

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1359
of Cox Nebraska Telcom, Inc. of)
Omaha, Nebraska seeking authority)
to obtain a certificate of public) GRANTED
convenience and necessity to)
provide local exchange service)
in LATA 644 served by US West)
Communications.) Entered: December 10, 1996

APPEARANCES:

Cox Nebraska Telcom, Inc.
Loel P. Brooks
Brooks, Pansing Brooks
& Lamphere, P.C.
755 NBC Center
Lincoln, NE 68508-1424

and

Carrington F. Phillip
Cox Nebraska Telcom, Inc.
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Aliant Communications
Paul M. Schudel
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Nebraska Independent
Telephone Association
J. Scott Searl
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1500 Woodmen Tower
Omaha, NE 68102-2068

BY THE COMMISSION:

By its application filed June 6, 1996, Cox Nebraska Telcom, Inc. (Cox) seeks authority to obtain a certificate of public convenience and necessity to provide local exchange service in LATA 644 served by US West Communications. Notice of the application appeared in the Omaha Daily Record on June 10, 1996. The following parties filed petitions for formal intervention: AT&T; Cambridge Telephone; Clarks Telephone; Consolidated Telco; Consolidated Telephone; Dalton Telephone; Glenwood Telephone Membership Corporation; Hamilton Telephone; Hartington Telephone; Hershey Cooperative Telephone; K & M Telephone; Keystone-Arthur Telephone; Lincoln Telephone & Telegraph (now Aliant Communications); Nebraska Independent Telephone Association; Nebraska Telephone Association; Pierce Telephone; Plainview Telephone; Southeast Nebraska Telephone; Stanton Telephone and US West Communications. On June 28, 1996, a Motion to Stay and Request for Oral Argument was filed by the formal intervenors in this matter. Oral arguments on this motion were held on July 9, 1996. The motion to stay was sustained, but with granting of the AT&T Certificate, the stay was lifted. An evidentiary hearing was conducted on November 25, 1996, in the Commission Hearing Room.

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THE EVIDENCE

In support of its application, Cox introduced four Exhibits and produced three witnesses.

Nancy Bright, testified:

Cox is financially able to provide local exchange services in LATA 644. Cox is wholly-owned by Cox Communications, Inc. (CCI) and will be afforded the benefit of CCI's financial support. CCI, which went public in 1995, has a strong balance sheet, steady cash flow streams and a solid equity position.

As of September 30, 1996, CCI had assets of \$5.7 billion and shareholder's equity of \$2.3 billion. As of December 31, 1995, it had a revenue stream of \$1.3 billion annually and internal cash generation of \$325 million. The company's debt rating Standard and Poors is A- as of December 31, 1995. During 1996, CCI made investments of more than \$241 billion in affiliated companies and made capital expenditures of more than \$392 billion.

CCI has made detailed projections of the cash and capital necessary for Cox for the next ten years. The projections indicate that the Omaha start-up will require a \$20 million capital outlay. CCI predicts rapid recovery of its capital investment. It will be able to fully support Cox's operations so that it will be a successful new entrant in LATA 644.

CCI is the fifth largest operator of cable television systems in the United States, serving 3.2 million customers. It owns 14.65 percent of TeleWest, the United Kingdom's largest cable operation and 10.43 percent of PrimeStar Partners, a direct satellite operation. CCI was the successful bidder for the PCS license for several areas, including Omaha. CCI also owns 24.5 percent of Teleport Communications Group, the nation's largest competitive access provider.

Mr. Charles McElroy, testified:

Cox has the managerial competence to provide local exchange service in the territory served by US West in LATA 644. CCI, which will have telephone operations in other states, will make all of its expertise available for the efficient start-up and day to day operations of telephony services in Nebraska. Cox Nebraska has hired staff who will be based in Omaha dedicated to the delivery of telephony services. Further, CCI will provide engineering, legal and administrative expertise to Cox.

CCI has a verifiable reputation for excellence in customer service. A 1996 JD Powers and Associates survey listed CCI as having the best customer service of all cable television operators in America. Cox will deliver services consistent with

this reputation and has developed standards for its E911/911 service, repair, billing and collection and network quality.

Granting Cox a certificate of public convenience and necessity would further and advance universal service. Cox believes universal service is good public policy and Cox intends to continue its active participation in the development of an appropriate universal service mechanism. Cox will participate in any funding mechanism to provide service to high cost areas and is actively participating with the Commission's State Universal Service Task Force.

Cox is committed to public safety and welfare. Accordingly, Cox will provide E911/911 service to all customers at a level which will meet the network standards of Bellcore. Also, arrangements will be made with US West to ensure Cox customers who retain their telephone numbers through remote call forwarding will continue to have E911/911 service.

Customers will receive service from state of the art monitoring systems to rapidly detect service problem. This will enable corrective action to be taken before an outage occurs. Cox will have a toll-free number to receive and handle service problems.

Once Cox has begun operations in the Omaha area, it may expand its operations to other territories as business conditions permit. However, Cox will come back to this Commission for such authority prior to commencing operations outside the territory served by US West in LATA 644.

Dr. Francis R. Collins, testified:

Cox is technically able to provide local exchange services in LATA 644. CCI provides cable television services throughout the nation, with an intent to add wireless and wireline telephone services in the United States and internationally. Cable operations are also ongoing in the United Kingdom. CCI currently serves more than three million customers in the United States with 36 systems in 21 states. Cox Omaha holds cable franchise rights for the City of Omaha, Elkhorn, Douglas County and the unincorporated portion of Sarpy County, approximately 100,000 Nebraska customers.

