

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application)	Application No. C-2020
of HJN Telecom, Inc. of Duluth,)	
Georgia, seeking authority to)	
operate as a resale common carrier)	GRANTED
of interexchange and local ex-)	
change telecommunications services)	
within the state of Nebraska.)	Entered: May 2, 2000

APPEARANCES:

For the Applicant:

Jon Bruning
1079 North 204th Avenue
Elkhorn, Nebraska 68022

For the Intervenor:

Tim Clare
1201 Lincoln Mall, Suite 102
Lincoln, Nebraska 68508

For the Commission:

Michael T. Loeffler
300 The Atrium
1200 N Street
Lincoln, Nebraska 68508

BY THE COMMISSION:

By its application filed March 26, 1999, HJN Telcom, Inc. of Duluth, Georgia, (HJN or Applicant) seeks authority to operate as a resale common carrier of interexchange and local exchange telecommunications services within the state of Nebraska. Notice of the application appeared in The Daily Record on March 30, 1999. Petitions of formal intervention were filed by: The Nebraska Independent Telephone Association, Consolidated Telephone Co. and Consolidated Telco, Inc., through their attorney, Kelly R. Dahl; 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, through their attorney, Timothy F. Clare; and Nebraska Telephone Association, through its attorney, Jack L. Schultz.

On January 12, 2000, the executive director of this Commission sent by first class mail a copy of the notice of hearing. A hearing was held on January 26, 2000, in the Commission Library, Lincoln, Nebraska, with appearances as shown above.

In support of its application, applicant produced one witness, Bradley Clapp, corporate secretary for HJN since its founding in July 1998. HJN Telecom, Inc. is a privately-held corporation. Mr. Herb J. Newton is the owner of the corporation. At the time of the

hearing, the applicant had not commenced negotiations for inter-connection with any Nebraska carriers. The company has no current customers and has not begun operations. The company has started negotiations for interconnection with Bell South in Georgia. The applicant has applications in 48 states and has received approval in about 42-43 states, according to Mr. Clapp's testimony.

HJN intends to provide resale services, operator services and 911 emergency services in primarily the US West geographic service area. The applicant is a switchless, non-facilities-based interexchange resale carrier which intends to provide switched and dedicated to switched interexchange and local exchange telecommunications services. All interexchange network services will be supplied by AT&T, Sprint, MCI WorldCom, or other certificated underlying carriers. The company will not own or lease facilities in the state.

HJN does not intend to service areas in the service area of any local exchange carriers eligible for the rural carrier exemption pursuant to Section 251 of the federal Telecommunications Act of 1996. HJN has signed a stipulation with the intervenors in this docket not to serve areas that are currently protected by the rural exemption.

Mr. Clapp testified that he believes the company has the managerial expertise to operate. He pointed to the number of successful businesses currently owned and operated by Mr. Newton, although he conceded that this was an initial venture into a telecommunications company. Mr. Clapp brings additional managerial expertise to the company, having worked as a controller and manager since 1993. Mr. Clapp is also a certified public accountant.

The balance sheet provided to the Commission with the initial application demonstrates that the corporation has the financial capability and requisite financial backing.

HJN has provided this Commission a late-filed exhibit to demonstrate their technical expertise. According to the exhibit, HJN has hired Mr. Matthew Hutchinson to run operations for the company. Mr. Hutchinson has telecommunications experience with several companies, including Cellular One Boston, MFS Intelenet Inc. and Nortel Networks. According to the filed document, Mr. Hutchinson is just one of several hires the applicant has recently made.

HJN, in its application, cited four reasons that it feels its application is in the public interest, including providing cost savings to customers, increased efficiency, greater consumer choice and increased traffic which will allow local exchange carriers to generate greater revenues.

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 applicant has provided the information required by the Commission;
- (b) Whether applicant has provided a performance bond, if required;
- (c) Whether applicant possesses adequate financial resources to provide the proposed service;
- (d) Whether applicant possesses adequate technical competence and resources to provide the proposed service;
- (e) Whether applicant possesses adequate managerial competence to provide the proposed service; and
- (f) Whether granting 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 Telecommunications Act of 1996 (Act).

Applicant has demonstrated that it meets the standards of financial, technical and managerial competence and all other criteria necessary to provide resale local exchange telecommunication service as provided in the application filed with the Commission. The Commission finds that no performance bond should be required at this time.

Before the applicant is allowed to provide local exchange service to its users:

- (a) The applicant, either through negotiation or adoption, must reach an interconnection agreement with US West, GTE, ALLTEL, or Sprint.
- (b) The Commission must approve the interconnection agreement; and
- (c) Applicant must file, and the Commission must approve, a tariff in accordance with the provisions of Section 002.21 of Neb. Admin. R. & Regs. Title 291, Chapter 5.

Further, prior to providing local exchange service to any area covered by the rural exemption, the applicant must obtain additional authority from this Commission to expand its service territory.

As a provider of local exchange service in the state of Nebraska, the applicant should 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 incumbent local exchange carriers pursuant to Section 251(c) of the Act.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-2020 be, and it is hereby, granted.

IT IS FURTHER ORDERED that upon final approval of the interconnection agreement and tariff, applicant is granted authority to provide local exchange service throughout the state of Nebraska.

IT IS FURTHER ORDERED that applicant shall 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 Act.

IT IS FURTHER ORDERED that applicant shall file, in accordance with the applicable statutes, on or before April 30 of each year, an annual report with this Commission consisting of: (a) a copy of any report filed with the Federal Communications Commission; (b) a copy of any annual report to stockholders; and (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission. If such reports are unavailable, applicant shall file a balance sheet and income statement for the previous year of operation, and for the state of Nebraska on a combined interstate-intrastate basis, the investment in telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues, operating expenses and taxes.

IT IS FINALLY ORDERED that this order be, and hereby is made, the Commission's official Certificate of Public Convenience and Necessity to applicant to provide local exchange service within the territory described herein in Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 2nd day of May, 2000.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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