

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1869
Cable USA, Inc., Kearney, for a Cer-)
tificate of Public Convenience and)
Necessity to provide local exchange)
telecommunications service within) GRANTED
LATA 646 in local exchanges served)
by US West Communications, Inc. and)
GTE Midwest, Inc. and LATA 958 in)
local exchanges served by Aliant)
Communications Company.) Entered: November 24, 1998

APPEARANCES:

For the Applicant:
Andrew S. Pollock
Brooks, Pansing, Brooks, P.C.
NBC 984 Center
Lincoln, Nebraska 68508

For the Commission:
Chris A. Post
300 The Atrium
1200 "N" Street
Lincoln, Nebraska 68508

For The Central Nebraska
Telephone Co.:
Paul M. Schudel
Woods & Aitken
206 South 13th Street,
Suite 1500
Lincoln, Nebraska 68508

For Arapahoe Telephone Com-
pany; Benkelman Telephone Com-
pany; Cozad Telephone Company;
Diller Telephone Company;
Hemingford Cooperative
Telephone Company; Henderson
Cooperative Telephone Company;
and Wauneta Telephone Company:
Timothy F. Clare
Rembolt, Ludtke & Berger
1201 Lincoln Mall, Suite 102
Lincoln, Nebraska 68508

For Nebraska Independent
Telephone Association:
Patrick Flood
Hotz & Weaver
Suite 310, Lake Regency
444 Regency Parkway Drive
Omaha, Nebraska 68114

BY THE COMMISSION:

By its Application filed July 28, 1998, Cable USA, Inc. (the Applicant) seeks authority to obtain a Certificate of Public Convenience and Necessity to provide local exchange telecommuni-

Application No. C-1869

PAGE TWO

cation services in local access transport area (LATA) 646 served by US West Communications, Inc. (US West) and GTE Midwest, Inc. (GTE), and in LATA 958 served by Aliant Communications Co. (Aliant), the incumbent local exchange carriers (ILECs). Notice of the application appeared in The Daily Record on July 31, 1998. The following parties filed Petitions of Formal Intervention: Arapahoe Telephone Company, Benkelman Telephone Company; Cozad Telephone Company; Diller Telephone Company; Hemingford Cooperative Telephone Company; Henderson Cooperative Telephone Company; Wauneta Telephone Company; Nebraska Independent Telephone Association; The Central Nebraska Telephone Co.; and Aliant (collectively, the Intervenor). Aliant subsequently withdrew its intervention by Motion filed September 9, 1998. A hearing was held October 20, 1998, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

E V I D E N C E

In support of its Application, the Applicant produced three witnesses, who testified as follows:

Gregory P. Babbitt, Vice President of the Applicant, testified that the Applicant is a corporation organized and in good standing under the laws of the state of Nebraska, which currently provides statewide interLATA and intraLATA private line services in Colorado, and cable television services in the states of Colorado, Iowa and Nebraska. An affiliated entity, USA Paging, Inc. (d/b/a Cable USA Long Distance), a Nebraska corporation, was granted a Certificate of Public Convenience and Necessity from the Commission in Application No. C-1145 on July 6, 1995, for authority to operate as a resale carrier of intrastate interexchange interLATA and intraLATA telecommunications services within the state of Nebraska; and affiliate F & S Fiber Systems, L.L.C., was granted a Certificate of Public Convenience and Necessity from the Commission in Docket No. C-1635, dated March 16, 1998, authorizing it to provide intrastate interexchange telecommunication services within the state.

Mr. Babbitt further testified that the Applicant has the financial capability to provide local exchange services throughout the geographic area of the proposed service territory, as demonstrated by the confidential and proprietary financial statements

Application No. C-1869

PAGE THREE

provided to the Commission as Exhibit D to its Application. He also presented testimony showing that the Applicant has the managerial and technical resources and abilities to provide such services. The management and technical personnel of the Applicant and its affiliates have many years of combined experience in cable television operations, private line services, switch-based long distance resale operations, distance learning and Internet access provision. In addition to the Applicant's in-house experts, Mr. Babbitt testified that it has partnered with GLA International (GLA) to provide design, installation, service, training, and general systems expertise as the proposed network and facilities are developed.