CCI subsidiaries hold certificates of public convenience and necessity to provide local exchange services in California, Louisiana and Virginia. Certification is expected in Arizona, Oklahoma, Rhode Island and Connecticut by February, 1997.

Cox intends to offer facilities-based and resale local exchange services to all interested customers immediately in the Omaha area served by US West and eventually throughout US West's LATA 644 exchanges. It will do that by operating a network

through its own facilities and by leasing unbundled network elements from related corporate entities and incumbent local exchange carriers.

Cox proposes to offer its customers, directly or through contracted services, the following:

- Fully featured local exchange residence and business service;
- Direct inward/outward dialing options;
- Ubiquitous completion of local and EAS calls;
- IXC access of the customer's choice;
- Operator based assisted service;
- Directory assistance;
- Dual party relay service;
- 911 and (E911 where appropriate) service;
- Payphone access line service; and
- Published directory service.

Other call placement and/or management services will be brought on line in accordance with market development strategies. In the process of providing these services to consumers, Cox will bring to the marketplace; investment, service innovation, competitive prices and customer convenience.

Cox possesses the necessary technical and engineering talent and knowledge to provide local exchange services of high quality. The staff is capable of providing quality service to consumers. Technical and management teams from CCI will also provide assistance to ensure consumers receive high quality services.

In conclusion, Dr. Collins provided an overview of Cox's facilities-based network, as well as a description of the architecture of the interconnected network that will provide local exchange services to customers.

No other parties introduced testimony or evidence.

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

On February 8, 1996, President Clinton signed into law the Federal Telecommunications Act of 1996, opening the way for competition in all corners of the telecommunications market. One purpose of the Act is to promote the development of competition in local exchange service markets. To implement that, the federal act requires incumbent local exchange carriers to resell their services to new entrants and to open their existing facilities under interconnection agreements which must be negotiated or arbitrated, and then be approved by state commissions. The federal act contemplates simplifying and reducing existing regulations to expedite entry by new local exchange carriers by removing all barriers to entry.

This Commission finds that it should embrace and adopt the pro-competitive policies of the Federal Telecommunications Act of 1996. There is a strong likelihood that multiple benefits will flow from a competitive environment. Competition in the provision of local exchange service is likely to produce improved efficiency in the provision of services; accelerated deployment of technological innovations; improved customer service; innovative services to meet consumer needs; and choice of providers for consumers.

As it currently does when evaluating applications for certificates of authority to provide interLATA interexchange services, the Commission will consider applications, including Cox's application, for authority to provide local exchange service in light of the following criteria and standards:

- (a) Whether the applicant has provided the information required by the Commission;
- (b) Whether the applicant has provided a performance bond, if required;
- (c) Whether the applicant possesses adequate financial resources to provide the proposed service;
- (d) Whether the applicant possesses adequate technical competence and resources to provide the proposed service;
- (e) Whether the applicant possesses adequate managerial competence to provide the proposed service; and
- (f) Whether granting the applicant a certificate preserves and advances universal service, protects the public safety and welfare and ensures the continued quality of telecommunications services and safeguards the rights of consumers, pursuant to Section 253(b) of the Federal Telecommunications Act,

Cox has demonstrated that it meets and exceeds the standards of financial, technical and managerial competence and all other criteria necessary to provide local exchange service, both facilities-based and resale, in Nebraska. No party to this proceeding refuted Cox's competence. No performance bond should be required.

Before Cox is allowed to provide local exchange service to its users:

- (a) Cox, either through negotiation or arbitration, must reach an interconnection agreement with the

incumbent local exchange carrier, US West Communications;

- (b) The Commission must approve the interconnection agreement; and
- (c) Cox must file, and the Commission must approve, tariffs in accordance with the provisions of Section 002.21 of Neb. Admin. R. & Regs. tit. 291, ch. 5.

Further, prior to providing service to any area outside the US West service area located within LATA 644, Cox must obtain additional authority from this Commission to expand its service territory.

The Commission will enforce the stipulation entered into by the parties that the intervenors who participated in the stipulation will maintain the right and opportunity to contest any future application of Cox to expand its service territory in Nebraska. Nothing in the stipulation shall in any way limit Cox's right in connection with any such future application(s) to demonstrate to the Commission that the applicant has satisfied the criteria or standards established by the Commission in such cases.

As a provider of local exchange service in Nebraska, Cox shall be subject to 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 company except those obligations imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Federal Telecommunications Act.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1359 be and is hereby granted.

IT IS FURTHER ORDERED that upon final approval of the interconnection agreement, Cox is granted authority to provide local exchange service, both on a resale basis and facilities basis, to the areas covered under the specific interconnection agreement. Cox Nebraska must make further application to this Commission for authority to provide local exchange service outside the US West service area located within LATA 644.

IT IS FURTHER ORDERED that Cox shall 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 other local exchange carriers except obligations

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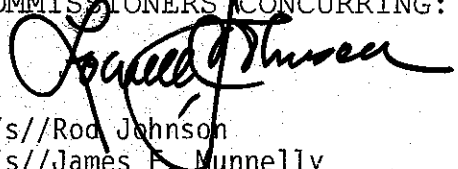
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imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Federal Telecommunications Act.

IT IS FINALLY ORDERED that this Order be and hereby is made the Commission's official certificate of convenience and necessity to the applicant to provide local exchange service within the territory described herein in Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 10th day of December, 1996.

COMMISSIONERS CONCURRING:

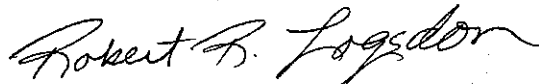

//s//Rod Johnson
//s//James F. Munnely
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION

Chairman



ATTEST:



Executive Director

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