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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

CP 687

In the Matter of the Application of AT&T	)	
COMMUNICATIONS OF THE PACIFIC	)	ORDER
NORTHWEST, INC., for a Certificate of	)	
Authority to Provide Telecommunications	)	
Service in Oregon.	)	

DISPOSITION: APPLICATION GRANTED

**Note:** By issuing this certificate, the Commission makes no endorsement or certification regarding the certificate holder's rates or service.

**The Application**

On July 23, 1999, AT&T Communications of the Northwest, Inc. (AT&T or Applicant) filed with the Commission an application to provide switched intraexchange (local exchange) telecommunications service and nonswitched private line service (dedicated transmission service) in areas of the state coextensive with local exchanges served by the telecommunications utilities listed in Appendix A and the cooperative corporations listed in Appendix B. Applicant will operate as a reseller and as a facilities based provider of the above services. Applicant may purchase unbundled network elements (building blocks), as well as finished services, from other certified carriers.

On August 12, 1999, the Commission issued its Notice of Telecommunications Applications filed with the Commission. The Commission docketed AT&T's application as CP 687. On September 1, 1999, a number of telecommunications utilities and cooperative corporations filed protests to AT&T's application.<sup>1</sup> On October 6, 1999, Western Bell

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<sup>1</sup> Telecommunications Utilities: Cascade Utilities, Inc., Eagle Telephone System, Inc., Helix Telephone Company, Monroe Telephone Company, Mt. Angel Telephone Company, Nehalem Telephone & Telegraph Co., North-State Telephone Company, Oregon Telephone Corporation, Oregon-Idaho Utilities, Inc. and Pine Telephone System, Inc.

Cooperative Corporations: Clear Creek Mutual Telephone, Colton Telephone Company, Gervais Telephone Company, Molalla Telephone Company, Monitor Cooperative Telephone Co., Pioneer Telephone Cooperative, Scio Mutual Telephone Association and Stayton Cooperative Telephone Co.

Integrated Communications, Inc. filed a Petition to Intervene. At a Prehearing Conference held on October 8, 1999, Malheur Home Telephone Company orally petitioned to intervene. In addition, the Administrative Law Judge (ALJ) also clarified that any of the non-protesting telecommunications utilities and cooperative corporations listed in Appendix A and B are also parties to this proceeding. On October 18, 1999, U S WEST Communications, Inc. filed a Petition to Intervene. On November 22, 1999, Applicant filed a Proposed Stipulated Order. On November 30, 1999, the ALJ issued a ruling that established a procedural schedule for processing this docket. A suspension of the schedule was requested by the Applicant on December 6, 1999. On December 14, 1999, Commission Staff (Staff), Applicant and Parties held a settlement Conference. On January 14, 2000, Staff distributed a proposed order for review by the parties. Protestants filed a letter of exception on January 31, 2000. Staff issued a Reply to Exceptions, which included a revised proposed stipulated order, on February 4, 2000.

Applicant failed to include a statement in the application defining its affiliation with TCG Oregon (TCG). However, applicant is affiliated with TGC. TCG has an application pending with the Commission for authority to provide intraexchange telecommunications in the same geographic locations as applicant. *See* docket CP 686. TCG also has current authority to provide telecommunications service in Oregon. *See* Order No. 96-248 in docket CP 148 and Order No. 98-178 in docket CP 409.

Applicant currently has authority to provide telecommunications service in Oregon as a competitive provider. *See* Order No. 87-025, docket UM 93; Order Nos. 90-1820 and 95-268 in docket UM 348; Order No. 96-248 in docket CP 138; and Order No. 96-340 in docket CP 139. The application for the current docket requests authority to provide intraexchange telecommunications service in the Beavercreek exchange. Applicant already has that authority granted by Order No. 96-340 in docket CP 139. Since granting that authority in this docket would be redundant, the Beavercreek exchange will not be included in the list of affected exchanges in this order.

