

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the application of) Application No. C-1907
Tracy Corporation II, Scottsbluff,)
Nebraska, seeking authority to)
operate as a competitive local) GRANTED
exchange carrier of telecommuni-)
cations services within the state)
of Nebraska.) Entered: December 22, 1998

APPEARANCES:

For the Applicant:
Jon C. Bruning
Attorney at Law
8035 S. 83rd Ave.
LaVista, NE 68128

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

For Arapahoe Telephone Company;
Benkelman Telephone Company,
Inc.; 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

With Co-counsel:
Jack Shultz
Harding Shultz & Downs
800 Lincoln Square
121 S. 13th
Lincoln, NE 68508

BY THE COMMISSION:

By its Application filed September 29, 1998, Tracy Corporation II (Applicant) seeks authority to operate as a competitive local exchange carrier of telecommunications services within the state of Nebraska. Notice of the application appeared in The Daily Record on September 15, 1998. The following parties filed Petitions of Formal Intervention: Arapahoe Telephone Company; Benkelman Telephone Company, Inc.; Cozad Telephone Company; Diller Telephone Company; Hemingford Cooperative Telephone Company; Henderson Cooperative Telephone Company; Wauneta Telephone Company; The Nebraska Independent Telephone Association; Cambridge Telephone Co.; Clarks Telecommunications Co.; Consolidated Telco, Inc.; Great Plains Communications; HunTel Systems, Inc.; and Southeast Nebraska Telephone Co. (collectively referred to hereafter as

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the Intervenor). A hearing was held December 1, 1998, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

In support of its Application, Applicant produced one witness, Michael Tracy, President, who testified as follows:

Mr. Tracy testified that the Applicant is a privately held corporation organized and in good standing under the laws of the state of Nebraska. Mr. Tracy testified that the Applicant is a wireless telecommunications provider that has facilities and employees in Nebraska.

Mr. Tracy further testified that the Applicant has the financial capability to develop and construct its proposed Nebraska network and to provide local exchange services within the requested service areas, as demonstrated by the Financial Statements provided to the Commission in its Application.

Mr. Tracy also presented testimony showing the Applicant's managerial competence. Applicant's management has considerable experience in the telecommunications industry, with additional expertise in finance and marketing.

Mr. Tracy testified that the Applicant possesses the technical competence and resources to provide the services proposed in the Application. Applicant has attracted personnel with extensive experience in the telecommunications industry, including experience in network design and construction, network operations, and sales and marketing.

Mr. Tracy testified that Tracy Corporation II dba Western Total Communications has been a paging service provider for 16 years. The initial marketing focus will be toward existing customers of Western Total Communications. Then, marketing will commence to individuals and companies that wish to have second line service into their business or residence, which will also provide mobility away from the home or office.

Mr. Tracy further testified that the granting of the Application will be in the public interest. The addition of an alternative provider in the areas 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. No other parties introduced testimony or evidence at the hearing.

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The Applicant is requesting authority only in the areas currently served by US West Communications, Inc. (US West), Aliant Communications Co. (Aliant), GTE and Sprint.

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:

- (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.

Applicant has demonstrated that it meets the standards of financial, technical and managerial competence and all other criteria necessary to provide local exchange service in Nebraska in the territory presently served by US West, Aliant, GTE and Sprint.

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:

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- (a) Through negotiation or arbitration reach an interconnection/resale agreement with the pertinent incumbent local exchange carrier and receive Commission approval of the interconnection/resale agreement; and
- (b) File with the Commission, and receive Commission approval of, a tariff in accordance with the provisions of Section 002.21 of Neb. Admin. R. & Regs. Tit. 291, Ch. 5. 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 or intrastate, interLATA interexchange 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 Commission that Application No. C-1907 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 areas presently served by US West, Aliant, GTE and Sprint.

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.

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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 FURTHER ORDERED that Applicant shall collect from its subscribers a surcharge (Relay Surcharge) pursuant to the Telecommunications Relay System Act, Neb. Rev. Stat. §§ 86-1302 - 86-1306, (Relay Act) and the Commission's annual orders establishing the amount of the Relay Surcharge and shall remit to the Commission the proceeds from the Relay Surcharge, as provided by the Relay Act.

IT IS FINALLY ORDERED that this order be, and is hereby, made the Commission's official Certificate of Authority to the Applicant to provide local exchange service within Nebraska in the areas presently served by US West, Aliant, GTE and Sprint.

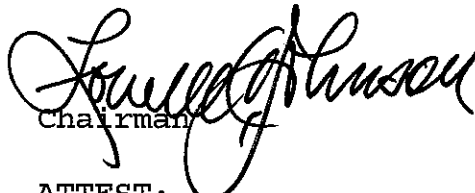
MADE AND ENTERED at Lincoln, Nebraska, this 22nd day of December, 1998.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



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


Chairman

ATTEST:



Deputy Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION
