

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1523
Nebraska Technology & Telecommuni-)
cations, Inc. (NT&T), Lincoln,)
seeking authority to obtain a Cer-)
tificate of Public Convenience and)
Necessity to provide local exchange) GRANTED
service in areas of Nebraska cur-)
rently served by US West Communica-)
tions, Inc., GTE Midwest, Inc.,)
United Telephone Company of the)
West, and Aliant Communications.) Entered: September 15, 1997

APPEARANCES

For the Applicant:
Timothy F. Clare
1201 Lincoln Mall, Suite 102
Lincoln, Nebraska 68508

For the Commission Staff:
Deonne Bruning
300 The Atrium, 1200 N Street
Lincoln, Nebraska 68508

For the Formal Intervenor:
Aliant Communications, Inc.
Paul M. Schudel
206 S. 13th St., Suite 1500
Lincoln, Nebraska 68508

MCI Telecommunications
Steven G. Seglin
134 S. 13th St., Suite 400
Lincoln, Nebraska 68508

BY THE COMMISSION

By its application filed April 11, 1997, and its amended application filed August 8, 1997, (for purposes of this order, applicant's application and amended application are hereinafter referred to as the "application"), Nebraska Technology & Telecommunications, Inc. (NT&T or applicant) of Lincoln, Nebraska, seeks authority to obtain a Certificate of Public Convenience and Necessity to provide local exchange service in the areas currently served by US West Communications (US West), GTE Midwest, Inc. (GTE), United Telephone Company of the West (United), and Aliant Communications, Inc. (Aliant). Notice of the application appeared in The Daily Record on April 15, 1997. The following parties filed petitions for formal intervention: Aliant; Arapahoe Telephone; Arlington Telephone; Benkelman Telephone; Blair Telephone; Cambridge Telephone; Clarks Telecommunications; Consolidated Telco; Consolidated Telephone; Cozad Telephone; Diller Telephone; Eastern Nebraska Telephone; Hemingford Cooperative Telephone; Henderson Cooperative Telephone; K & M Telephone; MCI Telecommunications Corp; Nebraska Independent Telephone Association; Rock County Telephone; Southeast Nebraska Telephone; and Wauneta Telephone. AT&T Communications of the Midwest intervened in the application as an informal intervenor. A hearing was held September 3, 1997, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

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EVIDENCE

In support of its application, NT&T introduced two exhibits and produced one witness, Dennis R. Hodges:

Mr. Hodges testified as follows:

NT&T is a corporation incorporated under the laws of the state of Nebraska. NT&T is owned by eight investors, who are all equal stockholders. Six of the eight investors are independent incumbent local exchange carriers, while two of the eight investors are individuals who are majority owners of independent incumbent local exchange carriers. NT&T plans to add five employees during 1997 as new hires.

NT&T proposes to provide business and residential service, including custom calling, CLASS features, voice mail and advanced business telephone services in territories served by US West, GTE, United, and Aliant. Services will be provided via resale and through NT&T's facilities to all requesting customers.

NT&T's business plan is to offer local exchange service in certain areas in the state of Nebraska. NT&T has already requested interconnection from US West, GTE, and Sprint. Depending upon customer demand and business plans, NT&T may expand into other markets in the future. NT&T will request its authority be amended prior to entering the territories of companies not included in this application.

NT&T will be financially supported by its investors, who have already contributed \$1.6 million. NT&T's financial statement and balance sheet, as of July 31, 1997, indicate the company is able to support NT&T in its pursuit to offer competitive local exchange services in Nebraska. NT&T plans to invest approximately \$1 million during 1997 and 1998 to provide the services requested herein.

NT&T has experienced personnel that are capable of handling all technical matters for the company. Overall, the NT&T management team, its board of directors, and investors have over 150 years of combined telecommunications experience.

NT&T is committed to public safety and welfare. Accordingly, it will provide E911 service, directory assistance, telephone relay service and participate in state universal service funding. Customers will receive state of the art services through digital switching systems. Further, NT&T will route repair calls to its customer service representatives and provide a toll-free number to NT&T's management personnel.

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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 Telecommunications Act of 1996 (the Act). One primary purpose of the Act is to promote the development of competition in local exchange service markets. This Commission finds that it should embrace and adopt the pro-competitive policies of the Act. The Commission further finds there is a strong likelihood that certain benefits will flow from a competitive environment, such as 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.

Pursuant to Commission Rules, the Commission will consider this application for authority 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 Act.

NT&T has demonstrated it meets 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 NT&T's competence. No performance bond is required.

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Before NT&T is allowed to provide local exchange service to its users:

- (a) NT&T, either through negotiation or arbitration, must reach an interconnection agreement with the incumbent local exchange carrier;
- (b) The Commission must approve the interconnection agreement; and
- (c) NT&T must file, and the Commission must approve, a tariff 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, GTE, United, or Aliant service areas, NT&T must obtain additional authority from this Commission to expand its service territory.

A stipulation was entered into by the parties. The intervenors who participated in the stipulation maintain the right and opportunity to contest any future application of NT&T to expand its service territory. Nothing in the stipulation shall in any way limit NT&T's right in connection with any such future application(s) to demonstrate to the Commission the applicant's satisfaction of any such criteria or standards established by the Commission.

As a provider of local exchange service in the state of Nebraska, NT&T would 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 Act.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1523 be, and is hereby, granted.

IT IS FURTHER ORDERED that upon final approval of the interconnection agreement and tariff, NT&T is granted authority to provide local exchange service, both on a resale basis and facilities basis, in the areas served by US West, GTE, United, and Aliant. NT&T must make further application to this Commission for authority to provide local exchange service outside these areas.

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IT IS FURTHER ORDERED that NT&T 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 the applicant shall file, in accordance with the applicable statutes on or before April 30th of each year, an annual report with this Commission consisting of (a) a copy of any report filed with the Federal Communications Commission, (b) a copy of any annual report to stockholders, (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission, (d) a balance sheet and income statement for the previous year of operation, and (e) for the state of Nebraska on a combined interstate-intrastate basis, the investment in telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues, operating expenses, and taxes.

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 15th day of September, 1997.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

[Signature: Rod Johnson]
[Signature: Frank E. Landis]
[Signature: Daniel G. Urwiller]

Chairman

[Signature: Rod Johnson]

ATTEST:

[Signature: Robert B. Logsdon]
Executive Director

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