The Commission has reviewed the proposed stipulated orders and the record in this matter. Based on the stipulation of the parties and the preponderance of the evidence, the Commission makes the following:

## **FINDINGS AND CONCLUSIONS**

### **Applicable Law**

Applications to provide telecommunications service and for classification as a competitive telecommunications services provider are filed pursuant to ORS 759.020. ORS 759.020 provides that:

(1) No person [or] corporation \* \* \* shall provide intrastate telecommunications service on a for-hire basis without a certificate of authority issued by the Public Utility Commission under this section.

\* \* \* \* \*

(5) The commission may classify a successful applicant for a certificate as a telecommunications utility or as a competitive telecommunications services provider. If the commission finds that a successful applicant for a certificate has demonstrated that services it offers are subject to competition or that its customers or those proposed to become customers have reasonably available alternatives, the commission shall classify the applicant as a competitive telecommunications services provider. \* \* \* For purposes of this section, in determining whether telecommunications services are subject to competition or whether there are reasonably available alternatives, the commission shall consider:

- (a) The extent to which services are available from alternative providers in the relevant market.
- (b) The extent to which services of alternative providers are functionally equivalent or substitutable at comparable rates, terms, and conditions.
- (c) Existing economic or regulatory barriers to entry.
- (d) Any other factors deemed relevant by the commission.

Applications to provide local exchange (intraexchange) telecommunications services are reviewed pursuant to ORS 759.050, the "competitive zone law." Under ORS 759.050(2)(a), the Commission may:

certify one or more persons, including another telecommunications utility, to provide local exchange telecommunications service within the local exchange telecommunications service area of a certified telecommunications utility, if the commission determines that such authorization would be in the public interest. For the purpose of determining whether such authorization would be in the public interest, the commission shall consider:

- (A) The effect on rates for local exchange telecommunications service customers both within and outside the competitive zone.
- (B) The effect on competition in the local exchange telecommunications service area.

(C) The effect on access by customers to high quality innovative telecommunications service in the local exchange telecommunications service area.

(D) Any other facts the commission considers relevant.

Under ORS 759.050(2)(b), the Commission shall:

upon certification of a telecommunications provider under paragraph (a) of this subsection, establish a competitive zone defined by the services to be provided by the telecommunications provider and the geographic area to be served by the telecommunications provider.

Under ORS 759.050(2)(c), the Commission may:

impose reasonable conditions upon the authority of [the applicant] to provide competitive zone service within the competitive zone \* \* \* at the time of certification of a telecommunications provider, or thereafter.

Subsection (5)(a) of ORS 759.050 provides that:

unless the commission determines that it is not in the public interest at the time a competitive zone is created, upon designation of a competitive zone, price changes, service variations, and modifications of competitive zone services offered by a telecommunications utility in the zone shall not be subject to [the notice, hearing and tariff suspension procedures in] ORS 759.180 to ORS 759.190, and at the telecommunications utility's discretion, such changes may be made effective upon filing with the commission.

ORS 759.690 and OAR 860-032-0005 establish certain requirements providers of operator services must meet. Included are the following conditions:

The certificate holder involved in the provision of operator services shall:

1. Notify all callers at the beginning of the call of the telecommunications provider's name and allow a sufficient delay period to permit a caller to terminate the call or advise the operator to transfer the call to the customer's preferred carrier.
2. Disclose rate and service information to the caller when requested.
3. Not transfer a call to another operator service provider without the caller's notification and consent.

4. Not screen calls and prevent or "block" the completion of calls which would allow the caller to reach an operator service company different from the certificate holder. In addition, the certificate holder shall, through contract provisions with its reseller clients, prohibit the reseller from blocking a caller's access to his or her operator service company of choice.

5. When entering into operator service contracts or arrangements with clients who in turn resell or provide telephone service to the general public, include in each contract provisions for public notification. A sticker or name plate identifying the name of the certificate holder shall be attached to, or in close proximity to, each telephone that has public access.

OAR 860-032-0015(1) authorizes the Commission to suspend or cancel the certificate if the Commission finds that (a) the holder made misrepresentations when it filed the application, or (b) the applicant fails to comply with the terms and conditions of the certificate.

