

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Application of) Application No. C-2032
DSLnet Communications, LLC, New)
Haven, Connecticut, seeking a Cer-)
tificate of Public Convenience and)
Necessity to Provide Resold and) GRANTED
Facilities-Based, Switched and)
Dedicated, Local Exchange Telecom-)
munications Services.) Entered: June 15, 1999

APPEARANCES:

For the Applicant:	For Arapahoe Telephone
Andrew S. Pollock	Company; Benkelman Telephone
Brooks, Pansing Brooks, P.C.	Company, Inc.;
1248 "O" Street, Suite 984	Cozad Telephone Company;
Lincoln, Nebraska 68508-1424	Diller Telephone Company;
	Hemingford Cooperative
For the Commission:	Telephone Company;
Chris Post	Henderson Cooperative
300 The Atrium	Telephone Company;
1200 "N" Street	and Wauneta Telephone
Lincoln, Nebraska 68508	Company:
	Mark A. Fahleson
For Consolidated Telco, Inc.;	Rembolt, Ludtke & Berger
Consolidated Telephone Co.; and	1201 Lincoln Mall, Suite 102
the Nebraska Independent	Lincoln, Nebraska 68508
Telephone Association:	
Kelly R. Dahl	For the Nebraska Telephone
Baird, Holm, McEachen,	Association:
Pederson, Hamann & Strasheim	Jack L. Shultz
1500 Woodmen Tower	Harding, Shultz & Downs
Omaha, Nebraska 68102	800 Lincoln Square
	121 South 13th Street
	Lincoln, Nebraska 68501-2028

BY THE COMMISSION:

By its application filed April 12, 1999, DSLnet Communications, LLC (DSLnet or Applicant) seeks authority to provide telecommunications services as a competitive local exchange carrier in the state of Nebraska. Notice of the application appeared in The Daily Record on April 14, 1999. 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; Consolidated Telco, Inc.; Consolidated Telephone Company; The Nebraska Independent Telephone Association; and the Nebraska Telephone Association (collectively referred to hereafter as the Intervenors). A hearing on the application was held June 8, 1999, in the

Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

In support of its application, the applicant produced one witness, Wendy Bluemling, director of regulatory affairs, who testified as follows:

Ms. Bluemling testified that DSLnet was organized in 1998 and has its corporate headquarters in New Haven, Connecticut. DSLnet is a limited liability company and its sole member and managing entity is dsl.net, inc. Ms. Bluemling joined DSLnet in 1999 after working for Southern New England Telecommunications Corporation (SNET) for almost 25 years. At SNET, which is the largest local exchange carrier in the state of Connecticut, Ms. Bluemling served in a number of positions, including director of regulatory affairs, the position she held when she left SNET to join DSLnet.

Ms. Bluemling testified that DSLnet, in this proceeding, is seeking a Certificate of Public Convenience and Necessity to provide resold and facilities-based, switched and dedicated local exchange telecommunications services throughout the state of Nebraska. She noted that on May 26, 1999, this Commission granted DSLnet authority to provide facilities-based and resold intrastate interexchange telecommunications services in Nebraska. That proceeding was docketed Application No. C-2031.

DSLnet initially intends to target its marketing efforts to business customers with a need for affordable, high bandwidth, high performance, high speed Internet and Intranet data connections. DSLnet will deploy xDSL technology to provide high-speed, high-quality data connections to its customers. DSLnet proposes to provide service through its own electronic equipment collocated at incumbent local exchange carriers' (ILEC) central offices, through the use of unbundled network elements leased from other certificated carriers and/or through the resale of the services of other certified carriers. DSLnet may later construct its own transmission and switching facilities to provide telecommunications services as market conditions warrant. DSLnet's data communications services will be available on a full-time basis, 24 hours a day, seven days a week. DSLnet proposes to install an Asynchronous Transfer Mode (ATM) switched network to carry its data traffic. DSLnet will establish a hub in each metropolitan area in which it provides service. The hub will be connected to DSLnet's collocated facilities in the ILEC's central offices via DS 3 and/or OC3 interconnects, forming a star configuration.

Initially, Ms. Bluemling testified DSLnet will not provide voice services. Applicant requests authority, however, to provide all forms of local exchange services in order to permit flexibility in expanding its service offering to later include a full range of voice services. DSLnet has requested authority to provide local exchange service throughout the state of Nebraska and intends to provide statewide service, though it has no immediate or imminent plans to request interconnection from any carrier other than the four largest incumbent local exchange carriers: Aliant, GTE, United Telephone Company of the West (Sprint), and US West. Ms. Bluemling emphasized that this

application is not, and should not be construed as, a bona fide request for interconnection with any carrier. Other than the discussions it has initiated with US West on a regional level, DSLnet has not made any bona fide request for interconnection to any Nebraska ILEC, including any of the intervenors in this proceeding.

