

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the)	Application No. C-2148
acquisition from GTE Midwest)	
Incorporated of certain)	FINDINGS AND CONCLUSIONS
telephone exchanges by)	
Citizens Telecommunications)	
Company of Nebraska.)	Entered: April 5, 2000

APPEARANCES:

Citizens Telecommunications	GTE Midwest Incorporated:
Company of Nebraska:	Paul M. Schudel
Paul M. Schudel	Woods & Aitken
Woods & Aitken	206 South 13th St., Su.1500
206 South 13th St., Su.1500	Lincoln, NE 68508
Lincoln, NE 68508	
and	Commission Staff:
Susan M. Mikes	Mike Loeffler
Citizens Utilities Company	300 The Atrium, 1200 N St.
Three High Ridge Park	P.O. Box 94927
Stamford, Connecticut 06905	Lincoln, NE 68509-4927

BY THE COMMISSION:

O P I N I O N A N D F I N D I N G S

By joint application filed October 27, 1999, GTE Midwest Incorporated (GTE) and Citizens Telecommunications Company of Nebraska (Citizens) seek approval of the purchase by Citizens from GTE of GTE's Nebraska telephone exchanges, as identified in Exhibit A attached hereto, and assets associated therewith (the Exchanges), the issuance of a certificate of convenience and necessity to Citizens to provide basic local exchange service and intraLATA interexchange service to customers located in the exchanges, and to grant Citizens eligible telecommunications carrier (ETC) status pursuant to 47 U.S.C. § 214(c).

Notice of the filing of the joint application was published in The Daily Record on October 29, 1999, pursuant to the Rules of the Commission, and a letter of notification was provided to interested parties on November 1, 1999.

A protest of the joint application was filed by AT&T Communications of the Midwest, Inc. and AT&T Local Services (together, AT&T) on November 29, 1999. A Prehearing Conference Order was entered in this matter on February 15, 2000, which addressed a number of procedural matters relating to this docket and also approved a stipulation entered between AT&T, Citizens, the Nebraska Universal Service Fund and the Communications Department of the Commission. Based upon the terms of the stipulation, AT&T filed a motion to withdraw its protest which was granted by an order entered by the Commission on February 23, 2000.

Public hearings on the joint application were held on March 2, 2000, in Kearney, Nebraska, and on March 3, 2000, in Columbus, Nebraska. Appearances were as shown above.

F I N D I N G S

1. The Commission finds that GTE is a common carrier currently engaged in the provision of telecommunications services in Nebraska and is subject to the jurisdiction of this Commission. Citizens is not now engaged in the provision of telecommunications services in Nebraska, but seeks certification to commence the provision of such services under the jurisdiction of this Commission upon the closing of the purchase of the exchanges from GTE.

2. On September 21, 1999, GTE and Citizens Utilities Company (CUC) entered into an asset purchase agreement pertaining to the exchanges (the Agreement). A true and correct copy of the agreement has been provided to the Commission on a proprietary and confidential basis for review by the Commission and its staff. Pursuant to the terms of the agreement, CUC will assign its rights under the agreement to Citizens prior to closing the purchase of the exchanges.

3. In accordance with the terms of the agreement, GTE proposes to sell and transfer control of the exchanges to CUC. The transaction described in the agreement has received the necessary corporate approvals of GTE and CUC.

4. Mr. Brian W. McCormick, Regulatory Director-Property Repositioning of GTE, appeared before the Commission and testified in this matter. Mr. McCormick explained that the purpose of GTE's repositioning initiative is to create greater efficiencies in operations and higher growth opportunities for GTE. A number of factors were analyzed prior to reaching a determination that the exchanges should be offered for sale. Mr. McCormick stated that CUC was selected as the buyer of the exchanges because it provides local exchange service primarily in rural exchanges located in 13 states consisting of approximately one million lines, is experienced in the provision of telecommunications services and is well qualified to serve the exchanges. Current GTE employees serving the exchanges will become employees of Citizens upon the closing of the sale. Mr. McCormick stated his opinion that the proposed transaction is in the public interest based upon CUC's proven capabilities in serving rural exchanges, Citizens' commitment to provide excellent customer service to rural exchanges, and Citizens' intention to serve the customers in the exchanges at current rates with the same commitments that GTE has made.

