

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of     )   Application No. C-2217  
Adelphia Business Solutions             )  
Operations, Inc., Coudersport,           )  
Pennsylvania, for a Certificate           )  
of Public Convenience and Necessity     )   GRANTED  
to offer local exchange and inter-       )  
exchange telecommunications services     )  
within the state of Nebraska.            )   Entered: June 14, 2000

APPEARANCES:

For the Applicant: For Arapahoe Telephone Company;  
Andrew S. Pollock   Benkelman Telephone Company; Inc.;  
Brooks, Pansing Brooks, P.C.   Cozad Telephone Company;  
1248 O Street, Suite 984 Hemingford Cooperative Telephone  
Lincoln, Nebraska 68508-1424 Company; Henderson Cooperative  
Telephone Company; and  
For the Commission: Wauneta Telephone Company:  
Chris Post           Mark A. Fahleson  
300 The Atrium Rembolt, Ludtke & Berger  
1200 N Street                               1201 Lincoln Mall, Suite 102  
Lincoln, Nebraska 68508 Lincoln, Nebraska 68508

BY THE COMMISSION:

By its application filed February 8, 2000, Adelphia Business Solutions Operations, Inc. (Applicant), Coudersport, Pennsylvania, seeks authority to provide local exchange and interexchange telecommunications services in the state of Nebraska. Notice of the application appeared in The Daily Record, Omaha, Nebraska, on February 9, 2000. 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 Intervenors). A hearing on the application was held May 24, 2000, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

In support of its application, the applicant produced one witness, Joelle Blaho-Sinclair, manager of legal and regulatory affairs for the applicant, who testified as follows:

Ms. Blaho-Sinclair testified that the applicant is a Delaware corporation with its principal place of business in Coudersport, Pennsylvania. It is a wholly-owned subsidiary of Adelphia Business Solutions, Inc. (ABS). The applicant has obtained authority from the Nebraska Secretary of State to transact business in the state of Nebraska.

Ms. Blaho-Sinclair testified that initially the bulk of the applicant's business was centered on the east coast, but that it has been steadily expanding westward. The applicant itself has

been authorized to provide local exchange and interexchange services in California, Colorado, Idaho, Montana, Nevada, North Dakota, Washington, Wisconsin and Wyoming. Additionally, through the operating companies of its parent company, ABS, the applicant is authorized to provide local exchange and interexchange service in Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Illinois, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia and West Virginia. Presently, the applicant has in excess of 25,000 access lines nationwide.

The applicant seeks authority to provide interexchange telecommunications statewide and local exchange telecommunications services in the territories currently served by Aliant Communications Co., d/b/a ALLTEL (ALLTEL), US West Communications, Inc. (US West) and United Telephone Company of the West d/b/a Sprint (Sprint). Ms. Blaho-Sinclair testified, however, that the applicant may place facilities and/or fiber in other areas of the state, although it will not provide local exchange services to any customers within those areas outside of the ALLTEL, US West and Sprint territories.

Ms. Blaho-Sinclair testified that the applicant was incorporated in July 1999. The applicant's parent company, ABS, was formed in 1991 as a competitive access provider. Through its operating entities, ABS has been providing telecommunications services - including competitive local exchange service - since 1996, delivering such services through its fiber optic network. ABS has a wide array of services to offer its customers, including local voice, long distance, messaging, data and Internet services.

Initially, Ms. Blaho-Sinclair testified, the applicant will provide both its local exchange and interexchange services on a resold basis. Within one year of providing services in the state of Nebraska, however, the applicant anticipates it will provide those services on its own fiber optic network.

Ms. Blaho-Sinclair testified that the applicant has sufficient managerial and technical resources and abilities to provide local exchange telecommunications services in the proposed service territory. Through its parent company, the applicant has been providing both local exchange and interexchange telecommunications services for four years. The applicant's senior management staff has over 100 years of combined experience in telecommunications. Their experience guided the company through the transition from a competitive access provider to a successful competitive local exchange carrier. This team has engineered and implemented a western expansion to bring its services to consumers throughout the continental United States.

Ms. Blaho-Sinclair also presented testimony showing that the applicant has sufficient financial resources to implement and provide its local exchange telecommunications services in the its proposed service territory, as demonstrated in financial statements filed with the application. The applicant will have the financial support of its parent ABS, a publicly-traded company (NASDAQ: ABIZ), until it is financially self-sufficient. Furthermore, Adelphia Cable Communications, the fifth largest cable provider in the United States, is a majority shareholder in ABS, and will contribute to the applicant's stable and available financial support.

Ms. Blaho-Sinclair further testified that granting the application will promote the public interest by providing Nebraska consumers with another option as to who may supply their telecommunications needs. Moreover, approval of the application will enhance competition and thus provide better service and more competitive rates.

On cross-examination, Ms. Blaho-Sinclair confirmed that the application does not constitute a bona fide request for interconnection with any of the intervenors. Ms. Blaho-Sinclair also testified that the applicant is aware of the protections afforded rural carriers under the Telecommunication Act of 1996. The applicant has engaged in interconnection negotiations with US West, but has not yet commenced negotiations for interconnection with ALLTEL or Sprint.

Upon questioning by the Commissioners and staff, Ms. Blaho-Sinclair confirmed that the applicant seeks authority only in the territories presently served by ALLTEL, US West and Sprint at the present time. In order to serve customers in other ILECs' territories, the applicant understands it must seek expanded authority from the Commission. Ms. Blaho-Sinclair further testified that the applicant plans to initially roll out service in Lincoln and Omaha and plans to employ a local sales staff in each city. Service problems will be handled by a local representative during working hours and via an 800 number throughout the remainder of the day. The applicant is aware of the Nebraska Relay System and the Nebraska Universal Service Fund and is capable and willing to comply with the requirements of each.

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 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 local exchange services in the State of Nebraska in the territories presently served by ALLTEL, US West and Sprint and interexchange services statewide. No party in this proceeding refuted the applicant's competence.

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 applicant is allowed to provide local exchange service to its users, it must either:

(a) Through negotiation or arbitration or pursuant to Section 252(i) of the Act reach an interconnection/resale agreement with the pertinent incumbent local exchange carrier and receive Commission approval of the interconnection/resale agreement; or

(b) In the event a certified local exchange carrier provides a wholesale statement of generally available terms and conditions (SGAT) or similar offering, purchase rates from that SGAT or similar offering.

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 area in the State of Nebraska, applicant must file, and the Commission must approve, tariffs in accordance with the provisions of Sections 002.21 and 003.08 of the Neb. Admin. R. & Regs., tit. 291, ch. 5.

As a provider of local exchange service in the state of Nebraska, applicant would 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 Commission that Application No. C-2217 be, and is hereby, granted.

IT IS FURTHER ORDERED that the applicant comply with Section 251(f)(1)(B) of the Act 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 Systems 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 shall comply with all necessary statutes and Commission rules and regulations as they pertain to the Nebraska Universal Service Fund.

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 the telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues, operating expenses and taxes.

IT IS FURTHER ORDERED that within 30 days from the entry of this order that 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 telecommunications services in the Nebraska territories presently served by ALLTEL, US West and Sprint, and to provide interexchange telecommunications services throughout the state of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 14th day of June 2000.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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