

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1662
Quintelco, Inc., Pearl River,)
New York, seeking authority to)
obtain a Certificate of Public) GRANTED
Convenience and Necessity to provide)
local exchange telecommunications)
service within the State of Nebraska.) Entered: June 9, 1998

APPEARANCES:

For the Applicant:
Steven Seglin
134 S. 13th Street
Suite 400
Lincoln, NE 68508

For the Commission Staff:
John Doyle
300 The Atrium, 1200 N Street
Lincoln, NE 68508

For Arapahoe, Benkelman,
Cozad, Diller, Hemingford,
Henderson, and Wauneta
Telephone companies:
Mark Fahleson
1201 Lincoln Mall, Suite 102
Lincoln, NE 68508

For the Nebraska Telephone
Association:
Jack Shultz
P.O. Box 82028
Lincoln, NE 68501-2028

BY THE COMMISSION:

On October 20, 1997, Quintelco, Inc. (Quintelco or applicant) of Pearl River, New York, filed an application with the Commission requesting a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services in Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on October 22, 1997. Such notice was accepted into evidence as Exhibit 1. The following parties filed petitions for formal intervention: Aliant Communications Company (Aliant), Arapahoe Telephone, Benkelman Telephone, Cozad Telephone, Diller Telephone, Hemingford Cooperative Telephone, Henderson Cooperative Telephone, Nebraska Telephone Association (NTA), and Wauneta Telephone. The following parties filed petitions for informal intervention: Nebraska Independent Telephone Association (NITA), Cambridge Telephone, Clarks Telephone, Consolidated Telephone, Consolidated Telco, Great Plains Communications, HunTel Systems, and Southeast Nebraska Telephone. Notice of a hearing on the matter was sent by first class mail to all interested parties on January 23, 1998, and was made a part of the record as Exhibit 2. A hearing was held on March 24, 1998, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

E V I D E N C E

Quintelco's application was accepted into evidence as Exhibit 3. The application included the following attachments: (1) Quintelco's certificate of authority to transact business in Nebraska issued by the Nebraska Secretary of State; (2) names, telephone numbers, business addresses, and qualifications of Quintelco's officers; (3) a description of the services Quintelco proposes to provide; (4) a map showing the areas where service is proposed; and (5) the financial reports of Quintel Entertainment, Inc., applicant's parent company.

Applicant read into the record a stipulation that was agreed to by the intervenors that were present. Aliant was not present and did not enter into the stipulation. The stipulation stated that Quintelco has demonstrated that it meets and exceeds the standards of financial, technical and managerial capacity and all criteria necessary to provide local exchange service in Nebraska to the territory presently served by US West Communications, Inc. (US West), GTE Midwest, Inc. (GTE), and Sprint United (United). Under the terms of the stipulation, before the applicant is allowed to provide local exchange service to its users, it must either reach an interconnection/resale agreement with US West, GTE and/or United and receive Commission approval, or in the event a certified local exchange carrier provides a wholesale tariff, the applicant must purchase rates from that tariff, file its own tariff and receive Commission approval of its tariff.

Applicant offered a detailed history of the witness's past employment into the record, and it was admitted as Exhibit 4.

Applicant produced one witness, Arthur Myers, who testified as follows:

He has been the vice president of finance and administration for Quintelco since May of 1997. He pointed out that Exhibit 4 provides a more detailed history of his past employment.

Quintelco possesses sufficient technical resources and abilities to provide telecommunications service on a resale basis based upon a demonstrated proficiency of Quintel Entertainment and Marketing (Quintel) and AT&T services on a long distance interstate intraLATA and interstate basis. Quintel successfully offers prepaid cellular voice mail information and other services and products to the public. Based upon this experience, Quintel's management has an exceptional understanding of the importance of customer care, billing, and the operation of a telecommunications network. Quintel employs individuals with considerable technical expertise as described in Exhibit 3.

Quintelco initially proposes to offer services identical to those offered by the incumbent local exchange providers.

Over time, Quintelco will develop specific pricing and packaging of services to address identifiable customer needs. Quintelco will ensure that customers have access to directories, telecommunications relay service, white page listings, and emergency 911 dialing. Quintelco customers will be able to reach the long distance carrier of their choice.

Approval of this application will serve the public interest by expanding customer choices in an area of telecommunications that is still somewhat limited. The resulting competition will compel incumbent local exchange carriers and other providers to offer a wide variety of service and options at prices closer to cost.

Mr. Doyle asked the witness how Quintelco intended to market its services. The witness indicated that the company's marketing would be done through direct mailings and infomercials on TV and cable.

In response to questions asked by Mr. Doyle about a pending lawsuit against Quintel Entertainment, Inc., the witness was unable to explain the status of the lawsuit. Commissioner Landis then asked that the applicant submit a late-filed exhibit explaining the lawsuit. Commissioner Landis also requested that the applicant submit the marketing script Quintelco intends to use in Nebraska.

The late-filed exhibits were received by the Commission on May 8, 1998. The late-filed exhibits revealed: (1) A class action lawsuit was brought against Quintel Entertainment, Inc. in the State of California. However, the time for filing a motion for class certificate has passed. Currently, a private lawsuit against Quintel Entertainment, Inc. by one individual is outstanding; however, that customer's account has been fully credited and no means of compensation remains to be issued to the said customer. (2) At the present time, Quintelco has not prepared any marketing materials that describe the services the company intends to offer Nebraska customers. Upon Commission approval of the application, Quintelco will fashion a broad marketing strategy that will encompass its service offering to the Nebraska market.

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

In accordance with the stipulation reached by the parties and read into the record, the Commission limits the scope of its review in this application to whether the applicant meets the criteria necessary to provide local exchange service in Nebraska in those territories presently served by US West, GTE and United. After examining the record, the Commission finds that Quintelco has demonstrated that it meets the standards of

financial, technical, and managerial competence and all other criteria necessary to provide resold local exchange service in those areas stipulated to. No party to this proceeding refuted Quintelco's competence. No performance bond is required.

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

- (a) Quintelco, 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) Quintelco 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 or United service areas, Quintelco must obtain additional authority from this Commission to expand its service territory.

The intervenors who participated in the stipulation maintain the right and opportunity to contest any future application of Quintelco to expand its service territory. Nothing in the stipulation shall in any way limit Quintelco'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, Quintelco 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. Therefore, the application to provide such service should be granted.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1662 be, and it is hereby, granted.

IT IS FURTHER ORDERED that upon final approval of the interconnection agreement and tariff, Quintelco, Inc. is granted authority to provide resold local exchange service within Nebraska in those territories presently served by US West Communications, Inc., GTE Midwest, Inc. and Sprint

United. Quintelco, Inc. must make further application to this Commission for authority to provide local exchange service outside these areas.

IT IS FURTHER ORDERED that Quintelco, Inc. 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.


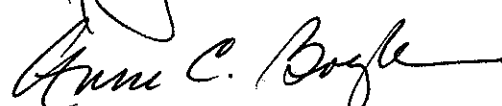
IT IS FURTHER ORDERED that the applicant shall file, in accordance with the applicable statutes on or before April 30th of each year, an annual report with this Commission consisting of (a) a copy of any report filed with the Federal Communications Commission, (b) a copy of any annual report to stockholders, (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 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 9th day of June, 1998.

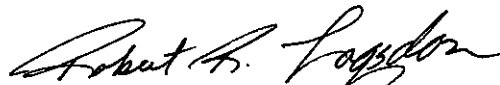
NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



 //s//Lowell C. Johnson
 //s//Daniel G. Urwiller


 Chairman

ATTEST:


 Executive Director