### **Designation as a Competitive Provider**

Applicant has met the requirements for classification as a competitive telecommunications services provider. Applicant's customers or those proposed to become customers have reasonably available alternatives. The incumbent telecommunications utilities and cooperative corporations provide the same or similar local exchange services in the local service area requested by Applicant. Subscribers to Applicant's services can buy comparable services at comparable rates from other vendors. Economic and regulatory barriers to entry are relatively low.

### **Conditions of the Certificate**

As part of the application, the applicant agreed to, or acknowledged, several conditions listed in the application. Those conditions are adopted and made conditions of this certificate of authority.

The Commission first applied the competitive zone law, ORS 759.050, in dockets CP 1, CP 14, and CP 15. After full evidentiary hearings and consideration of the public interest criteria set forth in ORS 759.050(2)(a), the Commission designated three competitive providers of switched local exchange services as alternate exchange carriers, which are also known as competitive local exchange carriers (CLECs), in the Portland metropolitan area. *See* Order No. 96-021. The Commission subsequently applied those findings and conclusions to dockets CP 132, CP 139, and CP 149, and certified two CLECs to provide switched local exchange services in areas located throughout the state.

The Commission takes official notice of the record in dockets CP 1, CP 14, and CP 15.<sup>2</sup> In Order No. 96-021, the Commission established conditions applicable to CLEC certificates. Since Applicant proposes to offer switched local exchange services, it seeks certification as a CLEC. Pursuant to ORS 759.050(2)(c) and Order No. 96-021, Applicant as a CLEC shall comply with the following conditions upon providing local exchange services in the exchanges subject to this order:

1. Applicant shall terminate all intrastate traffic originating on the networks of other telecommunications service providers that have been issued a certificate of authority by the Commission.
2. Whenever Applicant terminates intrastate long distance traffic directly or indirectly from interexchange carriers or from its own toll network to its end user customers, Applicant shall contribute to the Oregon Customer Access Fund (OCAF), or its equivalent, in accordance with provisions of the Oregon Customer Access Plan (OCAP) or any successor plan approved by the Commission. Applicant shall contribute using rates approved by the Commission on intrastate terminating carrier common line access minutes, or on any other basis determined by the Commission. Applicant may not participate in (i.e., receive money from) pooling arrangements established under the OCAP or any successor plan unless authorized by the Commission.
3. Applicant shall comply with the Oregon Exchange Carrier Association's (OECA) informational and operational needs as specified by the OCAP or any successor plan approved by the Commission.
4. Applicant shall offer E-911 service. Applicant has primary responsibility to work with the E-911 agencies to make certain that all users of their services have access to the emergency system. Applicant will deliver or arrange to have delivered to the correct 911 Controlling Office its customers' voice and dialable Automatic Number Identification (ANI) telephone numbers so the lead 911 telecommunications services provider can deliver the 911 call to the correct Public Safety Answering Point (PSAP). Applicant agrees to work with each 911 district and lead 911 telecommunications services provider to develop database comparison procedures to match Applicant's customer addresses to the 911 district's Master Street Address Guide in order to obtain the correct Emergency Service Number (ESN) for each address. Applicant agrees to provide the lead 911 telecommunications services provider with daily updates of new customers, moves, and changes with the corresponding correct ESN for each.

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<sup>2</sup> Under OAR 860-014-0050(2), a party may object to facts noticed within 15 days of notification that official notice has been taken. The objecting party may explain or rebut the noticed facts.

