right. That's all the
21 questions I have. Thank you.

22 MS. HANNAN: Actually, Ms. Lankford, if I might

1 add just one little clarification with respect to
2 the question about the waiver of Section 735, it was
3 eVulcan's intent to ask only for a waiver of Section
4 735.180 with respect to exchange services, not the
5 entire section -- not the entire part.

6 MS. LANKFORD: Are you talking to me are or are
7 you talking to --

8 MS. HANNAN: Actually, it was in response to your
9 first question to Mr. Stubbs about whether the
10 company is requesting a waiver of Part 735. With
11 respect to local services, the company had intended
12 to request a waiver only of Section 735.180.

13 MR. KOCH: I just have, real quickly, for
14 Mr. Stubbs. We talked off the record a little bit I
15 just want to get on the record a little bit about
16 our previous discussion.

17 CROSS-EXAMINATION

18 BY

19 MR. KOCH:

20 Q. The financial statements submitted by the
21 company, those financial statements are of the
22 applicant, correct?

1 A. That's correct.

2 MR. KOCH: That is my only question.

3 JUDGE KING: Is there any redirect?

4 MS. HANNAN: No, your Honor.

5 JUDGE KING: Is there anything further from
6 staff?

7 MS. LANKFORD: No.

8 MR. KOCH: No, your Honor.

9 JUDGE KING: Hearing nothing further, I'd just
10 like to clarify that we have admitted into the
11 record here today the testimony of Mr. Richard
12 Stubbs as Applicant's Exhibits 1 and 2 and that will
13 be filed as a late exhibit. We, therefore, can
14 bring this matter to a close here today. I will ask
15 that the record be marked heard and taken, I'll
16 thank everyone for participating here today, and I
17 will get this on the next possible agenda.

18 Ms. Hannan, if you can fax me a hard
19 copy of that testimony.

20 MS. HANNAN: Absolutely, your Honor.

21 JUDGE KING: My fax number is (312) 814-7289.

22 MS. HANNAN: That is wonderful and I will follow

1 that up with an original, get the fax to you today
2 and you said it should come without an original
3 signature on it?

4 JUDGE KING: That's fine. I mean, I can --
5 actually, what you can do is you can still file it
6 by e-docket, I just need to be able to give the hard
7 copy to the Clerk'S Office. I don't know how they
8 exactly want that. But if you could just have a
9 copy for me and that way I can stamp it as the
10 exhibit.

11 MS. HANNAN: That's fine, we will do so.

12 JUDGE KING: Okay. Thank you.

13 HEARD AND TAKEN. . . .

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