

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application ) Application No. C-1380  
of Firstel Communications, Inc. )  
of Sioux Falls, South Dakota )  
seeking authority to obtain a )  
certificate of public convenience ) GRANTED  
and necessity to provide local )  
exchange service in exchanges )  
served by US West Communications, )  
Inc. and GTE of the Midwest, Inc. ) Entered: April 29, 1997

APPEARANCES:

For Firstel:  
Loel Brooks  
755 NBC Center  
Lincoln, Nebraska 68508

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

For Nebraska Independent  
Telephone Association:  
Kelly R. Dahl  
Baird, Holm et. al.  
1500 Woodmen Tower  
Omaha, NE 68102-2068

BY THE COMMISSION:

By its application filed July 18, 1996, Firstel Communications, Inc. (Firstel) of Sioux Falls, South Dakota, 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) and GTE of the Midwest, Inc. (GTE). Notice of the application appeared in The Daily Record on July 22, 1996. The following parties filed petitions for formal intervention: Arapahoe Telephone, Aliant Communications, Benkelman Telephone, Cambridge Telephone, Clarks Telephone, Cozad Telephone, Diller Telephone, 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 January 28, 1997, in the Commission Hearing Room.

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# THE EVIDENCE

In support of its application, Firstel introduced the President of Firstel, Fred L. Thurman who testified.

Firstel seeks authority to provide local exchange services in areas served by US West and GTE. Currently, Firstel is authorized as an interexchange carrier in Nebraska. It has approximately 6,000 long distance customers in North Dakota, South Dakota, and Nebraska. It is Firstel's plan to offer local exchange service as an additional service to long distance customers. It does not have immediate plans to be a facilities-based provider; the plan is to bundle services together so a customer has one company to provide multiple communications services. Being a small company, means that Firstel can focus on customer's concerns and quickly address their questions and needs.

Firstel has the financial resources to offer local service in Nebraska. The current profits and cash flow from its long distance operations are adequate to cover the initial costs associated with providing local service. Firstel has a line of credit from its banking institution that is available to cover its local service costs.

Firstel has a qualified managerial staff which has numerous years of experience. It has the technical resources and expertise to provide quality local service. Most of its supervisors have been in the interexchange business for over ten years. Firstel's strategy has been to set high standards for customer service and to provide the best performance possible. This strategy will carry over into the local exchange service market. Firstel will follow all Nebraska statutes, Commission orders, rules and regulations.

Firstel signed a stipulation with several formal intervenors agreeing to offer services only in the exchanges served by GTE and US West. Should Firstel wish to offer local service in territories served by other other local exchange carriers, pursuant to the stipulation, Firstel will come back to this Commission to request additional authority.

No other party introduced testimony nor evidence.

# OPINION AND FINDINGS

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 Act. There is a strong likelihood that multiple benefits will flow from a competitive environment. Competition in 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 Firstel'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.

Firstel has demonstrated that it meets the standards of technical and managerial competence necessary to provide local exchange service on a resale basis in Nebraska. Financial information was provided to the Commission. The statements

reflect the company has solid financial security to operate as a small interexchange carrier; however, the local service market will require additional financial resources which Firstel does not have at this time. Therefore, the Commission is of the opinion that a performance bond is appropriate.

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

- (a) Firstel, either through negotiation or arbitration, must reach interconnection agreements with US West or GTE;
- (b) The Commission must approve the interconnection agreement;
- (c) Firstel 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; and
- (d) Firstel must furnish a bond or an irrevocable letter of credit in the sum of \$5,000.00 to the Nebraska Public Service Commission prior to offering local telecommunication services.

Further, prior to providing service to any areas outside the territories of US West and GTE, Firstel must obtain additional authority from this Commission.

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

Firstel intends to provide local exchange and long distance services. If there is customer interest, it will also provide cellular service, which it is already providing in the Dakotas, and Internet access.

As a provider of local exchange service in Nebraska, Firstel is 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-1380 be, and it is hereby, granted subject to applicant's fulfillment of the conditions set forth in the foregoing findings.

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

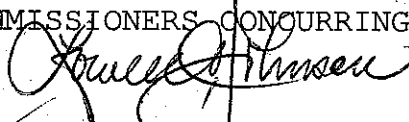

IT IS FURTHER ORDERED that Firstel shall abide by the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to other local exchange carriers except obligations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

IT IS FURTHER ORDERED that Firstel shall furnish a bond or an irrevocable letter of credit in the sum of \$5,000.00 to the Nebraska Public Service Commission prior to offering local telecommunication services.

IT IS FINALLY ORDERED that this Order be, and it is hereby, made the Commission's official Certificate of Public 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 29th day of April, 1997.

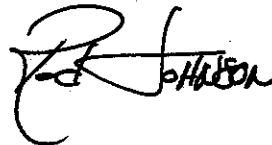
COMMISSIONERS CONCURRING:

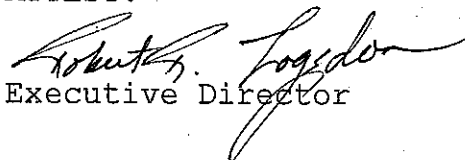
//s//Rod Johnson  
//s//Frank E. Landis  
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION

Chairman



ATTEST:

  
Executive Director

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