

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application ) Application No. C-2394  
of Telicor, Inc., Seattle, Washing- )  
ton, seeking authority to obtain )  
a Certificate of Public Convenience )  
and Necessity to provide resold and ) GRANTED  
and facilities-based local exchange )  
and interexchange telecommunications )  
services within the state of )  
Nebraska. ) Entered: February 6, 2001

APPEARANCES:

For the Applicant:  
Jon Bruning  
1079 N. 204th Street  
Elkhorn, Nebraska

For the Commission staff:  
Shanicee Knutson  
300 The Atrium  
1200 N Street  
Lincoln, Nebraska 68508

For the Intervenor:  
Arapahoe Telephone Company;  
Benkelman Telephone Company;  
Cozad Telephone Company;  
Henderson Cooperative Telephone  
Company; and Wauneta Telephone  
Company:  
Michelle Shandera Kugler  
Rembolt Ludtke & Berger  
1201 Lincoln Mall, Suite 102  
Lincoln, Nebraska 68508

BY THE COMMISSION:

By its application filed September 26, 2001, Telicor Inc. of Seattle, Washington, (Telicor or Applicant) seeks authority to provide resold and facilities-based local exchange and interexchange telecommunications services in the state of Nebraska. Notice of the application appeared in The Daily Record on September 28, 2000. The following parties filed petitions of formal intervention: Arapahoe Telephone Company; Benkelman Telephone Company; Cozad Telephone Company; Henderson Cooperative Telephone Company; and Wauneta Telephone Company. A hearing on the application was held January 9, 2001, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

E V I D E N C E

In support of its application, the applicant produced one witness, David J. Porte, chief executive officer, who testified as follows:

Mr. Porte testified that the applicant is a privately-held company organized under the laws of the state of Delaware that has

its headquarters in Seattle, Washington. Applicant has obtained authority to transact business in the state of Nebraska from the Secretary of State.

Applicant has been authorized to provide local exchange and interexchange telecommunications services in about 25 states. The applicant has not been denied a certificate in any state in which it has filed an application. Applicant has not been made a party to formal complaints in any state.

In his testimony, Mr. Porte described the applicant's plans to provide interexchange and competitive local exchange services. In addition to access to its hardware and software products, Telicor plans to provide its customers with convergent billing as well as convergent reporting for its bills across the whole United States.

Mr. Porte testified that the applicant has sufficient managerial and technical resources and abilities to provide local exchange and interexchange telecommunications services in the proposed service territory. He stated that he had about 12 years of telecommunications experience which he gained by building his own company which was eventually purchased by a larger telecommunications company called GCI in Alaska. He then served as GCI's senior executive for two-and-a-half years running their networks services division. The applicant's chief operating officer possesses about 10 years of telecommunications service as well. The applicant's vice president of engineering also has an extensive telecommunications background. A complete and current listing of the applicant's managerial and technical qualifications was requested and received as a late-filed exhibit for Commission consideration.

Mr. Porte further testified that the applicant possesses the financial ability to provide the proposed services throughout the state. Telicor is backed by three main private investors. The applicant has raised more than \$7 million in April of last year and expects to raise double that by the middle of February.

Additionally, Mr. Porte testified that granting the above-captioned application will be in the public's best interest because it will provide consumers with an alternative choice in providers at a competitive rate. The applicant will also focus on providing its customers with high quality customer service.

Mr. Porte stated that the applicant intends to target the mid-tier business market in Nebraska. Telicor will use its own billing

system. Telicor will provide customers with a toll-free number, a web portal and e-mail address for customer complaints. Customers will have access to the operator services as well as 911 services through the existing incumbent local exchange carriers (ILECs). The witness further stated that applicant understands that the Commission may require a performance bond if the company requires advance deposits.

On direct examination, Mr. Porte testified that he understood any request for interconnection with a rural telephone provider may trigger a hearing by this Commission as to whether or not the rural exemption discussed in the federal Telecommunications Act of 1996 applies to that particular rural telephone company. He confirmed with Ms. Kugler that the above-captioned application does not represent a bona fide request for interconnection with any rural telecommunications company protected by the rural exemption.

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 tele-

communications 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 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 interexchange and 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, 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 tariff, purchase rates from that tariff, file its own tariff and receive Commission approval of its tariff.

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 carrier exemption under the Act. Rural exemptions may be terminated, suspended or modified only as provided in Section 251(f) of the Act.

Prior to providing local exchange or interexchange service in any area in the state of Nebraska, applicant must file and the Commission must approve, tariffs in accordance with the provisions of Section 002.21 of the Neb. Admin. R. & Regs. Title 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

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regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to any other local exchange company except those obligations imposed on ILECs pursuant to Section 251(c) of the Act.

## O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-2394 be, and hereby is, 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 any other interexchange and 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 applicant provides access line service as referenced in the Telecommunications Relay System Act, Neb. Rev. Stat. §§ 86-1302 to 86-1306 (Relay Act) and defined in Neb. Admin. R. & Reg. Title 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 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 applicant shall file, in accordance with the applicable statutes, on or before April 30 of each year, an annual report with the 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.

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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.


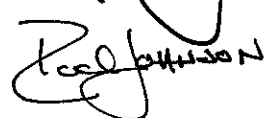
IT IS FURTHER ORDERED that within 30 days from the entry of this order that the applicant file a tariff with the Commission as required by state statutes and the Commission's regulations.

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 and interexchange telecommunications services in the state of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 6th day of February, 2001.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

//s//Frank E. Landis  
 //s//Daniel G. Urwiller



ATTEST:



Executive Director