

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-2042
Concert Communications Sales,)
L.L.C. of Reston, Virginia, seek-)
ing authority to obtain a Certifi-)
cate of Public Convenience and Ne-) GRANTED
cessity to provide resold competi-)
tive local exchange services in the)
state of Nebraska.) Entered: August 10, 1999

APPEARANCES:

For the Applicant:
Steven G. Seglin
Crosby, Guenzel, Davis, Kessner
& Kuester
134 South 13th St., Suite 400
Lincoln, Nebraska 68508

For the Commission:
Chris Post
300 The Atrium
1200 "N" Street
Lincoln, Nebraska 68509

For 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:

Mark A. Fahleson
Rembolt, Ludtke & Berger
1201 Lincoln Mall, Suite 102
Lincoln, Nebraska 68508

BY THE NEBRASKA PUBLIC SERVICE COMMISSION:

By its application, filed May 3, 1999, Concert Communications Sales, L.L.C. (Concert or the Applicant) seeks authority to obtain a Certificate of Public Convenience and Necessity to provide resold competitive local exchange services in the state of Nebraska. Notice of the application appeared in The Daily Record on May 6, 1999. The following parties filed Petitions of Formal Intervention: Arapahoe Telephone Company; Benkelman Telephone Company, Inc.; Consolidated Telephone Co.; Consolidated Telco, Inc.; Cozad Telephone Company; Diller Telephone Company; Hemingford Cooperative Telephone Company; Henderson Cooperative Telephone Company; Nebraska Independent Telephone Association; and Wauneta Telephone Company (collectively referred to hereafter as Intervenor). A hearing on the application was held July 27, 1999, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

In support of its application, the applicant produced one witness, Karen Overman, Compliance Manager at Concert, who testified as follows:

The applicant, with central offices located in Reston, Virginia, is applying for certification from the Commission to provide local exchange services to customers on a resold basis. Concert currently provides data and voice transmission to companies worldwide. The applicant is an indirect wholly-owned subsidiary of

Concert Communications Company, which in turn is a wholly-owned subsidiary of British Telecommunications.

Concert has the technical, financial, and managerial competence necessary to provide local exchange service in Nebraska. Concert's technical capabilities are evident from their history of providing service since 1994 to nearly 3,900 companies in more than 50 countries. Concert is also financially qualified to offer telecommunications services within Nebraska. Concert relies on the financial capabilities of its ultimate parent, British Telecommunications, whose 1998 revenues exceeded \$25 billion dollars. In addition, Concert's managerial team possesses the experience necessary to offer services in Nebraska. Ms. Overman further testified that Concert's application is in the public interest because it will give Nebraska consumers another competitive option and will encourage market participants to invest in network infrastructure.

Concert requests certification in the territories currently served by US West Communications, Inc., Aliant Communications Company, GTE, and United Telephone Company of the West (Sprint). Concert plans to offer a variety of services to customers in those areas, primarily data and voice transmissions for multi-national businesses. The applicant received authority from the Commission to offer intrastate interexchange telecommunications services on June 15, 1999, in Docket No. C-2025. No interconnection agreements are in place between Concert and any local exchange carrier.

On cross-examination by Mr. Fahleson, Ms. Overman stated that Concert initially will provide service via resale and will not place facilities, offices, or employees in Nebraska. Ms. Overman further clarified that Concert requests certification only in the territories served by US West, Aliant, GTE, and Sprint, and does not request certification for the entire state. Concert's application does not constitute a bona fide request for interconnection with any carrier in the state.

Responding to questions from Mr. Post, Ms. Overman testified that Concert will offer services strictly to business and will not offer services to residential customers. In addition, Concert is fully willing to comply with all Commission rules, regulations, and orders pertaining to the Nebraska Universal Service Fund and Telecommunications Relay System.

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 in the proposed territories. 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.

This order does not terminate, waive or in any manner diminish the exemptions and protections created by the Federal Telecommunications Act of 1996 for rural carriers, as defined by the Federal Act. This order does not address the issue of the rural local exchange carriers' exemption under the Federal Act. Rural exemptions may be terminated, suspended or modified only as provided in Section 251(f) of the Federal Act.

For the above reasons, the Commission is of the opinion and finds that Application No. C-2042 should be granted on a statewide basis.

O R D E R

IT IS THEREFORE ORDERED by the Commission that Application No. C-2042 be, and it is hereby, granted and Concert Communications Sales, L.L.C. is authorized to provide resold competitive local exchange services in the territories currently serviced by US West Communications, Inc., Aliant Communications Company, GTE, and United Telephone Company of the West (Sprint).

IT IS FURTHER ORDERED that the applicant comply with Section 251(f)(1)(B) of the Telecommunications Act of 1996 and that the

Application No. C-2042

PAGE 4

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 the authorized territories in Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 10th day of August, 1999.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

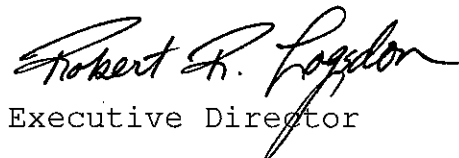




//s//Lowell C. Johnson
//s//Frank E. Landis
//s//Daniel G. Urwiller


Chairman

ATTEST:


Executive Director