

**GOVERNMENT OF THE VIRGIN ISLANDS
OF THE UNITED STATES**

Public Services Commission

IN RE:

MOMENTUM TELECOM, INC. APPLICATION)	Docket No. 641
FOR AUTHORITY TO PROVIDE)	Order No. <u>47</u> /2015
TELECOMMUNICATIONS SERVICES)	
WITHIN THE UNITED STATES VIRGIN ISLANDS)	
<hr/>		

ORDER

WHEREAS, on December 19, 2014, Momentum Telecom, Inc. (hereinafter "Momentum") filed an Application for authority to provide telecommunications services in the United States Virgin Islands with the Virgin Islands Public Services (hereinafter "PSC" or "Commission"); and

WHEREAS, the Commission issued notice of the application and sought public and concerned entity comments on the application; and

WHEREAS, on May 5, 2015, the Commission **APPOINTED** Johann Clendenin as Hearing Examiner to preside over the proceedings in Docket 641; and

WHEREAS, on May 8, 2015 the Commission published a notice of scope and schedule addressing intervention, seeking public and concerned entity comments on the issues identified and directed copies of that notice to likely parties of interest; and

WHEREAS, the Notice provided for the following schedule:

- May 11, 2015 - Response to Intervention
- May 15, 2015 - Written Testimony
- May 18, 2015 - Public Hearings (STT & STX)
- May 19, 2015 - Hearing Examiner's Report Due (by 12 noon)
- May 19, 2015 - PSC Special Meeting (STT & STX); and

WHEREAS, several parties timely filed comments and/or testimony in this proceeding;
and

WHEREAS, on May 18, 2015, Hearing Examiner, Johann Clendenin, conducted a public hearing and heard from Momentum, the PSC's technical consultants and staff and the

public at the Commission's offices on both St. Thomas and St. Croix, United States Virgin Islands; and

WHEREAS, on May 19, 2015, the Hearing Examiner submitted his Report and Recommendations to the Commission; and

WHEREAS, on the evening of May 19, 2015, the Commission met in special session at the Commission's offices on both St. Thomas and St. Croix, United States Virgin Islands; and

WHEREAS, upon review and deliberation the Commission voted to adopt and accept the Hearing Examiner's Report and Recommendations, and the findings and conclusions therein, and to include all items and the expanded scope of the Hearing Examiner's Report; and

NOW THEREFORE, the Commission **ORDERS** that:

- 1) The Hearing Examiner's Report and Recommendations be and are ACCEPTED. The findings and recommendations in that report are set forth below:
 - a) Findings of Fact:
 1. That there is significant competitive interest and substantial differences of opinion regarding the matters before the Commission on regulating Information Services component of Telecommunications and the Momentum application for a Certificate.
 2. That the public is often confused by the myriad technical services offered and the technology providing the services and solutions.
 3. That the public seeks reliability and transparency and service to remote locations
 4. That the VI Code provides for the regulatory control of the Momentum Application
 5. That the substantial investment by both the government and private industry needs oversight and some regulatory provision in order to serve the public interest.
 - b) Conclusions:
 1. That Momentum, Inc.'s Application is prudent and within the jurisdiction of the PSC.
 2. That the telephone services / telecommunications environment is critical in the Territory and the myriad positions and multiple niche markets of competitors demand regulatory control to ensure reasonable competition and service reliability essential for the public good.
 3. That in the matter of policy, the PSC should ensure jurisdiction over the broader category of Telecommunications to include Broadband, wireless, wireline, VoIP, Information Services and middle mile infrastructure.
 - c) Hearing Examiner's Recommendation:
 1. That a Certificate be approved for Momentum, Inc. by the PSC on Docket No. 641.
 2. That the VI Code should be interpreted as written and that the term "telephone

service” is inclusive of the infrastructure to provide telephone service such as Telecommunications, Internet, Voice over Internet Protocol (VoIP), Broadband, Wireless and other mobile telephone devices such as computers used for telephone calls, tablets, and smartphones.

3. That the PSC examine the changing landscape of telephone services in the Territory and provide regulatory oversight including rate structures where appropriate.
- 2) All items within the Hearing Examiner’s Report were and are intended to be within the scope of the Hearing Examiner’s appointment, as confirmed by the Commission.

So Ordered.

For the Commission



Date: November 20, 2015

Johann A Clendenin, Chair