

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of LDM Systems, Inc.) Application No. C-1679
of New City, New York, seeking)
authority for an amendment to its) GRANTED
Certificate of Authority to provide)
local exchange telecommunications)
services within Nebraska.) Entered: March 24, 1998

APPEARANCES:

For the Applicant:

Nancy L. Crawford
First National Plaza, #500
11404 West Dodge Road
Omaha, NE 68154

For the Commission Staff:

Deonne Bruning
300 The Atrium, 1200 N Street
Lincoln, NE 68508

For Arapahoe, Benkelman, Cozad,
Diller, Hemingford, Henderson,
and Wauneta Telephone companies:

Timothy Clare
1201 Lincoln Mall, Suite 102
Lincoln, NE 68508

BY THE COMMISSION:

On November 12, 1997, LDM Systems, Inc. of New City, New York, filed an application with the Commission requesting authority to amend its Certificate of Authority to allow applicant to operate as a resale common carrier of local telecommunications services in Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on November 13, 1997. The following parties filed petitions for formal intervention: Aliant Communications, Arapahoe Telephone, Benkelman Telephone, Cambridge Telephone, Clarks Telephone, Consolidated Telephone, Consolidated Telco, Cozad Telephone, Diller Telephone, Great Plains Communications, Hemingford Cooperative Telephone, Henderson Cooperative Telephone, HunTel Systems, Nebraska Independent Telephone Association, Nebraska Telephone Association (NTA), Southeast Telephone, and Wauneta Telephone. A hearing was held February 24, 1998, in the Commission Hearing Room, Lincoln, Nebraska.

E V I D E N C E

The applicant and intervenors entered into a stipulation that applicant would, at the present time, only seek authority to provide local exchange service in those areas serviced by US West Communications and GTE. There were no objections to the stipulation, and it was entered into evidence as Exhibit 3.

Applicant requested that its financial statements for the period through September 30, 1997, be admitted into evidence. There were no objections, and the documents were admitted as Exhibit 4.

Applicant produced one witness, Kurt Beebe, who testified as follows:

He has been the local provisioning manager for LDM for four months and has worked in the telecommunications industry for approximately seven years. LDM has not begun interconnection negotiations with any Nebraska company. Applicant holds a certificate to provide local service in 20 states and currently provides local service to 300 customers in New York. LDM does not intend to have any facilities or employees in Nebraska. LDM is certificated as an interexchange carrier in several states including Nebraska. They are now seeking authority to provide local resale services in Nebraska. They have never been denied a certificate in any state. There are no formal or informal complaints pending against LDM in Nebraska.

The president and CEO of LDM began the operations of the company in 1990. Several other members of management staff have been in the telecommunications industry for many years. Referring to the financial statements in Exhibit 4, Mr. Beebe testified that LDM has maintained profitability and is financially able to offer local exchange services in Nebraska.

LDM intends to market its local exchange services to its long distance customers first by use of bill inserts. It intends to eventually serve other business and residential customers and will utilize some sales representatives and/or telemarketing technicians. LDM will contribute to the State Universal Service Fund, provide access to the relay system for the speech and hearing impaired, and offer operator and other services provided by the incumbent local exchange carrier.

Mr. Beebe testified further that LDM willingly entered into the stipulation marked Exhibit 3. The applicant will not offer local exchange services in areas that are currently served by carriers protected by the rural exemption, without first seeking further authority from the Commission. LDM's slamming policy requires that the company acquire written authority from the customer before switching service.

Ms. Bruning asked Mr. Beebe about an application that LDM had previously filed with this Commission in March of 1997. That application was later withdrawn after a series of continuances. Mr. Beebe indicated that at the time, LDM did not have staff that focused exclusively on local issues. Since that time, LDM has expanded its staff to appropriate levels to handle its local exchange operations.

Commissioner Landis asked Mr. Beebe whether LDM's current application reflected any changes since LDM had been acquired by RSL Com U.S.A. (RSL) pursuant to Application No. C-1709. Mr. Beebe did not have that information available at the hearing. The applicant submitted a late-filed exhibit detailing the transaction and demonstrating RSL's financial viability.

Commissioner Landis also asked Mr. Beebe about the status of a slamming lawsuit filed in Illinois against LDM. Mr. Beebe was unaware of the details and status of the suit. However, the applicant submitted a late-filed exhibit that explained that the Illinois Attorney General filed a suit against 16 carriers for alleged slamming problems. LDM was one of the companies sued. After the suit was filed, LDM discontinued its practice of accepting oral orders for service. LDM has not had any slamming complaints against them since adopting a policy of only accepting written orders. LDM is currently in negotiations with the Illinois Attorney General to settle the suit. LDM believes that the underlying nature of the problem has been resolved.

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 entered into evidence as Exhibit 3, 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 Communications, Inc. and GTE. After examining the record, the Commission finds that LDM Systems has demonstrated that it meets the standards of financial, technical, and managerial competence and all other criteria necessary to provide local exchange service in those areas stipulated to. 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-1679 be, and it is hereby, granted.

IT IS FURTHER ORDERED that upon final approval of the interconnection agreement and tariff, LDM Systems, Inc. is granted authority to provide local exchange service on a resale basis within Nebraska in those territories presently served by US West Communications, Inc. and GTE. LDM Systems, Inc. must make further application to this Commission for authority to provide local exchange service outside these areas.

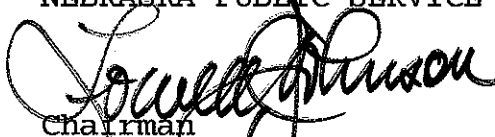
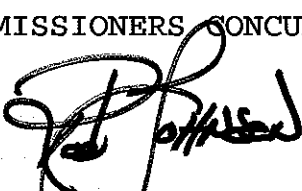
IT IS FURTHER ORDERED that LDM Systems, Inc. shall abide by the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to other local exchange carriers except obligations 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.

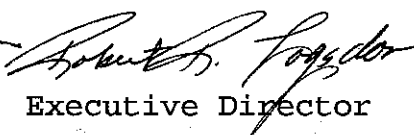
IT IS FINALLY ORDERED that this order be, and it is hereby made, the Commission's official certificate of public convenience and necessity to the applicant to provide local exchange service within the territory described herein in Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 24th day of March, 1998.

NEBRASKA PUBLIC SERVICE COMMISSION
COMMISSIONERS CONCURRING:


Chairman

ATTEST:


Executive Director

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