Mr. Babbitt testified that the proposed basic local exchange service will enable customers to originate and terminate local calls to other customers served by the Applicant's network as well as to customers of the ILECs. The Applicant's basic local exchange service will also provide customers the ability to access their choice of long distance interexchange carriers and will also provide switched access service to interexchange carriers to permit them to originate and terminate intrastate and interstate toll calls to customers on the Applicant's network. In addition, the Applicant will be able to provide special access (private line) services and enhanced data telecommunications services to its customers, toll-free telecommunications services, 911 and Enhanced 911 Services for emergency calling, and access to the Telephone Relay Service. The Applicant does not plan to provide Directory and Operator Assistance itself; however, the Applicant's customers will have access to these services through connection to the appropriate ILEC.

Mr. Babbitt further testified that the granting of the Application will be in the public interest. The addition of an alternative provider in the tri-city area the Applicant proposes to serve will promote the national policies set forth in the Telecommunications Act of 1996 (the Act), and advance the objectives of the Commission set forth in its Progression Order dated December 19, 1995, in Application No. C-1128 relating to the implementation of local exchange competition. The Applicant's provision of competitive local exchange service will enhance the universal ser-

Application No. C-1869

PAGE FOUR

vice concept by offering customers a choice between service providers, helping to secure the most affordable prices and highest quality services.

As Mr. Babbitt testified, service, repair, maintenance, ordering, provisioning and billing services will be provided in a manner consistent with the standards enumerated in the Commission's Telecommunications Rules and Regulations. The Applicant will use the same number for all billing, customer service and technical service calls. Kearney residents will have a local number, and subscribers outside the Kearney area will have a toll-free 800 number. Service calls will be handled by the Applicant's customer service staff. If the service problem cannot be resolved during the call, a trouble ticket will be generated and prioritized in the Applicant's customer service software, and the matter will be researched, assigned and resolved. A supervisor will oversee the process, monitor it to completion, and respond to any customer complaints. The Applicant anticipates an end-of-month billing cycle, with bills due 15 days after receipt.

Robert W. Hansonl, Network Manager and Switch Technician for USA Paging, Inc., d/b/a Cable USA Long Distance, the "sister" company of the Applicant, offered testimony to demonstrate that the Applicant and its affiliates have the technical resources and abilities to provide the requested services. Mr. Hansonl described his own education and work experience, as well as that of the Applicant's key technical personnel.

Additionally, Mr. Hansonl provided an overview of the local exchange service the Applicant plans to offer. Such service will be provided through a combination of its own facilities and the re-sold facilities of other carriers. Through the Applicant's digital switch and access devices, customers will have access to advanced digital services, including local and long distance calling, ISDN, Centrex and custom features such as Calling Number and Name Delivery. The Applicant will deploy state-of-the-art SONET technology, providing highly reliable, fault-tolerant transport of customer traffic. To provide switched services, private line and enhanced data services to its customers, the Applicant will combine its SONET transport devices with Digital Loop Carrier equipment, intelligent channel bank devices and Wireless Local Loop.

Application No. C-1869

PAGE FIVE

David L. Howard, Senior Vice President of GLA, testified as to the role GLA would play in providing additional technical and managerial support for the Applicant. Mr. Howard testified that GLA is a St. Louis-based telecommunications consulting and engineering firm founded in 1992 to provide domestic and international clients with a full range of telecommunications planning, business development, engineering, project management, information technology and field services. Since its founding, GLA has performed numerous consulting and engineering assignments, including feasibility studies, strategic planning, regulatory and interconnection planning, business assessment, market research, network design and engineering, network implementation, and operations of telecommunications networks. Clients have included competitive access providers, competitive local exchange carriers (CLECs), domestic and foreign telephone organizations, telecommunications suppliers and contractors, electric utilities, government organizations, educational institutions, cable television operators, cable television and telephone industry associations, financial institutions and investment banks.

GLA has prepared a detailed "Tri-Cities Market Assessment and Business Plan" for the Applicant, and will continue to work with the Applicant during and after deployment of its proposed CLEC network, providing design, engineering, operations planning, network installation and management, operations management and support, training and general technical and operations systems and services support. GLA will actively work with and augment the Applicant's expertise and management capabilities as required to ensure the Applicant's success in the design, deployment and operation of a state-of-the-art telecommunications network that provides leading-edge, high-quality services to the targeted cities in Nebraska.

