

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-749
of United Telephone Long Distance)
Company of the Midwest for a Certi-) GRANTED
ficate of Public Convenience and)
Necessity to Provide InterLATA)
Interexchange Telecommunications)
Services within the State of)
Nebraska.) Entered April 26, 1988

APPEARANCES: For the applicant
J. Richard Smith, Attorney
5454 W. 110th Street
Overland Park, KS 66211

For intervenor, MCI Telecommunications
Corporation
Steven G. Seglin, Attorney
400 Lincoln Benefit Life Bldg.
Lincoln, NE 68508

OPINION AND FINDINGS

BY THE COMMISSION:

By its application filed January 12, 1988, United Telephone Long Distance Company, Overland Park, Kansas seeks a Certificate of Public Convenience and Necessity to provide interLATA interexchange telecommunications services within the State of Nebraska.

Notice of the filing of the application was published pursuant to the provisions of the Commission's Rules and Regulations. A timely protest was filed by AT&T Communications of the Midwest but was subsequently withdrawn. A petition of informal intervention was filed by MCI Telecommunications Corporation.

Pursuant to notice required by law public hearing was held on the application on March 31, 1988 at 9:00 a.m. in the Commissioners' Room, Scotts Bluff County Administrative Office Building, Gering, Nebraska. Because of inclement weather, intervenor was unable to appear but was granted leave to file written comments by the Hearing Examiner, subject to cross-examination by applicant at a later date. Written testimony of Timothy J. Gates on behalf of intervenor was filed on April 1, 1988. By letter received April 7, 1988, applicant indicated that he did not wish to cross-examine.

Upon consideration of the application, the evidence adduced at the hearing including the testimony of witness Gates and being fully advised, the Commission is of the opinion and finds that:

1. Applicant is a corporation organized and existing under the laws of the State of Kansas with its principal place of

business in Overland Park, Kansas. It is engaged in the business of providing interstate and intrastate long distance service in Kansas.

2. Applicant is a wholly-owned subsidiary of United Telephone Company of Kansas, in turn a subsidiary of United Telecommunications. United Telephone Company of the West which provides local exchange service in Scottsbluff, Gering and other communities in western Nebraska is also a subsidiary of United Telecommunications.

3. United Telephone Long Distance Company (UTLD) plans to provide intrastate interLATA and interstate long distance services to residence and business customers, initially serving exchanges served by United Telephone Company of the West which offer equal access.

4. Four witnesses testified for applicant: Ben Watson, Director of UTLD and Vice President-Administration of United Telephone Company of Kansas; Bill Terry, General Manager of UTLD; William Logan, Customer Services Director of United Telephone Company of Kansas; and Ed Lucas, Director of UTLD and Vice President-finance for United Telephone Company of Kansas.

5. Mr. Watson testified concerning the relationship between UTLD, United Telecommunications and its other subsidiaries. He also indicated that UTLD had been granted authority to operate in the states of Kansas and Minnesota and had been denied authority in the state of Missouri. The Missouri Public Service Commission expressed concern about possible cross-subsidization, possible unfair competition due to the relationship with the local exchange carrier and that UTLD had not sufficiently demonstrated itself to be a competitive alternative to AT&T.

6. Bill Terry, General Manager of UTLD testified concerning the service to be offered by UTLD. He indicated that it would not own any facilities of its own but would use the facilities of Northwestern Bell Telephone Company and US Sprint. In addition it would contract with the local exchange carrier, United Telephone Company of the West for billing and repair service. Including himself, UTLD has three full time employees. Mr. Terry also explained that using US Sprint facilities would provide customers with an alternative to the existing AT&T long distance facilities.

7. William Logan, Customer Services Director for United Telephone Company of Kansas (Midwest Group Companies) testified to explain the equal access balloting process.

8. Ed Lucas, Vice President of Finance for the United Telephone System Midwest Group testified concerning the financing of UTLD and the method of cost allocation to be used. United

Telecommunications has filed a cost allocation manual with the Federal Communications Commission which deals with the allocation of costs between regulated and nonregulated services. This manual will also be used by United Telephone Company of the West. In addition, a Midwest Group Controller's Letter has been issued (Exhibit 5) which outlines the departments and personnel whose time and expenses are reported directly to UTLD rather than being allocated. Mr. Lucas testified that for 1987 only 3.3% of UTLD's total expenses were the result of allocations.

9. Written testimony of Timothy J. Gates, Regulatory and Financial Analyst of MCI Telecommunications Corporation reflects MCI's concern about the possibility for cross-subsidy. Attached to his testimony were copies of orders of the Kansas, Missouri and Florida utility commissions on applications of UTLD. Mr. Gates urged that this application be denied or if the application be granted that the order provide for (1) full structural separation of UTLD from United; (2) that UTLD be required to file a detailed cost allocation manual for review by the Commission and all parties; (3) that any contractual arrangement between UTLD and United or US Sprint be fully disclosed and filed with the Commission for its review; and (4) that UTLD be required to compensate United for its use of United's logo and name and other intangible benefits received.

10. The Commission is concerned that United Telephone Company of the West's local rate payers not subsidize the operations of UTLD and is also concerned that the affiliation between UTLD and United Telephone Company of the West does not result in any unfair advantage over other competitors for long distance service. A copy of the cost allocation manual referred to above has been filed with the Commission. Services performed by United Telephone Company of the West for UTLD are covered either by tariffs or by contracts. Copies of these contracts, presently existing and entered into subsequent to this order should be filed with the Commission.

11. The application is fair and reasonable, is in the public interest and should be granted.

ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that application No. C-749 be and it is hereby granted and United Telephone Long Distance Company of the Midwest be and it is hereby authorized to provide interLATA interexchange telecommunications services within the State of Nebraska.

IT IS FURTHER ORDERED that this order be and it is hereby made the Commission's Official Certificate of Public Convenience and Necessity to furnish the service authorized herein.

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IT IS FURTHER ORDERED that applicant file with the Commission copies of all contracts entered into and to be entered into in the future with United Telephone Company of the West.

MADE AND ENTERED in Lincoln, Nebraska this 26th day of April, 1988.

NEBRASKA PUBLIC SERVICE COMMISSION

Daniel G. Urwiller

Chairman

COMMISSIONERS CONCURRING:

Duane D. Gay

//s//James F. Munnelly

//s//Eric Rasmussen

//s//Harold D. Simpson

//s//Daniel G. Urwiller

ATTEST:

Dwight R. Hering

Executive Secretary