

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application	)	Application No. C-1889
of GCC License Corporation,	)	
seeking designation as an	)	MOTION GRANTED IN PART
Eligible Telecommunications Carrier	)	AND DENIED IN PART
that may Receive Universal Service	)	
Support.	)	Entered: December 18, 2001

BY THE COMMISSION:

By motion filed October 12, 2001, GCC License Corporation (Western Wireless) seeks a rehearing or reconsideration of the Commission's order approving advertising plan, entered October 4, 2001. The Commission approved the application of Western Wireless to be designated an eligible telecommunications carrier (ETC) on November 21, 2000. In its motion, Western Wireless argues the Commission erred in attaching substantive conditions upon the approval of Western Wireless' advertising plan. Western Wireless requested that the Commission overturn its ruling on three issues. First, Western Wireless requested the Commission to reconsider requiring it to provide equal access as a condition toward approval of its advertising plan. Second, Western Wireless requested clarification on the Commission's decision on interconnection agreements and access to the public switched network. Third, Western Wireless argued that the Commission erred in defining its service product as that of a "fixed wireless" service, rather than that of "wireless local loop."

The formal intervenors<sup>1</sup> filed a reply to the Western Wireless motion for rehearing on November 5, 2001. An oral argument was held on November 6, 2001, in the Commission Hearing Room, Lincoln, Nebraska, upon proper notice. Mr. James Blundell, director of external affairs, appeared on behalf of Western Wireless. Kelly Dahl appeared on behalf of the intervenors.

O P I N I O N      A N D      F I N D I N G S

From the arguments adduced and being fully informed in the premises, the Commission finds as follows:

The motion filed by Western Wireless should be granted in part and denied in part. The Commission withdraws the requirement that

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<sup>1</sup> Comprised of Arlington Telephone Company, Clarks Telecommunications Co., Consolidated Telco, Inc., Consolidated Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hartington Telecommunications, Inc., Hershey Cooperative Telephone Company, Hooper Telephone Company, K&M Telephone Company, Neb. Co., Inc., Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Pierce Telephone Company, Rock County Telephone Company, Southeast Nebraska Telephone Co., Stanton Telecom, Inc., and the Blair Telephone Company (collectively the Independents).

Western Wireless provide equal access at this time. The Commission finds, however, that imposing an equal access requirement upon all ETCs may still be in the public interest. Therefore, the Commission intends to revisit this issue at a later date.

The Commission further clarifies its findings with respect to Western Wireless' ability to access the public switched network. The Commission clarifies that Western Wireless is not required to file interconnection agreements with all carriers on whose networks calls from Western Wireless customers are to be terminated. The Commission previously found that Western Wireless demonstrated that it provides voice grade access to the public switched network. The Commission maintains that this finding is fully intact. In its order entered October 4, 2001, the Commission did not intend to reverse, alter or amend those findings in any way. It clarifies, however, that when interconnection agreements between Western Wireless and other carriers are negotiated or amended, those agreements must be filed with the Commission for approval.

Finally, the Commission affirms its previous finding that Western Wireless must include in its advertising plan, a detailed description of the type of service it will provide to potential customers. The Commission continues to consider the nature of the service offered to be a fixed service confined to a geographic area on record with the Commission.

As explained in the oral argument, Western Wireless universal service offering involves some different components than that of a regular landline service or traditional cellular service. Western Wireless explained that it is introducing one piece of extra equipment referred to as a wireless access unit. In the argument on this issue, Western Wireless averred that the Commission cited the benefits of the mobility component in the November 21, 2000, order.

It is true that the Commission found in its previous order that the "mobility" component of Western Wireless universal service offering would be a benefit to consumers. However, as it was also explained there were some limitations to the mobility component.

The Commission does not believe that the service at issue is what most would consider a "mobile" service offering in the traditional sense and it has concerns that potential customers may not be aware of the limitations involved with respect to the mobility of the product. It is further relevant to note that Western Wireless described its service offering as a "fixed wireless service" in its answer to Commission data requests. Moreover, during the hearing and in the oral argument, Western Wireless testified that there were some limitations with the product which would confine the use of the service to a particular geographic territory or service area.

Accordingly, based upon the evidence in the record and the arguments before it, the Commission considers the service described

by Western Wireless to be a fixed wireless service. Therefore, the Commission directs Western Wireless to resubmit its advertising plan with a description which denotes that the service is a fixed wireless service, consistent with this opinion. The Commission therefore, affirms its earlier finding and the Western Wireless motion on this matter is denied. Western Wireless is instructed to modify its advertising plan as required in the initial advertising plan order and resubmit it to the Commission for final approval.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the motion by Western Wireless be granted in part and denied in part as provided herein.

MADE AND ENTERED at Lincoln, Nebraska, this 18th day of December, 2001.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

Commissioners Rod Johnson and Gerald L. Vap dissenting:

For the same reasons recited in our dissenting opinion in the Commission's October 4, 2001, order, we hereby respectfully dissent.

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Commissioner Rod Johnson

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Commissioner Gerald L. Vap