

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application ) Application No. C-2075  
of Computer Business Sciences, Inc., )  
seeking a Certificate of Public Con- )  
venience and Necessity in order to )  
provide facilities-based local ex- ) GRANTED  
change and intrastate, interexchange )  
telecommunications services and cer- )  
tification as an operator service )  
provider in the state of Nebraska. ) Entered: November 4, 1999

APPEARANCES:

For the Applicant:  
Andrew S. Pollock  
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Lincoln, Nebraska 68508-1424

For the Commission:  
Michael Loeffler  
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Lincoln, Nebraska 68508

For Arapahoe Telephone Company;  
Benkelman Telephone Company,  
Inc.; Cozad 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  
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By its application filed June 30, 1999, Computer Business Sciences, Inc. (Applicant) seeks authority to provide local exchange telecommunications services in the Nebraska territory presently served by US West Communications, Inc. (US West) and intrastate, interexchange telecommunications services throughout the state of Nebraska. Notice of the application appeared in The Daily Record on July 1, 1999. The following parties filed Petitions of Formal Intervention: Arapahoe Telephone Company; Benkelman Telephone Company, Inc.; Cozad Telephone Company; Hemingford Cooperative Telephone Company; Henderson Cooperative Telephone Company; and Wauneta Telephone Company (collectively referred to hereafter as the Intervenor). A hearing on the application was held October 14, 1999, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

In support of its application, the applicant produced one witness, Deborah S. Arnott, Regulatory Administrator of the applicant, who testified as follows:

Ms. Arnott testified that the applicant is a Delaware corporation and has its corporate headquarters in Kew Gardens, New York. Ms. Arnott joined the applicant in 1997. In her current position, Ms. Arnott is responsible for the day-to-day operations of the applicant and for ensuring that the applicant meets its regulatory and legal requirements.

The applicant intends to focus its marketing effort primarily on residential customers. If a business wants connectivity, however, the applicant would connect to them the same way as it does its residential customers through the local loop. The applicant intends to offer switched carrier access for telecommunications traffic between its residential and small business customers and users of other telecommunications systems. Under this certificate, the applicant will provide local exchange service only to customers in the territory presently served by US West.

The applicant offers services that take full advantage of the convergence of voice, video and data at affordable prices. Also, the applicant intends to offer bundled services ON-NET (on the internet) to small business and residential customers, which will include local exchange dial tone, long distance, high speed internet, xDSL, and soon multimedia capabilities such as video-conferencing and cable TV. The applicant's combination of its own equipment, along with the dark fiber leased from US West, will enable the applicant to provide local, long distance, high-speed internet, video conferencing capabilities and, very soon, cable television access.

Ms. Arnott testified that the applicant has sufficient managerial and technical resources and abilities to provide local exchange telecommunications services in US West's Nebraska territory. The applicant's senior management team has more than 150 combined years of technical experience and has great depth in the telecommunications industry. The applicant has already received similar certification as a competitive local exchange carrier (CLEC) in 17 other states.

Ms. Arnott also presented testimony showing that the applicant has sufficient financial resources to implement and provision its local exchange telecommunications services in the territories currently served by US West. In evidence of its financial ability to provide proposed services, the applicant submitted recent financial statements as Exhibit JJG-2 to its initial application via its parent company, Fidelity Holdings, Inc., a national NASDAQ Company. Fidelity combines its financials with its subsidiaries when filing with the Securities Exchange Commission (SEC) and guarantees it will provide or procure unconditional funding for this project for the next three years. These financial statements demonstrate that applicant is financially qualified to provide the proposed telecommunications services.

Ms. Arnott further testified that a grant of the applicant's application will promote the public interest by supplying residential consumers the tools to empower themselves in this age of rapidly advancing information technology. Moreover, granting this certificate will increase choice in providers, improve quality of service and offer greater opportunities to obtain improved technologies in homes and businesses.

Upon questioning by the Commission, Ms. Arnott testified the applicant plans to provide services to residents of multiple dwelling units (MDUs) and has aspirations to eventually serve rural areas. Rollout will begin in the greater Omaha area and then expand. The applicant relies heavily on collocation, which entails substantial costs.

Upon questioning by Mark Fahleson, attorney for the intervenors, Ms. Arnott testified that the applicant is seeking authority to provide local exchange service in US West territory only and understands that before expanding that authority, it must file another application with the Commission. Ms. Arnott further testified that the present application is not a bona fide request for interconnection with any carrier.

#### 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 state of Nebraska in the territories presently served by US West. 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.

For the above reasons, the Commission is of the opinion and finds that Application No. C-2075 should be granted.

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O R D E R

IT IS THEREFORE ORDERED by the Commission that Application No. C-2075 be and 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.

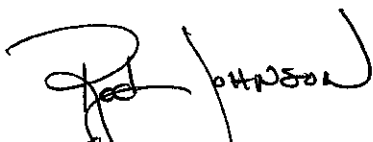
IT IS FURTHER ORDERED that within 30 days from the entry of this order that the applicant file a tariff with the Commission as required by state statutes and the Commission's regulations.

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 and intrastate, interexchange service within Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 4th day of November, 1999.

NEBRASKA PUBLIC SERVICE COMMISSION

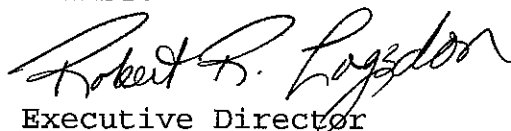
COMMISSIONERS CONCURRING:

  
Lowell C. Johnson

  
Chairman

  
Frank E. Landis

ATTEST:

  
Executive Director

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