5. Mr. F. Wayne Lafferty, Vice President, Regulatory and Government Affairs of CUC, and Vice President, Regulatory and Government Affairs of Citizens, also appeared before the Commission

to testify in this matter. Mr. Lafferty stated that CUC, through its subsidiaries, has provided telephone service since 1935, currently operates as an incumbent local exchange carrier in 13 states, and owns 83 percent of Electric Lightwave, Inc., a full-service, facilities-based competitive local exchange carrier. Mr. Lafferty confirmed the accuracy of the contents of the joint application, with minor clarifications. Approximately 60,000 access lines are included in the exchanges proposed to be acquired from GTE. Mr. Lafferty explained that the decision of CUC to purchase the exchanges is a part of the revised strategic vision of CUC to increase its telecommunications operations, and to concentrate its operations in small and medium-sized cities.

6. Mr. Lafferty described CUC's and Citizens' technical, managerial and financial qualifications. Citizens will have access to management resources of its affiliated companies for planning, marketing, network, service development, provisioning and delivery and legal and regulatory assistance. CUC's, and thus, Citizens' initial funding of the acquisition of the exchanges will be provided from cash and investment portfolio or from short-term borrowing. The financial condition of CUC is presented in its 1998 Annual Report and June 30, 1999, Form 10-Q (both attached to the joint application) and its September 30, 1999, Form 10-Q presented with Mr. Lafferty's prepared testimony. Citizens' technical capabilities are derived from CUC's operation of the existing telecommunications properties by its affiliated companies for the past 65 years and currently in 13 states.

7. Mr. Lafferty also described the impact of the proposed transaction on current GTE customers. No changes in local service are proposed. Citizens intends to adopt GTE's Transition Plan approved by this Commission in Application No. C-1628, subject to the provisions of the stipulation approved by the Commission in this docket on February 15. Citizens will adopt GTE's tariffs pertaining to local exchange and intraLATA interexchange service. Customers have received information concerning the transaction, and will receive additional information concerning the transition from GTE to Citizens service. Citizens also provided to this Commission a schedule of public meetings to be conducted related to the sale. It is understood by the Commission that at these public forums, interested and concerned GTE/Citizens subscribers will be able to ask questions and obtain information about the sale.

8. Also, Mr. Lafferty testified that Citizens intends to negotiate interconnection agreements with all telecommunications service providers that currently have agreements with GTE. If such agreements cannot be negotiated prior to closing of the transaction, the existing GTE agreement with the provider will continue until a new agreement has been negotiated and submitted to the Commission for approval.

9. Upon questioning by the Commission, officers of both GTE and Citizens stated that they were not offering interconnection agreements which contained provisions that Citizens could unilaterally terminate such interconnection agreements with 90-day notice. They went on to say that such a unilateral short-term termination clause was contrary to corporate policy regarding interconnection agreements in which they would enter.

10. Citizens seeks designation by this Commission as an ETC. GTE has been so designated in the exchanges. The Commission finds that Citizens meets all requirements for designation as an ETC and shall, upon closing of the purchase of the exchanges, be so designated in the exchanges in accordance with federal law and the Commission rules.

11. Mr. John J. Lass, Vice President and General Manager, Central Region of Citizens, offered testimony concerning Citizens' customer service and the planned transition of service from GTE to Citizens in the exchanges. Operations offices will be located in Columbus and Kearney to serve the exchanges. Mr. Lass outlined procedures for customers to obtain assistance with service orders, billing inquiries and other customer inquiries. GTE employees currently working in Nebraska will be transferred to Citizens at closing. Transition plans and procedures were outlined by Mr. Lass. Evaluations are currently in process by Citizens to formulate plans for modernization and updating of network and switching facilities.

12. Based upon the evidence in the record, the Commission finds that the sale by GTE, and the purchase by Citizens of the exchanges, is of advantage to the persons to whom service is currently being rendered by GTE, that the terms of such purchase and sale as described in the Agreement are fair and reasonable, that the proposed transaction is in the public interest and should be approved by the Commission.

13. The Commission finds that GTE has already provided notification to customers in the exchanges of GTE's plan to sell the exchanges to Citizens. In addition, Mr. McCormick has advised the Commission that GTE will provide a further notice to these customers at least 30 days prior to the closing of the sales of the exchanges to Citizens. Based upon the evidence offered, the Commission finds that GTE has satisfied, or will prior to closing of the purchase of the exchanges by Citizens, satisfy the requirements of Neb. Rev. Stat. § 86-806 (Reissue 1999) relating to discontinuation of service.

