

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1932
McLeodUSA Telecommunications Ser-)
vices, Inc., Cedar Rapids, Iowa,)
seeking a Certificate of Authority) GRANTED
to provide facilities-based and re-)
sold local exchange services, high)
capacity dedicated private line)
services, and special and switched)
access services in the state of)
Nebraska.) Entered: January 13, 1999

APPEARANCES:

For the Applicant:
Steve Seglin
Crosby, Guenzel, et. al.
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Telephone Company; Henderson
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For Arapahoe Telephone Com-
pany; Benkelman Telephone Com-
pany, Inc.; Cozad Telephone
Company; Diller Telephone Com-
pany; Hemingford Cooperative

Cooperative Telephone Company;
and Wauneta Telephone Company;
Timothy F. Clare
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For the Commission:
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BY THE COMMISSION:

By its application filed November 3, 1998, McLeodUSA Telecom-
munications Services, Inc. (Applicant) seeks authority to obtain a
Certificate
of Public Convenience and Necessity to provide facilities-based and resold
local exchange services, high capacity, dedicated private line services, and
special and switched access services in Nebraska. Notice of the application
appeared in The Daily Record on November 5, 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 the
Intervenors).
A hearing was held January 5, 1999, in the Commission Hearing Room, Lincoln,
Nebraska, with appearances as shown above.

In support of its application, Applicant produced one witness, Ann V.
Steinsträ, vice president of network administration for McLeodUSA, and two
exhibits, a copy of McLeodUSA's application and a stipulation entered into

with this application's Intervenors.

Ms. Steinstra testified as follows:

McLeodUSA provides local, long distance, Internet and advanced telecommunications in ten states and by some measures is the largest competitive local exchange carrier in the nation.

McLeodUSA is a wholly-owned subsidiary of McLeodUSA, Incorporated. McLeodUSA, Inc. is a holding company which operates through McLeodUSA Telecommunications Services, Inc. and three other wholly-owned subsidiaries: Consolidated Communication, Inc., McLeodUSA Media Group, Inc., and McLeodUSA Diversified, Inc.

As to Applicant's technical capabilities, Ms. Steinstra testified McLeodUSA provides local exchange service and long distance telephone service to more than 107,300 customers in its ten-state region. Most of those customers are served by Centrex Plus. Applicant employs more than 350 persons in its customer operations group. More than 22,000 customer calls are handled each week. McLeodUSA handles, in-house, all billing and account inquiries.

Financial statements for McLeodUSA show losses for the past two years. In fact, Ms. Steinstra testified, McLeodUSA expects to incur losses from its operating and construction activities for the next several years while it develops its business and constructs its fiber optic network. The applicant has achieved positive earnings before interest, taxes, depreciation and amortization for the past three quarters.

McLeodUSA, Inc., the parent company, makes necessary disbursements to its subsidiaries to finance their operations. McLeodUSA, Inc. has raised equity capital and issued senior discount debt totaling almost \$1.5 billion over the past thirty months.

Describing its managerial capability, Ms. Steinstra testified that the management of McLeodUSA is the same as McLeodUSA, Inc. Six of the ten executive officers formerly served as officers of TeleConnect or TelecomUSA.

Ms. Steinstra testified that the grant of a certificate would serve the public interest by expanding the choice of local exchange providers and developing competition. Enhanced competition will encourage market participants to invest in a state-of-the-art telecommunication infrastructure.

No other parties introduced testimony or evidence at the hearing.

The Applicant and the Intervenors have filed a stipulation agreeing to certain language to be incorporated into this order. Additionally, in the stipulation, the Intervenors state that they "will not oppose this application" though they reserve certain rights to contest further applications of the Applicant.

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 facilities-based and resold exchange services, high capacity, dedicated private line services and special and switched access service in Nebraska in the territory presently served by US West and Aliant Communications Co. (Aliant).

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:

- (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-1932 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 and Aliant.

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 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 facilities-based and resold local exchange services, high capacity dedicated private line service, and special and switched access services in the state of Nebraska subject to the limitations provided according to the stipulation in the record.

MADE AND ENTERED at Lincoln, Nebraska, this 13th day of January, 1999.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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