

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the application) Application No. C-1963
of Houlton Enterprises, Inc., D/B/A)
EZ Phone Connections, to amend)
and expand its certificate of) GRANTED
authority (C-1782) to provide)
local exchange telecommunications)
service as a competitive local)
exchange carrier in the state of)
Nebraska.) Entered: February 9, 1999

BY THE NEBRASKA PUBLIC SERVICE COMMISSION:

By its application filed December 18, 1999, Houlton Enterprises, Inc., d/b/a EZ Phone Connections (Applicant) seeks authority to amend and expand its Certificate of Authority to provide resold telecommunication services as a competitive local exchange carrier in the state of Nebraska. The original Certificate of Authority was granted on August 4, 1998, in the proceeding docketed No. C-1782, and authorized Applicant to provide local exchange services as a reseller in the territory served by US West Communications, Inc. (US West). Applicant now seeks to expand that authority to those territories currently served by Aliant Communications Co. (Aliant) and GTE Midwest Incorporated (GTE).

Notice of the present application appeared in The Daily Record on December 23, 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; and Wauneta Telephone Company (collectively referred to hereafter as "the Intervenor"). On January 26, 1999, Applicant filed a Motion for Consideration without a Hearing, requesting that the Commission consider and rule upon its Application without conducting a hearing. On February 4, 1999, the Applicant and the Intervenor entered and filed a Stipulation in which the parties agreed to waive a hearing in this proceeding based upon the representations by the Applicant in the Stipulation.

In its verified Application, the Exhibits filed therewith, and in an Affidavit of Mark Houlton, President of Houlton Enterprises, Inc., the Applicant presented the following evidence:

The Applicant is a corporation organized and in good standing under the laws of the state of Nebraska and has authority to do business under the trade name EZ Phone Connections. The Applicant was certified by the Commission on August 4, 1998, in the proceeding docketed No. C-1782, to provide resold competitive local exchange services in US West's Nebraska territory. According to representations made by the Applicant in the Stipulation and as verified by the Commission's records, the Applicant and US West negotiated an interconnection agreement, which has been approved by the Commission, and the Applicant has filed a local exchange service tariff, which the Commission has also approved.

The Applicant presented evidence to establish that it has the financial capability to provide resold local exchange service within the requested service areas, as demonstrated by the certified financial statements for 1995, 1996 and 1997, which were provided to the Commission under seal as Exhibit D and the financial statements for the first three quarters of 1998, which were provided to the Commission under seal as Exhibit E.

In addition to the information regarding the Applicant's managerial and technical competency set forth in the Application, Mark Houlton in his Affidavit presented information demonstrating the Applicant's managerial and technical resources, which remain the same as when the Applicant was granted authority in Application No. C-1782. Since that authority was granted, the Applicant has successfully and without complaint provided resold telecommunications services to more than 115 customers.

In his Affidavit, Mr. Houlton testified that the Applicant, as it has done in the Omaha area, will market its telecommunications services in Aliant and GTE territory primarily to its existing check cashing customer base. Advertising will be done by signage, flyers, word-of-mouth and television. The Applicant will not utilize telemarketing to promote or market its telecommunications services. The status of the Applicant's check cashing customers will not affect their status as telecommunications customers and vice versa.

As set forth in the Application, the Applicant avers that the provision of the Applicant's proposed services will serve the public interest, promote the national policies set forth in the Telecommunications Act of 1996, 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. In particular, approval of this Application will bring local exchange services to customers who are currently not served or poorly served due to their own poor credit histories. The Applicant's proposed services will protect the public safety and welfare by providing access to critical emergency service, as well as basic telephone service which links citizens to their families, friends and the rest of the community.

No other parties presented any evidence in this proceeding.

In addition to waiving a hearing on the Application, the Stipulation filed by the Applicant and the Intervenors also included certain language which the parties agreed could 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 and exceeds the standards of financial, technical and managerial competence and all other criteria necessary to provide resold local exchange service in Nebraska and in the territory presently served by Aliant Communications Company and GTE Midwest Incorporated.

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:

Through negotiation, arbitration or pursuant to Section 252(i) of the Telecommunications Act of 1996 (the Act), reach an interconnection /resale agreement with the pertinent incumbent local exchange carrier and receive Commission approval of the interconnection/resale agreement; and

File with the Commission, and obtain Commission approval of, a tariff in accordance with the provisions of Section 002.21 of the Neb. Admin. R. & Regs. tit. 291, ch. 5, except as its existing tariff already covers the services it will provide in Aliant and/or GTE territory.

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

As a provider of local exchange service in the state of Nebraska, Applicant will remain 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 incumbent local exchange carriers pursuant to Section 251(c) of the Federal Telecommunications Act.

Applicant will 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 will remit to the Commission the proceeds from the Relay Surcharge, as provided by the Relay Act.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1963 be and is hereby, granted.

IT IS FURTHER ORDERED that upon final approval of the interconnection/resale agreement, Applicant is granted authority to provide resold local exchange service to the territories presently served by Aliant Communications Company and GTE Midwest Incorporated.

IT IS FURTHER ORDERED that, before Applicant is allowed to provide local exchange service to territories currently served by rural local exchange carriers, as defined by the Federal Telecommunications Act, that all of the requirements set forth in the Federal Telecommunications 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 incumbent local exchange carriers pursuant to Section 251(c) of the Federal Telecommunications 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 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 Aliant Communications Company and GTE Midwest Incorporated.

MADE AND ENTERED at Lincoln, Nebraska, this 9th day of February, 1999.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

This document was created with Win2PDF available at <http://www.daneprairie.com>.
The unregistered version of Win2PDF is for evaluation or non-commercial use only.