14. The Commission is mindful of the existence of the Telephone Consumer Slamming Prevention Act, Neb. Rev. Stat. §§ 86-1901 to 86-1911 (1999 Supp.) (the Anti-Slamming Act), and that the closing of the sale of the exchanges by GTE to Citizens will, strictly speaking, result in a change of local service and intraLATA interexchange service provider to the customers located

in the exchanges. However, the Commission finds that the Anti-Slamming Act is not applicable to this transaction, nor would the policy considerations that underlie the Anti-Slamming Act be served by its application to this transaction for the following reasons: (a) This transaction is subject to the comprehensive regulatory procedures set forth in Rule 002.26, Chapter 5, Title 291 as described above, and to the specific statutory requirements of Neb. Rev. Stat. § 75-604 (1999 Supp.) relating to the issuance of a certificate of public convenience and necessity to serve the exchanges, such procedures designed to insure that this Commission finds that this transaction is of advantage to customers served and in the public interest prior to granting approval; (b) this transaction is also subject to 47 U.S.C. § 214 and Neb. Rev. Stat. § 86-806 (Reissue 1999), both of which require that notice be given to customers in the exchanges advising of the discontinuation of service by GTE and the continuation of service to the customers by Citizens (the record demonstrates that GTE and Citizens either have complied with or are committed to comply with the requirements of these sections); and (c) as the purchaser and successor in interest to the GTE facilities and personnel serving the customers in the exchanges, Citizens will not represent any change in service to the customers except with respect to the legal entity that provides such service.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that this joint application No. C-2148 be, and it is hereby granted, and that GTE is authorized to sell and transfer, and Citizens is authorized to acquire the exchanges, and the operating assets and properties associated therewith in accordance with the terms of the agreement.

IT IS FURTHER ORDERED that this order be, and it is hereby, made the Commission's official Certificate of Public Convenience and Necessity granted to Citizens to provide telecommunications services, including basic local exchange service and intraLATA interexchange service to customers located in the exchanges, and to the service areas comprising each of the exchanges.

IT IS FURTHER ORDERED that Citizens meets all requirements for designation as an ETC and shall, upon closing of the purchase of the exchanges, be so designated in the exchanges.

IT IS FURTHER ORDERED that upon completion of written notification by GTE to the customers in the exchanges provided at least 30 days prior to the closing of the sale of the exchanges to Citizens, GTE shall have complied with the requirements of Neb. Rev. Stat. § 86-806 (Reissue 1999), and the Commission thereupon approves the discontinuation of service by GTE to customers in the exchanges.

IT IS FURTHER ORDERED that the Anti-Slamming Act is not applicable to this transaction, nor would the policy considerations that underlie the passage of the Anti-Slamming Act be served by its application to this transaction.

IT IS FURTHER ORDERED that Citizens comply with Section 251(f)(1)(B) of the Telecommunications Act of 1996 and that the Applicant submit any bona fide request(s) for interconnection, services or network elements from a rural telephone company to the Commission for its approval.

IT IS FURTHER ORDERED that Citizens is obligated to abide by the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to any other local exchange carriers, except obligations imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Act.

IT IS FURTHER ORDERED that, to the extent Citizens provides access line service as referenced in the Telecommunications Relay System Act, Neb. Rev. Stat. §§ 86-1302 to 86-1306 (Relay Act) and defined in Neb. Admin. R. & Reg. Title 291, ch. 5 § 001.01B, Citizens shall collect from its subscribers a surcharge (Relay Surcharge) pursuant to the Relay Act and the Commission's annual orders establishing the amount of the surcharge, and shall remit to the Commission the proceeds from the Relay Surcharge as provided by the Relay Act.

IT IS FURTHER ORDERED that Citizens comply with all necessary statutes and Commission Rules and Regulations as they pertain to the Nebraska Universal Service Fund.

IT IS FURTHER ORDERED that Citizens shall file, in accordance with the applicable statutes, on or before April 30 of each year, an annual report with the Commission consisting of: (a) a copy of any report filed with the Federal Communications Commission; (b) a copy of any annual report to stockholders; and (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission. If such reports are unavailable, Citizens shall file a balance sheet and income statement for the previous year of operation, and for the state of Nebraska on a combined interstate-intrastate basis, the investment in the telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues, operating expenses, and taxes.

IT IS FURTHER ORDERED that upon completion of the acquisition of the exchanges by Citizens, that Citizens shall file with the Commission a tariff, boundary map and price list for each of the exchanges that are being acquired by Citizens.

Application No. C-2148

Page 7

IT IS FINALLY ORDERED that this order be, and hereby, is made the Commission's official Certificate of Public Convenience and Necessity to Citizens to provide local exchange telecommunications services in throughout the state of Nebraska.

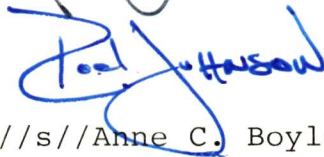
MADE AND ENTERED at Lincoln, Nebraska, this 5th day of April, 2000.

