

# SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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## BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application    )   Application No. C-5370  
of Allo Communications, LLC,         )  
Lincoln, Nebraska, seeking         )  
authority to obtain debt             )   ORDER GRANTING APPLICATION  
financing.                             )  
  )  
  )   Entered: March 29, 2022

BY THE COMMISSION:

On January 11, 2022, an application was filed by Allo Communications, Lincoln, Nebraska ("Allo" or "Applicant"), seeking approval to issue or otherwise participate in debt financing arrangements. Notice of the application was published in The Daily Record, Omaha, Nebraska, on February 11, 2021. No protests were filed; therefore, this application is processed pursuant to the Commission's rule of modified procedure.

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

Allo is a privately held limited liability company duly organized and incorporated under the laws of the State of Nebraska. Allo was issued a Certificate of Public Convenience and Necessity to provide local exchange and interexchange carrier telecommunications services in Nebraska in 2003.<sup>1</sup> The principal office of Allo is located in Lincoln, Nebraska.

Applicant seeks Commission approval to enter into a \$200 million financing arrangement as a result of changes to the controlling interest in Allo, and in order to respond to market conditions and to pursue future expansion. The Applicant states that the financing arrangements will not disrupt customer service in Nebraska or result in a degradation of services, and will allow Allo to continue to invest in and expand its fiber-optic network.

The Applicants seek approval from the Commission pursuant to Neb. Rev. Stat. § 75-148, which states, in pertinent part:

A common carrier may issue stock, bonds, notes, or other evidence of indebtedness, payable at periods of more than twelve months after the date thereof,

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<sup>1</sup> See Commission Docket No. C-2844, *In the Matter of the Application of Allo Communications, LLC, of Imperial, Nebraska, seeking authority to operate as a local exchange and interexchange carrier of telecommunications services within the state of Nebraska*, granted by the Commission on January 7, 2003.

# SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5270

Page 2

when necessary for the acquisition of property, the construction, completion, extension or improvement of facilities, the improvement or maintenance of its service, or the discharge or lawful refunding of its obligations if the common carrier first secures from the Commission an order authorizing such issue and the amount thereof and stating that in the opinion of the Commission the use of the capital to be secured by the issue of such stock, bonds, notes, or other evidence of indebtedness is reasonably required for the purposes of the carrier.

Upon review of the evidence, the Commission finds that the application filed herein is in compliance with the applicable Nebraska Statutes and that the debt financing agreement is reasonably required for the aforementioned purposes. The Commission emphasizes that this finding does not constitute a review of the Applicant's overall financial ability with regard to the issuance of this debt. However, to the extent contemplated by Neb. Rev. Stat. § 75-148, the Commission finds that the application is fair, reasonable, in the public interest, and should be granted.

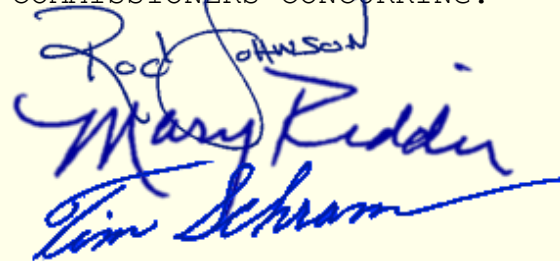
## O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-5370 be, and is hereby granted.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 29th day of March, 2022.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:





Chair

ATTEST:

  
Executive Director

# SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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Application No. C-5270

Page 3

## D I S S E N T

By Commissioner Rhoades:

I am voting against approval of this application because the information provided by Allo is insufficient. The Commission has a statutory obligation under Neb. Rev. Stat. § 75-148 to review applications for debt financing. I do not believe we have sufficient information to assess whether this debt is necessary or appropriate.

The information provided with the application was insufficient. Nothing in the application or the supplemental information provided details that the increase in debt is necessary for any of the listed purposes. They did not provide any information on "any planned acquisition of property, construction, completion, extension or improvement of facilities, the improvement of maintenance of its service or the discharge of lawful refunding of its obligations." They say in the initial application and then again in the supplemental information the debt will be used for "working capital" but provide no information about anything specific. Rather they go to great lengths to be vague.

The Commission's duty is to review these applications and require the carriers to provide information to support taking on such debt. The carrier received authorization in December 2020 for up to \$250 million<sup>2</sup> and is now requesting approval of a \$200 million financing arrangement without providing any detail whatsoever as to how they used the money previously allocated or how they will use the additional debt funding. The lack of information makes it impossible to determine if the debt meets the criteria laid out in statute. Additionally, because of the lack of specificity the Commission has no evidence it will be used for the intended purpose, rather than other expenses such as executive compensation, travel, lobbying, funding regulatory capture, or general overhead.

When asked to provide additional information, the additional information provided was vague - for example, we still have no idea whether Allo will be using this financing for projects in

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<sup>2</sup> See Docket C-5179 *In the Matter of the Joint Application of ALLO Communications, LLC, and Nelnet, Inc., Lincoln, Nebraska, seeking a transfer of control to SDC Allo Holdings, LLC, New York, New York, as well as seeking approval for indebtedness*, Granted (Entered December 8, 2020).

## SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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Application No. C-5270

Page 4

progress, future projects, or other purposes. We also do not know what Allo has used as collateral for the loans. When asked what will be offered as collateral on this loan, Allo responded that "ALLO's creditors have a lien on substantially all the assets of Allo and its subsidiaries."<sup>3</sup> Since the taxpayer funded networks are a substantial part of ALLO Communications' assets, this means they may or will be used as collateral on this debt. That is unacceptable. They are taking a publicly funded network and using it as collateral on loans with unknown purposes. This should not be permitted.

I am deeply concerned the staff may be victims of regulatory capture. There appears to be undue influence being exerted over staff regarding this particular carrier. They seem to be able to get anything they want from the Commission staff regardless of the merits of the request or lack of evidence provided. It is irresponsible of staff to present this application for approval without first obtaining more information. Allo should have been given adequate time to respond to my requests for additional information, and when they stated they would not provide the information, this order should have been to deny the application. This application was submitted to staff in January and was rubber stamped and the reason presented was that the carrier needed a response based on time sensitivity. Also, Commissioners were not given any information about the application until staff recommended it be approved. This application was presented as if it were on some kind of emergency basis - if that were the case, staff should have actually reviewed the application for completeness and informed Commissioners about it ahead of recommending approval.

Accordingly, I dissent.

  
Commissioner Crystal Rhoades

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<sup>3</sup> See Docket C-5370 *In the Matter of the Application of ALLO Communications, LLC, Lincoln, Nebraska, seeking authority to obtain debt financing*, ALLO Communications, LLC Supplemental Information (Filed March 24, 2022).