

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1360
of Dial & Save of Nebraska,)
d/b/a Dial & Save, of Chantilly,)
Virginia Inc. seeking authority)
to obtain a certificate of public)
convenience and necessity to) GRANTED
provide local exchange service in)
LATA 644 and 646 served by US)
West Communications, Inc., GTE of)
the Midwest, Inc. and United)
Telephone Company of the West.) Entered: March 17, 1997

APPEARANCES:

For Dial & Save:
Eric A. Anderson
Fraser, Stryker, et. al.
500 Energy Plaza
409 South 17th Street
Omaha, NE 68102-266

For Aliant Communications:
Paul M. Schudel
Woods & Aitken
206 South 13th St., Suite 1500
Lincoln, NE 68508

and,

Karen M. Eisenhauer
Swidler & Berlin
3000 K Street N.W., Suite 300
Washington, D.C. 20007-5116

For Arapahoe Telephone,
Benkelman Telephone,
Cozad Telephone,
Henderson Cooperative Telephone,
Plainview Telephone and
Wauneta Telephone:
Timothy F. Clare
1201 Lincoln Mall, Suite 102
Lincoln, NE 68508

BY THE COMMISSION:

By its application filed June 7, 1996, Dial & Save of Nebraska, d/b/a Dial & Save of Chantilly, Virginia seeks authority to obtain a certificate of public convenience and necessity to provide local exchange service in the areas served by US West Communications (US West), GTE of the Midwest, Inc. (GTE) and United Telephone Company of the West (United). Notice of the application appeared in The Daily Record on June 10, 1996. The following parties filed petitions for formal intervention: Arapahoe Telephone; Aliant Communications; Benkleman Telephone; Cambridge Telephone; Clarks Telephone; Consolidated Telco; Consolidated Telephone; Cozad Telephone; Dalton Telephone; Diller Telephone; Glenwood Telephone Membership Corporation; Hamilton

Telephone; Hartington Telephone; Henderson Cooperative Telephone; Hershey Cooperative Telephone; K & M Telephone; Keystone-Arthur Telephone; Nebraska Independent Telephone Association; Nebraska Telephone Association; Plainview Telephone; Pierce Telephone; Southeast Nebraska Telephone; Stanton Telephone; US West; and Wauneta Telephone. An evidentiary hearing was conducted on February 4, 1997, in the Commission Hearing Room.

THE EVIDENCE

In support of its application, Dial & Save introduced the Executive Vice-President of Telco Communications Group Inc., Natalie Marine-Street.

Natalie Marine-Street testified:

Dial & Save seeks authority to provide local exchange services in areas served by US West, GTE and United. Dial & Save is wholly-owned by Telco Communications Group Inc. (Telco) and will be afforded the benefit of Telco's financial support. Telco, which went public in August 1996, has a strong balance sheet, steady cash flow streams and a solid equity position.

For the nine months ending September 30, 1996, Telco had revenues of \$196 million and a net income of \$8.5 million. As of December 31, 1995, it had an annual revenue stream of \$215 million and a net income of \$10.8 million. In August 1996, Telco held a public offering of stock which raised over \$50 million.

Dial & Save is a long distance provider in Nebraska. Dial & Save affiliates have offered long distance services in the continental United States since 1993. Dial & Save will provide services through resale and bundling network elements. Dial & Save will initially offer service in US West's service territory.

Dial & Save has over 200 customer service representatives which operate its customer service department 24 hours a day, 7 days a week. Dial & Save and its affiliates have over 2.5 million customers. Dial & Save has a qualified managerial staff, which has numerous years of experience. Lastly, Dial & Save will follow all Nebraska statutes, Commission orders, rules and regulations.

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 and improved customer service. Competition will also offer consumers a choice of providers.

As it currently does when evaluating applications for certificates of authority to provide interLATA interexchange services, the Commission will consider applications, including Dial & Save '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,

Dial & Save 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 on a resale basis in Nebraska. No party to this proceeding refuted Dial & Save's competence. No performance bond should be required.

Before Dial & Save is allowed to provide local exchange service to its users:

- (a) Dial & Save, either through negotiation or arbitration, must reach interconnection agreements with US West, GTE or United.
- (b) The Commission must approve the interconnection agreement; and
- (c) Dial & Save 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 areas outside the territories of US West, GTE and United, Dial & Save must obtain additional authority from this Commission.

The Commission will enforce the amended stipulation entered into by the parties. The intervenors who participated in the stipulation maintain the right and opportunity to contest any future application of Dial & Save to expand its service territory in Nebraska. Nothing in the stipulation shall in any way limit Dial & Save'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.

Dial & Save intends to provide all forms of intrastate telecommunications services including: (1) basic residential exchange services (local exchange flat rate, measured rate service, operator access, etc.); (2) residential custom and class features (call waiting, caller ID, call forwarding, etc.); (3) basic business exchange services; (4) business custom calling and class features; (5) adjunct provided features; and (6) business and residential ancillary services.

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As a provider of local exchange service in Nebraska, Dial & Save 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-1360 be and is hereby granted.

IT IS FURTHER ORDERED that upon final approval of the interconnection agreement, Dial & Save is granted authority to provide local exchange service in areas served by US West, GTE and United once specific interconnection agreements have been approved. Dial & Save must make further application to this Commission for authority to provide local exchange service outside the US West, GTE and United service areas.

IT IS FURTHER ORDERED that Dial & Save 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 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 17th day of March, 1997.

COMMISSIONERS CONCURRING:

Rod Johnson
//s//Rod Johnson
//s//Frank E. Landis
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION

Chairman

ATTEST:

Robert R. Lyndon
Executive Director

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