Ms. Bluemling also testified that DSLnet has applied for local exchange and interexchange authority in all 50 states and the District of Columbia. As of the date of the hearing, DSLnet has been granted authority to provide local exchange services on a statewide basis in Alabama, Colorado, Illinois, Indiana, Kentucky, Massachusetts, Mississippi, Montana, New Hampshire, New York, North Carolina, Ohio, Pennsylvania (on an interim basis), Rhode Island, South Carolina, Tennessee, and Washington state.

Ms. Bluemling testified that DSLnet has sufficient managerial resources and technical abilities to provide local exchange telecommunications services in Nebraska. DSLnet's officers have extensive experience in the telecommunications industry, as evidenced in Exhibit 4 filed with DSLnet's application.

Ms. Bluemling also presented testimony showing that DSLnet has sufficient financial resources to implement and provision its local exchange telecommunications services in Nebraska. The applicant is a privately-funded company. The financial statements of DSLnet's sole member, dsl.net, inc., were attached under seal as Exhibit 5 to DSLnet's application. The applicant supplemented these financial statements with its most current financial statements for April 1999, which were offered and received under seal as Exhibit 4 at the hearing. These financial reports demonstrate that applicant is financially qualified to provide the proposed telecommunications services.

Ms. Bluemling further testified that a grant of DSLnet's application will promote the public interest by expanding the availability and variety of high-quality telecommunications services in Nebraska. In particular, DSLnet's data services will bolster competition in the important and growing market for high-speed data services used by small and medium-sized businesses.

On cross-examination, Ms. Bluemling testified that DSLnet will market its services by utilizing an in-house marketing force. DSLnet does not plan to market its services by telemarketing. DSLnet plans to employ a city manager for the state of Nebraska, who will represent DSLnet on a local level. Further, the applicant plans to market its initial offering of data services primarily to small to medium-size businesses and has no plans to market to residential users at the present time.

On further cross-examination, Ms. Bluemling testified that initially DSLnet plans to offer only data communications services and that the first market territory DSLnet will target consists of Lincoln and Omaha. DSLnet does not currently own facilities in Nebraska but plans to collocate its own facilities in ILECs' central offices and on customers' premises.

Ms. Bluemling further testified on cross-examination that

one of the reasons DSLnet is seeking statewide authority is to provide its customers opportunities to extend the communications services provided by DSLnet to satellite offices. Ms. Bluemling said she envisioned customers with main offices in Lincoln or Omaha desiring to extend and enhance communications with satellite offices in other parts of the state.

Ms. Bluemling testified on redirect examination that she understands that prior to providing telecommunications services in any particular territory, DSLnet must reach an interconnection agreement with the ILEC serving that territory and that such interconnection agreement must be approved by the Commission. She reiterated that DSLnet presently intends to provide voice services at some point in the future and that it is DSLnet's present intention to provide telecommunications services on a statewide basis.

No other parties introduced testimony or evidence at the hearing.

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 throughout the state of Nebraska. No evidence was submitted or testimony elicited to suggest that the applicant is not qualified to provide its proposed services in light of the criteria this Commission must consider.

In the present proceeding, counsel for the intervenors

contends that statewide authority is not needed because the applicant's immediate plans are to provide service to customers in Lincoln and Omaha. In Application No. C-1968, this Commission noted that it "has, in the past, granted statewide authority absent any indications of its intended use by the successful applicants."

For the above reasons, the Commission is of the opinion and finds that Application No. C-2032 should be granted on a statewide basis.

O R D E R

IT IS THEREFORE ORDERED by the Commission that Application No. C-2032 be, and it is hereby, granted.

IT IS FURTHER ORDERED that the applicant comply with Section 251(f)(1)(B) of the Telecommunications Act of 1996 and that the applicant submit any bona fide request(s) for interconnection, services, or network elements from a rural telephone company to the Commission for its approval.

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 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 FURTHER ORDERED that the applicant comply with all necessary statutes and Commission rules and regulations as they pertain to the Nebraska Universal Service Fund.

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

MADE AND ENTERED at Lincoln, Nebraska, this 15th day of June, 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.