NEBRASKA PUBLIC SERVICE COMMISSION:

COMMISSIONERS CONCURRING:



Vice Chairman



//s//Anne C. Boyle

ATTEST:



Executive Director

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the joint)	Application No. C-2148
application seeking authority)	
for approval of acquisition)	STIPULATION
from GTE Midwest Incorporated,)	
Kearney, of its Nebraska)	
telephone exchanges and assets)	
by Citizens Telecommunications)	
Company of Nebraska, Stamford,)	
Connecticut.)	

The Nebraska Universal Service Fund Director (hereinafter, the NUSF Director), the Communications Department Director (hereinafter, the Communications Director) of the Nebraska Public Service Commission (hereinafter, the Commission), AT&T Communications of the Midwest, Inc. and AT&T Local Services (hereinafter, AT&T), GTE Midwest Incorporated (hereinafter, GTE) and Citizens Telecommunications Company of Nebraska (hereinafter, Citizens) hereby jointly stipulate and agree as follows for the purpose of this application:

1. The parties enter into this Stipulation for the purpose of providing the Commission with an agreed-upon basis for proceeding with the consideration of the proposed sale of assets by GTE to Citizens, the granting of a Certificate of Public Convenience and Necessity to Citizens in Application No. C-2148 and confirming AT&T's intention to withdraw its protest filed herein. The parties contemplate and agree that the provisions of this stipulation shall be incorporated in the prehearing conference order in this docket (hereinafter, the order).

2. Assuming that the Commission enters the order, the parties agree to be bound by the terms of this stipulation. In the event that the Commission does not enter the order, each party reserves its rights to take such actions as may be deemed necessary or appropriate with regard to Application No. C-2148.

3. If GTE and Citizens consummate the proposed acquisition, and the Commission grants its approval, the Commission agrees to waive any requirements previously placed on GTE to file NUSF transition plans for years two and three. Furthermore, the Commission agrees to grant Citizens an extension of time to file its NUSF transition plan until such time that the proposed exchange purchases have been finalized and the Commission opens a docket and enters an order examining the rural/non-rural classification of Citizens. The parties agree that the Commission, on its own motion, may resolve, or AT&T or Citizens may request that the Commission resolve, the rural or non-rural treatment of these exchanges in another proceeding.

4. Until such time that such classification or treatment has been finally decided by the Commission, Citizens agrees to the following:

A. Citizens agrees to abide by all terms and conditions contained in Commission NUSF orders in regard to the GTE properties.

B. Citizens agrees to not increase access charges in the exchanges that are being purchased from GTE.

C. Citizens agrees not to request any additional funds from the Nebraska Universal Service Fund (NUSF) in excess of the amount originally requested by GTE.

D. Citizens agrees to implement the local rate increases contained within GTE's filed transition plan. Such action will result in Citizen's local rate prices reaching the Commission adopted benchmark prices by September 1, 2000.

5. AT&T agrees to withdraw its protest of this application by February 18, 2000, provided that the prehearing conference order to which this stipulation is attached is entered by the Commission on February 15, 2000.

Dated this 14th day of February, 2000.

THE NEBRASKA UNIVERSAL SERVICE FUND
OF THE NEBRASKA PUBLIC SERVICE
COMMISSION

BY Jeffrey L. Pursley
Jeffrey L. Pursley, Director
Nebraska Universal Service Fund
300 The Atrium, 1200 N Street
Lincoln, NE 68509-4927
402-471-3101

COMMUNICATIONS DEPARTMENT OF THE
THE NEBRASKA PUBLIC SERVICE
COMMISSION

BY Maurice Gene Hand
Maurice Gene Hand, Director
Communications Department
300 The Atrium, 1200 N Street
Lincoln, NE 68509-4927
402-471-3101

Application No. C-2148
Stipulation

Exhibit A
PAGE 3

AT&T COMMUNICATIONS OF THE MIDWEST,
INC. AND AT&T LOCAL SERVICES

BY Rebecca B. DeCook
Rebecca B. DeCook
1875 Lawrence Street, Suite 1575
Denver, CO 80202
303-298-6357
Its Attorney

CITIZENS TELECOMMUNICATIONS COMPANY
OF NEBRASKA AND
GTE MIDWEST INCORPORATED

BY Paul M. Schudel
Paul M. Schudel #13723
Woods & Aitken
206 South 13th Street, Suite 1500
Lincoln, NE 68508
402-474-0321
Its Attorneys