

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) APPLICATION No. C-1760
Eclipse Communications Corporation,)
Issaquah, Washington, seeking)
authority to operate as a competitive) GRANTED
local exchange carrier of tele-)
communications services within the)
State of Nebraska.) Entered: June 9, 1998

APPEARANCES:

For the Applicant:
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For the Commission Staff:
John Doyle
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Lincoln, NE 68508

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

For the Nebraska Telephone
Association:
Jack Shultz
P.O. Box 82028
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For Aliant Communications
Company:
Paul Schudel
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Lincoln, NE 68508

BY THE COMMISSION:

On February 20, 1998, Eclipse Communications Corporation (Eclipse or applicant) of Issaquah, Washington, filed an application with the Commission requesting a Certificate of Public Convenience and Necessity to operate as a competitive local exchange carrier of telecommunications services in Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on February 23, 1998. 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 April 16, 1998, and was made a part of the record as Exhibit 2. A hearing was held on May 6, 1998, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

E V I D E N C E

Eclipse's application, containing numerous parts, was accepted into evidence as Exhibit 3 without objection. Applicant's 1997 SEC Form 10-K was also accepted into evidence as Exhibit 4 without objection.

Finally, applicant offered a stipulation signed by all formal and informal intervenors except Aliant and the NTA. The stipulation was accepted into evidence as Exhibit 5 without objection. The stipulation stated that the applicant has demonstrated that it meets and exceeds the standards of financial, technical and managerial competence to provide local exchange service in Nebraska in the territory presently served by US West Communications, Inc. (US West), GTE Midwest, Inc. (GTE), and Aliant. 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 Aliant 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.

Applicant produced one witness, Christopher Johnson, who testified as follows:

He is the manager of regulatory affairs of Western Wireless Corporation (WWC) and its subsidiary, Eclipse. He has been manager of regulatory affairs since 1990 for WWC and is responsible for all state regulatory compliance and certification.

Eclipse will draw heavily from the financial strength of WWC and its affiliates. WWC is a leading wireless communications company in the United States providing cellular, personal communications service, specialized mobile radio, and paging services in more than 22 states. As a result, Eclipse has access to ample capital to provide local exchange service to exchanges currently served by the incumbent local exchange carriers (ILECs). The officers and directors of Eclipse have developed significant technical and managerial expertise through WWC's successful growth. Locally, Eclipse will have the ability to interface with and utilize WWC's existing network operation control centers in Grand Island and Lincoln, Nebraska.

The testimony supported by the application indicates that Eclipse intends to provide resold and facilities-based local

exchange services in all of the Nebraska exchanges currently served by US West, GTE, and Aliant. Eclipse plans to offer special services including: two-way lines/trunks, direct inward/outward dialing options, local calling, operator-assisted services, directory assistance, dual party relay, and 911 emergency services. Eclipse anticipates providing facilities-based local exchange service primarily through the use of wireless facilities and the leased facilities of existing carriers. In addition to its own facilities, Eclipse plans to use the resold services of the ILECs and other certificated telecommunication carriers.

Mr. Johnson testified further that Eclipse has in place a customer service center for receiving and addressing customer inquiries concerning service and billing matters. Eclipse intends to use newspapers, radio, and television advertisements to market its telecommunications services. Eclipse will also use their existing Cellular One advertisements.

The witness stated further that approval of this application will serve the public interest by providing customers with another choice of telecommunications providers for competitive local exchange services. This competition from a company with the financial, technical and managerial resources of Eclipse will benefit customers of local service.

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 5, 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 Aliant. After examining the record, the Commission finds that Eclipse 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 Eclipse's competence. No performance bond is required.

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

- (a) Eclipse, 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) Eclipse 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 Aliant service areas, Eclipse 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 Eclipse to expand its service territory. Nothing in the stipulation shall in any way limit Eclipse'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, Eclipse 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-1760 be, and it is hereby, granted.

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

IT IS FURTHER ORDERED that Eclipse Communications Corporation 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.

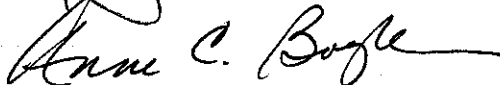
IT IS FURTHER ORDERED that the applicant shall file, in accordance with the applicable statutes on or before April 30th of each year, an annual report with this Commission consisting of (a) a copy of any report filed with the Federal Communications Commission, (b) a copy of any annual report to stockholders,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

COMMISSIONERS CONCURRING:

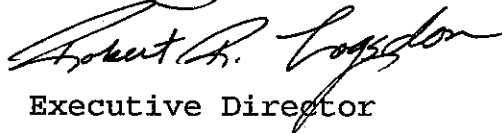
NEBRASKA PUBLIC SERVICE COMMISSION



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


Chairman

ATTEST:


Executive Director