5. Applicant shall not take any action that impairs the ability of other certified telecommunications services providers to meet service standards specified by the Commission.
6. At the request of the Commission, Applicant shall conduct and submit to the Commission traffic studies regarding traffic exchanged with telecommunications services providers and other entities designated by the Commission.
7. For purposes of distinguishing between local and toll calling, Applicant shall adhere to local exchange boundaries and Extended Area Service (EAS) routes established by the Commission. Applicant shall not establish an EAS route from a given local exchange beyond the EAS area for that exchange.
8. When Applicant is assigned one or more NXX codes, Applicant shall limit each of its NXX codes to a single local exchange and shall establish a toll rate center in each exchange that is proximate to the toll rate center established by the telecommunications utility or cooperative corporation serving the exchange.
9. Applicant shall comply with universal service requirements as determined by the Commission.
10. Any obligation regarding interconnection between Applicant and the telecommunications utilities listed in Appendix A or the cooperative corporations listed in Appendix B shall be governed by the provisions of the Telecommunications Act of 1996 (the Act), including but not limited to Sections 251 and 252 of the Act (47 USC §§ 251, 252), as well as the applicable rules and regulations of the FCC and this Commission implementing the Act. Unless otherwise addressed by an applicable interconnection agreement, Order No. 96-021, as otherwise modified by the Commission, will govern the interconnection obligations between such parties for the provision of switched local services.
11. If Applicant provides services to a subscriber who, in turn, resells the services, including operator services, then Applicant and the subscriber must comply with ORS 759.690 and OAR 860-032-0005.

## **Public Interest**

In Order No. 93-1850, docket UM 381, the Commission considered the public interest aspects of local exchange competition for dedicated transmission service similar to that described in the application before us now. In dockets CP 1, CP 14, and CP 15, Order No. 96-021, the Commission made several public interest findings regarding local exchange competition in general.

With regard to the general factual conclusions relevant to this proceeding, the Commission adopts the Commission's Findings of Fact and Opinion in docket UM 381, Order No. 93-1850, at pages 4-6, and the Commission's Findings and Decisions in dockets CP 1, CP 14, and CP 15, Order No. 96-021 at pages 6 – 21, entered pursuant to ORS 759.050(2)(a)(A) - (C). The Commission takes official notice of the record in dockets UM 381, CP 1, CP 14, and CP 15.<sup>3</sup> Based on a review of those findings, as well as information contained in the application, the Commission concludes that it is in the public interest to grant the application of AT&T to provide local exchange telecommunications services as a competitive telecommunications provider in the exchanges of the telecommunications utilities and cooperative corporations listed in Appendices A and B.

This finding will have no bearing on any determination the Commission may be called upon to make under Sections 251 or 252 of the Act (47 USC § 251, 252) with regard to the telecommunications utilities or cooperative corporations in this docket.

## **Competitive Zones**

The local exchanges of the telecommunications utilities listed in Appendix A and those of the cooperative corporations listed in Appendix B are designated as competitive zones.

## **Pricing Flexibility**

Cooperative telephone companies are generally not regulated by the Commission for local exchange services, and therefore already have pricing flexibility for local exchange service.

Each of the telecommunications utilities listed in Appendix A is exempt under ORS 759.040 from the provisions of ORS 759.180 to 759.190. This order has no effect on any ORS 759.040 exemption of any of those telecommunications utilities. If, however, one of those telecommunications utilities loses its ORS 759.040 exemption for any reason, it would become eligible for an exemption under ORS 759.050(5)(a) to (d). Accordingly, this order

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<sup>3</sup> Under OAR 860-014-0050(2), a party may object to facts noticed within 15 days of notification that official notice has been taken. The objecting party may explain or rebut the noticed facts.



addresses pricing flexibility for both intraexchange dedicated transmission service and intraexchange, switched telecommunications service.

In Order No. 93-1850, docket UM 381, the Commission granted pricing flexibility for dedicated transmission service at the time the Commission granted the certificate of authority. Applicant seeks authority to provide intraexchange dedicated transmission service. Accordingly, the telecommunications utilities listed in Appendix A automatically will be granted pricing flexibility for dedicated transmission service in their respective exchanges if they lose their ORS 759.040 exemption.

