

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the application)	Application No. C-2010
of JATO Communications Corp.)	
to amend and expand its)	
certificate of authority (C-1918))	GRANTED
to provide local exchange)	
telecommunications service)	
as a competitive local exchange)	
carrier in the state of Nebraska.)	Entered: May 12, 1999

BY THE COMMISSION:

By its application filed March 5, 1999, JATO Communications Corp. (the Applicant) seeks authority to amend and expand its certificate of authority to provide telecommunication services as a competitive local exchange carrier in the state of Nebraska. The original certificate of authority was granted on February 17, 1999, in the proceeding docketed C-1918, and authorized the Applicant to provide local exchange services in the territories served by US West Communications, Inc. (US West) and United Telephone Company of the West (Sprint). The 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 March 10, 1999, pursuant to the rules of the Commission. The following parties filed Petitions of Formal Intervention: Arapahoe Telephone Company, Benkelman Telephone Company, Inc., Consolidated Telco, Inc., Consolidated Telephone Company, Cozad Telephone Company, Diller Telephone Company, Hemingford Cooperative Telephone Company, Henderson Cooperative Telephone Company, Wauneta Telephone Company and the Nebraska Independent Telephone Association (collectively referred to hereafter as the Intervenors). On April 29, 1999, the Applicant filed a Motion for Consideration without a Hearing, requesting that the Commission consider and rule upon its application without conducting a hearing. Additionally, on April 29, 1999, the Applicant and the Intervenors 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 to amend and expand authority, which incorporated Application No. C-1918 by reference, the Applicant presented the following evidence:

The Applicant is a corporation organized under the laws of the State of Delaware and has been certified by the Nebraska Secretary of State to do business in the State of Nebraska. The Applicant was certified by the Commission on February 17, 1999, in the proceeding docketed C-1918, to provide competitive local exchange

services in the Nebraska territories presently served by incumbents US West and Sprint.

In Application No. C-1918, at the hearing on that application and in its application in the present proceeding, the Applicant presented evidence to establish that it has the financial, managerial and technical capability and competency to provide local exchange service in the State of Nebraska and that such application served the public interest. After the hearing in Application No. C-1918, this Commission found, "The Applicant has demonstrated that it meets the standards of financial, technical and managerial competence and all other criteria necessary to provide interLATA interexchange service in Nebraska and local exchange service in the territories presently served by US West and Sprint."

As set forth in its present 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, according to the Applicant, approval of this application will help bring advanced communications services to Nebraska consumers.

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. Moreover, in the Stipulation, the Intervenors stated that they "do 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 local exchange service in Nebraska and in the territories presently served by Aliant Communications Company and GTE Midwest Incorporated in addition to the territories served by US West Communications, Inc. and United Telephone Company of the West, for which Applicant previously received authority to serve.

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:

1. 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
2. In the event a certified local exchange carrier provides a wholesale tariff, purchase rates from that tariff.

This order does not terminate, waive or in any manner diminish the exemptions and protections 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 this 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 territory in the State of Nebraska, Applicant shall file with the Commission, and obtain Commission approval of, a local exchange tariff 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 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.

To the extent the Applicant provides access line service as referenced in the Telecommunications Relay System Act, Neb. Rev. Stat. §§ 86-1302 - 86-1306 (Relay Act) and defined in Neb. Admin. R. & Reg. tit. 291, ch. 5, § 001.01B, the Applicant will collect from its subscribers a surcharge (Relay Surcharge) pursuant to the 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 Commission that Application No. C-2010 be, and is, hereby granted.

IT IS FURTHER ORDERED that upon final approval of the interconnection/resale agreements with the pertinent incumbent local exchange carriers, Applicant is granted authority to provide local exchange service to the territories presently served by Aliant Communications Company and GTE Midwest Incorporated. This authority is in addition to authority this Commission previously granted Applicant to provide local exchange service in the territories served by US West Communications, Inc. and United Telephone Company of the West.

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, to the extent the Applicant provides access line service as referenced in the Telecommunications Relay System Act, Neb. Rev. Stat. §§ 86-1302 - 86-1306 (Relay Act) and defined in Neb. Admin. R. & Reg. tit. 291, ch. 5, § 001.01B, the Applicant shall collect from its subscribers a surcharge (Relay Surcharge) pursuant to the 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 12th day of May,
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.