

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1450
of Intermedia Communications,)
Inc. of Tampa, Florida seeking)
authority to obtain a certificate)
of public convenience and) GRANTED
necessity to provide local)
exchange service in exchanges)
served by US West Communications,)
Inc. and GTE of the Midwest, Inc.) Entered: May 6, 1997

APPEARANCES:

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

For Arapahoe, Benkelman, Cozad
Diller, Henderson, Plainview
and Wauneta Telephone
Companies:
Timothy F. Clare
1021 Lincoln Mall, Suite 102
Lincoln, NE 68508

For the 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 November 20, 1996, Intermedia Communications, Inc. (Intermedia) of Tampa, Florida, 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 November 25, 1996. The following parties filed petitions for formal intervention: Arapahoe Telephone, Aliant Communications, Benkelman Telephone, Cozad Telephone, Diller Telephone, Henderson Cooperative Telephone, Nebraska Independent Telephone Association, Nebraska Telephone Association, Plainview Telephone, Wauneta Telephone. An evidentiary hearing was held on March 18, 1997, in the Commission Hearing Room.

EVIDENCE

In support of its application, Intermedia introduced Steven Brown, Intermedia's Director of State Regulatory Policy, who testified:

Intermedia seeks authority to provide local exchange services in areas served by US West and GTE. Currently, Intermedia is negotiating with US West and GTE for Section 251 agreements in their respective operating territories. Intermedia is a Delaware corporation which is authorized as an interexchange carrier in Nebraska. It intends to provide resold and facilities-based local exchange services. A full range of voice and data telecommunications services will be offered, including local switched services, special access, private line, Internet access, frame relay and systems integration of related systems. Intermedia has a history of doing business with business and government customers; however, it is committed to serving a broad range of customers.

Advance payments or deposits are not normally collected from customers. However, sometimes Intermedia will require a deposit to be made when the customer's credit history is unacceptable or unavailable. In addition, Intermedia requests the right to collect advance payments which will not exceed one month's estimated non-recurring and recurring charges.

The customer service division has the technical expertise to handle maintenance and repair of Intermedia's equipment and software. Furthermore, Intermedia's technical staff will be augmented by outside consultants, contract equipment, and vendor support. Customers can call Intermedia's 800 number customer service center, 24 hours a day. The 800 number is printed on all monthly statements.

Intermedia's Annual Report to Shareholders for 1995 showed gross revenues of \$38,631,000 and the preliminary figures for 1996 show revenues at approximately \$103.4 million. The applicant's financial strength and access to financing ensures Intermedia's ability to develop and support a Nebraska telecommunications network.

Intermedia has a qualified managerial staff with numerous years of experience. It has the technical resources and financial security to provide quality local service. Intermedia signed a stipulation with several formal intervenors agreeing to offer services only in the exchanges served by GTE and US West. Should Intermedia want to offer local service in territories served by other local exchange carriers, pursuant to the stipulation, Intermedia will come back to this Commission to request additional authority.

No other party introduced testimony nor evidence.

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

On February 8, 1996, the Federal Telecommunications Act of 1996 opened 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 Intermedia'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.

Intermedia 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, in Nebraska.

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

- (a) Intermedia, either through negotiation or arbitration, must reach interconnection agreements with US West or GTE;
- (b) The Commission must approve the interconnection agreement;
- (c) Intermedia 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 and GTE, Intermedia 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 Intermedia to expand its service territory in Nebraska. Nothing in the stipulation shall in any way limit Intermedia'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.

As a provider of local exchange service in Nebraska, Intermedia 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, deposits), 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-1450 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, Intermedia is granted authority to provide local exchange service in areas served by US West and GTE once specific interconnection agreements have been approved. Intermedia 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 Intermedia 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 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 6th day of May, 1997.

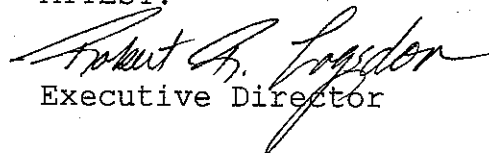
COMMISSIONERS CONCURRING:

//s//Lowell C. Johnson
//s//Frank E. Landis
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION


Vice Chairman

ATTEST:


Executive Director