

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the matter of the Application) Application No. C-2231
of Community Internet Systems, Inc.)
of Columbus, Nebraska seeking to)
obtain a Certificate of Public) GRANTED
Convenience and Necessity to)
provide local exchange and)
interexchange telecommunications)
services in the state of Nebraska.) Entered: May 31, 2000

For the Applicant:
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For the Intervenors:
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BY THE COMMISSION:

By its application filed February 23, 2000, (Application) Community Internet Systems, Inc. (CISI or Applicant) of Columbus Nebraska, seeks to obtain a Certificate of Public Convenience and Necessity to provide local exchange and interexchange telecommunications services in the state of Nebraska. Notice of the application appeared in The Daily Record on February 25, 2000. Petitions for formal intervention were filed by Arapahoe Telephone Company, Benkelman Telephone Company, Inc., Cozad Telephone Company, Hemmingford Cooperative Telephone Company, Henderson Cooperative Telephone Company, and Wauneta Telephone Company (collectively referred to as the Intervenors). A hearing on the application was held on April 25, 2000, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

In support of its application the applicant produced one witness, Linda Aerni, President and Secretary/Treasurer of CISI, who testified as follows:

Applicant is a Nebraska corporation organized and in good standing, under the laws of the state of Nebraska. This is the first application by CISI for authority to provide telecommunications services in any state.

Applicant requests authority to operate as a local exchange and interexchange provider of both high-speed data services on a facilities and resale basis, and voice services on a resale basis throughout the state of Nebraska. Applicant intends to purchase or lease unbundled network elements, including loops, and intends to collocate equipment in the central

offices of the incumbent local exchange carriers. Applicant intends to eventually construct its own facilities to provide its facilities-based data services.

Ms. Aerni testified that CISI possesses the technical and managerial resources and competency. She testified that the members of the management team have extensive management experience and include individuals who have distinguished themselves in executive and decision making positions in rural Nebraska. She testified that applicant has a depth of managerial staff which has had experience with packeted telecommunications services. Ms. Aerni testified that she had personally implemented and managed the Internet and Intranet operations of the Nebraska Public Power District. She testified that the vice president also has extensive management and technical experience. Ms. Aerni further testified that applicant intends to utilize the assistance of telecommunications consulting companies such as Gerry Kluch and Pioneer Holdings, who as independent contractors will provide additional technical and managerial expertise.

Ms. Aerni testified that the applicant is financially qualified to provide local exchange and interexchange telecommunications services throughout the state. Ms. Aerni testified that the corporation has a strong financial history and has a net worth of approximately \$250,000 with the ability to obtain shareholder loans or equity capital as needed. She testified that applicant will also utilize co-ventures with public entities to maximize resources. The applicant's most recent financial statements were filed with the application as Exhibit B.

Ms. Aerni further testified that granting CISI the authority requested would serve the public interest by offering several benefits to Nebraska customers. One benefit, Ms. Aerni stated, is derived from the fact that CISI is a Nebraska corporation and has goals specifically related to providing Nebraskans with the best services possible and by investing in the local infrastructure. Secondly, CISI seeks to provide consumers with latest technology in telecommunications services. Third, she testified that CISI, as a local company, may provide better customer service. Ms. Aerni testified that CISI will have staff throughout the state and will be community-based. Finally, Ms. Aerni testified that granting CISI authority would promote competition and provide an additional choice in providers.

Upon cross-examination, Ms. Aerni confirmed that the application by CISI does not constitute a bona fide request for interconnection with any of the intervenors even though the application requests statewide authority.

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;

(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 and interexchange services in 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.

These opinions and findings carry no precedential value other than establishing minimum standards and criteria to apply when considering the 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 the 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 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-2231 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 the 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 shall file, in accordance with the applicable statutes, on or before April 30th 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 these are not available, applicant shall submit a balance sheet and income statement for the previous year of operation, as well as the investment made in telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues and 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 FURTHER ORDERED that the applicant comply with all necessary statutes and Commission orders, rules and regulations as they pertain to the Nebraska Universal Service Fund.

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 as described herein and intrastate interexchange service within the state of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 31st day of May, 2000.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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