

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1640
of Galaxy Telecom, L.P. of)
Sikeston, Missouri, seeking author-) Granted
ity for expansion of service ter-)
ritory.) Entered: December 16, 1997

APPEARANCES

| | |
|----------------------------|----------------------------------|
| For the Applicant: | For Arapahoe, Benkelman, Cozad, |
| Loel P. Brooks | Diller, Henderson, Hemingford, |
| Brooks, Pansing Brooks | and Wauneta Telephone Companies: |
| 984 NBC Center | Timothy F. Clare |
| 1248 O Street | Remboldt, Ludtke & Berger |
| Lincoln, NE 68508 | 1201 Lincoln Mall, Suite 102 |
| | Lincoln, NE 68508 |
| For the Commission Staff: | |
| Deonne L. Bruning | For Aliant Communications: |
| 300 The Atrium, 1200 N St. | Paul M. Schudel |
| Lincoln, NE 68508 | Woods & Aitken |
| | 206 South 13th St., Suite 1500 |
| For Nebraska Independent | Lincoln, NE 68508 |
| Telephone Association: | |
| Kelly R. Dahl | |
| Baird, Holm, et. al. | |
| 1500 Woodmen Tower | |
| Omaha, NE 68102 | |

BY THE COMMISSION:

On September 26, 1997, Galaxy Telecom, L.P. (Galaxy) of Sikeston, Missouri, filed an application to expand its service territory authorized under Application C-1485. Notice of the application was published in The Daily Record, October 1, 1997, pursuant to the Commission's Rules. Formal interventions were filed by Aliant Communications, Arapahoe Telephone, Benkelman Telephone, Cozad Telephone, Diller Telephone, Hemingford Cooperative, Henderson Cooperative, Wauneta Telephone and the Nebraska Independent Telephone Association (NITA). A public hearing was held in the Commission Hearing Room on December 2, 1997, and was continued to December 8, 1997.

E V I D E N C E

Mr. Terry M. Cordova, Vice-President of Engineering for Galaxy, testified as follows:

Galaxy is seeking to expand its service territory authorized under Application C-1485. Galaxy is not seeking authority to provide additional services. Galaxy will continue to provide intrastate interexchange service to schools and other customers in Galaxy's service area. These services enable Galaxy to provide educational distance learning and wide area networking, as well as local area networks, high speed Internet access, fax services and distribution of multi-media library services.

Galaxy possesses the technical expertise and resources to provide services in an expanded area in Nebraska. Galaxy operates cable television systems across the nation, including Nebraska. Customer service will be provided from Galaxy's regional service center in Wickcliffe, Kentucky. Rapid response time is available using Galaxy's highly efficient satellite system. Except for routine start-up questions, no service complaints have been registered by the present users. The schools receiving service from Galaxy are extremely pleased with the system. Galaxy is offering similar services in the state of Kansas.

Galaxy possesses the managerial competency to provide interexchange service in an expanded service area. The management team in Sikeston, Missouri, will assist the Nebraska operation.

Galaxy filed its most recent Form 10-Q to demonstrate its financial ability to provide service. Further, Galaxy provided evidence of a revolving credit facility with Fleet National Bank, ING Capital Corporation, Union Bank of California and State Street Bank and Trust. The credit facility of \$68,000,000 will enable Galaxy to complete the construction of its Nebraska network.

Cross-examination by the formal intervenors focused on Galaxy's financial condition, the type of service to be provided in the expanded territory and the timing of the filing of the application.

No other evidence was adduced.

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

The application presents the question whether Galaxy's service area should be expanded. No one appeared in opposition to the application and no one testified that service problems existed with the present system. Overall, Galaxy demonstrated that it is financially, technically and managerially competent.

Mr. Cordova testified Galaxy was deploying hundreds of miles of fiber optic cable in Nebraska alone. Immense financial resources are required to deploy facilities. As such, we find the financial statements of Galaxy to be reasonable given the extensive network it is installing.

We believe Galaxy also possesses technical and managerial competency. However, we must note that the timing of the filing of this application and the commitment to provide services in Nebraska before proper authority had been obtained raises concerns about the regulatory ability of the company.

Galaxy needed to ask this Commission to grant it interim authority so that it could fulfill the contracts it had entered into with schools and educational service units in Nebraska. Galaxy received permission to operate in certain parts of Nebraska in July; however, Galaxy exceeded its certificated authority by expanding its company operations beyond its authorized territory. Under no circumstance will interim authority be granted to Galaxy in the future. If this problem arises again, it will be Galaxy, not the Commission, who will have put the student programs at risk.

Upon consideration of the application and being fully advised, the Commission is of the opinion and finds the application should be approved. Galaxy should be authorized to provide services, as set forth in Application C-1485, to the additional communities identified.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1640 be, and it is hereby, granted.

IT IS FURTHER ORDERED that a tariff be filed within 30 days from the date of this order.

MADE AND ENTERED at Lincoln, Nebraska, this 16th day of December, 1997.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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