

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application	)	Application No. C-1775
of Aliant Midwest, Inc., Lincoln,	)	
seeking authority to enlarge its	)	
Certificate of Public Convenience	)	
and Necessity to provide statewide	)	Granted In Part/
local exchange service and for a	)	Denied In Part
Certificate of Public Convenience	)	
and Necessity to offer and provide	)	
interexchange telecommunications	)	
services in Nebraska.	)	Entered: July 7, 1998

APPEARANCES:

For the Applicant:  
Paul Schudel  
206 S. 13th Street  
Suite 1500  
Lincoln, NE 68508

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

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

For the Nebraska Independent  
Telephone Association:  
Kelly Dahl  
1500 Woodman Tower  
Omaha, NE 68102-2068

BY THE COMMISSION:

On March 13, 1998, Aliant Midwest, Inc. (Aliant Midwest) of Lincoln, Nebraska, filed an application with the Commission requesting to enlarge its Certificate of Public Convenience and Necessity to provide statewide local exchange services and for a Certificate of Public Convenience and Necessity to offer and provide interexchange telecommunications services in Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on March 17, 1998. Such notice was accepted into evidence as Exhibit 1. The following parties filed petitions for formal intervention: Arapahoe Telephone, Benkelman Telephone, Cozad Telephone, Diller Telephone, Hemingford Cooperative Telephone, Henderson Cooperative Telephone, Wauneta Telephone, Nebraska Independent Telephone Association, Cambridge Telephone, Clarks Telephone, Consolidated Telephone, Consolidated Telco, Great Plains Communications, HunTel Systems, Pierce Telephone, Southeast Nebraska Telephone, Glenwood Telephone, Curtis Telephone, and Plainview Telephone. Notice of a hearing on the matter was sent by first class mail to all interested parties on April 22, 1998, and was made a part of the record as Exhibit 2. A

hearing was held on May 20, 1998, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

#### E V I D E N C E

Applicant offered its application into the record and it was admitted as Exhibit 3. Applicant offered its preprinted direct testimony into the record and it was admitted into evidence as Exhibit 4. Applicant offered a facsimile cover sheet of a proposed stipulation, which was faxed to all intervenors by Aliant Midwest's counsel, and it was admitted as Exhibit 5. Applicant offered a stipulation into the record and it was admitted as Exhibit 6. The stipulation was signed by Mr. Kelly Dahl. The formal intervenors represented by Mr. Tim Clare and Mr. Mark Fahleson declined to sign the stipulation.

Applicant produced one witness, Brad Hedrick, who testified as follows:

He is the general manager of Aliant Midwest. As general manager he is responsible for the overall business operations of the company.

Aliant Midwest currently has authority to provide local exchange telecommunications services in Nebraska pursuant to Application No. C-1440, which was granted on March 10, 1997. Aliant Midwest seeks to expand their existing certificate to statewide certification and to provide interexchange telecommunications services on a statewide basis.

Aliant Midwest possesses the technical, managerial, and financial competency to provide the telecommunications services requested in the application. Aliant Midwest has made a total investment of \$5.25 million dollars to date and plans to invest \$15 million dollars in its telecommunications facilities and add 12 employees by the end of 1998. Aliant Midwest's technical and managerial team is highly educated and has many years of telecommunications experience.

Aliant Midwest intends to offer services to multi-location businesses, governmental entities, education institutions, and health care providers statewide. In late-filed Exhibit 7, Aliant Midwest indicated potential communities that may receive telemedicine services through Aliant Midwest. Aliant Midwest wishes to provide transport and termination in Aliant Communication Company's territory. Further detail about the service Aliant Midwest intends to provide in the region served by Aliant Communications Company was filed as late-filed Exhibit 8 which was marked proprietary.

Aliant Midwest will safeguard the rights of its consumers through the use of 611 to route repair calls to

customer service representatives and the use of a 800 number for customer complaints. Aliant Midwest will contribute to a state universal fund once established.

Aliant Midwest will serve the public interest by providing improved efficiency of service, deployment of technological innovations to meet consumers needs, improved customer service, and increasing the choice of providers for consumers.

Cross-examination of Mr. Hedrick focused on concerns regarding certification in regions served by telephone companies with a rural exemption and the potential problems associated with Aliant Midwest providing service in the region presently served by Aliant Communications Company.

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

After examining the record, the Commission finds that Aliant Midwest has demonstrated that it meets the standards of financial, technical, and managerial competence necessary to provide interexchange and local exchange service in Nebraska. No party to this proceeding refuted Aliant Midwest's competence to provide telecommunications service.

While Aliant Midwest is technically, financially, and managerially capable of providing local exchange service in Nebraska, we do not feel, without further inquiry, that granting Aliant Midwest authority to compete against its affiliate, Aliant Communications Company, is in the public interest. Several valid concerns were raised at the hearing that were not addressed by Aliant Midwest's witness.

Therefore, while the request for certification is denied in the region served by Aliant Communications Company, we believe an investigative docket should be opened to further examine this issue. The investigative docket will seek comments, as well as reply comments, from all interested parties as to whether incumbent local exchange carriers should be able to use an affiliate to market services in their own territory and, if so, what conditions, if any, should be imposed. This docket should be opened immediately.

The request to provide interexchange services should be granted to the extent requested. The request to provide services outside the territory served by Aliant Communications Company is granted in part. Aliant Midwest seeks no restrictions in its application to provide local exchange service statewide. However, upon questioning and even in Mr. Hedrick's direct testimony, it is clear that Aliant Midwest does not seek

to provide local switched services to residential customers. As such, we find it appropriate to limit Aliant Midwest's Certificate of Authority to serve multi-location business customers, health care facilities, educational institutions, and governmental entities. This restriction is consistent with the testimony offered by Aliant Midwest.

Consistent with other orders entered regarding competitive local exchange carriers, certain conditions are appropriate. Before Aliant Midwest is allowed to provide local telecommunications services:

- (a) Aliant Midwest, 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) Aliant Midwest 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.

As a provider of local exchange service in the state of Nebraska, Aliant Midwest should 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. The application to provide interexchange service should be granted. The application to provide statewide local exchange service should be granted as modified herein. The request to provide competitive local exchange services in the region served by Aliant Communications Company should be denied.

#### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the portion of Application No. C-1775 requesting authority to provide interexchange service be, and it is hereby, granted. It is further ordered that the portion of the application requesting local exchange service be, and it is hereby, granted. It is further ordered that the portion of the application requesting authority to provide competitive local exchange services in the region served by Aliant Communications Company is denied.

IT IS FURTHER ORDERED that upon final approval of the interconnection agreement and tariff, Aliant Midwest, Inc. is granted authority to provide local exchange service within

Nebraska in the territories authorized herein, as well as in the territories authorized in C-1440.

IT IS FURTHER ORDERED that Aliant Midwest, 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.

IT IS FURTHER ORDERED that Aliant Midwest, Inc. shall file, in accordance with the applicable statutes, on or before April 30th of each year, an annual report with this Commission.

IT IS FURTHER ORDERED that an investigative docket be opened to examine under what conditions, if any, incumbent local exchange carriers should be able to establish affiliates to compete within their own territories.

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.

MADE AND ENTERED at Lincoln, Nebraska, this 7th day of July, 1998.

COMMISSIONERS CONCURRING:

NEBRASKA PUBLIC SERVICE COMMISSION

*Lowell C. Johnson*

*Lowell C. Johnson*  
Chairman

*Frank E. Landis*

*John Suriano*  
Deputy  
Executive Director

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