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

The Commission considers this Application for authority in light of the following criteria and standards established in the Commission's telecommunications rules:

Application No. C-1869

PAGE SIX

- (a) Whether the Applicant has provided the information required by the Commission;
- (b) Whether the Applicant has provided a performance bond, if required;
- (c) Whether the Applicant possesses adequate financial resources to provide the proposed service;
- (d) Whether the Applicant possesses adequate technical competence and resources to provide the proposed service;
- (e) Whether the Applicant possesses adequate managerial competence to provide the proposed service; and
- (f) Whether granting the Applicant a Certificate preserves and advances universal service, protects the public safety and welfare, ensures the continued quality of telecommunications services and safeguards the rights of consumers, pursuant to Section 253(b) of the Act.

The Applicant has demonstrated that it meets the standards of financial, technical and managerial competence and all other criteria necessary to provide local exchange service on a resale basis in Nebraska and in the territory presently served by US West (LATA 646), GTE (LATA 646) and Aliant (LATA 958).

These opinions and findings carry no precedential value other than establishing minimum standards and criteria to apply when considering applications to provide local exchange service in the above-mentioned territories. All telecommunications carriers seeking such a certificate must demonstrate that they meet, at a minimum, the standards and criteria set forth herein.

Before the Applicant is allowed to provide local exchange service to its users, it must either:

- (a) Through negotiation or arbitration reach an interconnection/resale agreement with the pertinent incumbent

Application No. C-1869

PAGE SEVEN

local exchange carrier and receive Commission approval of the interconnection/resale agreement; or

- (b) In the event a certified local exchange carrier provides a wholesale tariff, purchase rates from that tariff, file its own tariff and receive Commission approval of its tariff.

This order does not terminate, waive or in any manner diminish the exemptions and protection created by the Act for rural carriers, as defined by the Act. This order does not address the issue of the rural local exchange carriers' exemption under the Act. Rural exemptions may be terminated, suspended or modified only as provided in Section 251(f) of the Act.

Prior to providing local exchange service in any area in the state of Nebraska, Applicant must file, and the Commission must approve, tariffs in accordance with the provisions of Section 002.21 of the Neb. Admin. R. & Regs. Tit. 291, ch.5.

As a provider of local exchange service in the state of Nebraska, Applicant 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 ILECs pursuant to Section 251(c) of the Act.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1869 be, and it is hereby, granted.

IT IS FURTHER ORDERED that upon final approval of the interconnection/resale agreements, Applicant is granted authority to provide local exchange service to the area presently served by US West (LATA 646), GTE (LATA 646), and Aliant (LATA 958). Applicant has not sought authority under this Application to provide competitive local exchange services in any territory in Nebraska other than as set forth in the preceding sentence.

Application No. C-1869

PAGE EIGHT

IT IS FURTHER ORDERED that, before Applicant is allowed to provide local exchange service to areas currently served by rural local exchange carriers, as defined by the Act, all of the requirements set forth in the Act must be evaluated.

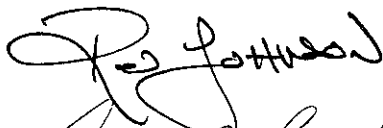
IT IS FURTHER ORDERED that Applicant is obligated to abide by the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to other local exchange carriers except obligations imposed on ILECs pursuant to Section 251(c) of the Act.

IT IS FINALLY ORDERED that this order be and hereby is made the Commission's official Certificate of Public Convenience and Necessity to the Applicant to provide local exchange service within Nebraska in the area presently served by US West (LATA 646), GTE (LATA 646), and Aliant (LATA 958).

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

NEBRASKA PUBLIC SERVICE COMMISSION

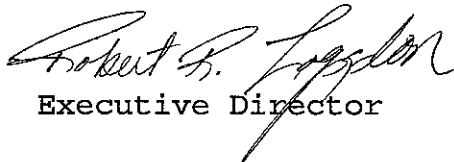
COMMISSIONERS CONCURRING:



//s//Frank E. Landis


Vice Chairman

ATTEST:


Executive Director