With regard to the general factual conclusions relevant to this proceeding and intraexchange, switched telecommunications service, the Commission adopts the Commission's Findings and Decisions in dockets CP 1, CP 14, and CP 15, Order No. 96-021 at pages 82 and 83, entered pursuant to ORS 759.050(5)(a) to (d), are adopted. If and when a telecommunications utility listed in Appendix A loses its ORS 759.040 exemption, that telecommunications utility will gain pricing flexibility on an exchange-by-exchange basis under ORS 759.050(5) if:

1. Applicant, or an authorized CLEC, has received a certificate of authority to provide local exchange service;
2. The telecommunications utility files a tariff that satisfies the Commission's requirements regarding the provision of interim number portability, as set forth in Order No. 96-021, and the Commission approves the tariff.
3. Staff notifies the Commission that a mutual exchange of traffic exists between the telecommunications utility and an authorized CLEC, including but not limited to, Applicant. If Staff previously provided the required notice regarding an exchange, no additional notice is required for that exchange.
  - (a) As used in paragraph 3 above, "mutual exchange of traffic" means a mutual exchange of traffic between the telecommunications utility and the CLEC within the telecommunications utility's exchange.
  - (b) As used in paragraph 3 above, for a CLEC who is a reseller (i.e., an CLEC does not use its own lines or switches to provide the particular service at issue), a "mutual exchange of traffic" exists when the CLEC orders and receives one service, at a wholesale rate, from the telecommunications utility for resale pursuant to a certificate granted under ORS 759.050.

**ORDER**

IT IS ORDERED that:

1. The application of AT&T Communications of the Pacific Northwest, Inc., to provide the local exchange telecommunications service described in the application is in the public interest and is granted with the conditions described in this order.
2. Applicant is designated as a competitive telecommunications provider for intraexchange service in the local exchanges of the telecommunications utilities listed in Appendix A and those of the cooperative corporations listed in Appendix B.
3. The local exchanges of the telecommunications utilities listed in Appendix A and those of the cooperative corporations listed in Appendix B are designated as competitive zones.
4. Any obligation regarding interconnection between Applicant and the telecommunications utilities listed in Appendix A or the cooperative corporations listed in Appendix B shall be governed by the provisions of the Telecommunications Act of 1996 (the Act), including but not limited to Sections 251 and 252 of the Act (47 USC §§ 251, 252), as well as the applicable rules and regulations of the FCC and this Commission implementing the Act. Unless otherwise addressed by an applicable interconnection agreement, Order No. 96-021, as otherwise modified by this Commission, will govern the interconnection obligations between such parties for the provision of switched local services.
5. No finding contained in this order shall have any bearing on any determination the Commission may be called upon to make under Section 251(f) of the Act (47 USC § 251(f)) with regard to the telecommunications utilities in Appendix A or the cooperative corporations listed in Appendix B.
6. Each of the telecommunications utilities listed in Appendix A is currently exempt under ORS 759.040 from the provisions of ORS 759.180 to 759.190. If any telecommunications utility listed in Appendix A loses its ORS 759.040 exemption, it shall receive pricing flexibility for dedicated transmission service automatically. With regard to intraexchange, switched telecommunications service, if any telecommunications utility listed in Appendix A loses its ORS 759.040 exemption it shall receive pricing flexibility on an exchange-by-exchange basis as set forth in this order.

7. Pursuant to ORS 759.050(2)(c), applicant shall comply with Commission imposed universal service requirements as a condition of authority to provide local exchange service.

Made, entered, and effective \_\_\_\_\_.

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**Ron Eachus**  
Chairman

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**Roger Hamilton**  
Commissioner

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**Joan H. Smith**  
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to ORS 756.580.

APPENDIX A

CP 687

TELECOMMUNICATIONS UTILITIES WHOSE EXCHANGES ARE  
ENCOMPASSED BY THE APPLICATION

Asotin Telephone Company  
Flora-Troy

Cascade Utilities, Inc.  
Ash Valley  
Corbett  
Eagle Creek  
Elkton  
Estacada  
Haines  
Medical Springs  
Scottsburg

Citizens Telecommunications Company of Oregon  
Azalea  
Canyonville  
Cave Junction  
Days Creek  
Glendale  
Myrtle Creek  
O'Brien  
Riddle  
Selma  
Wolf Creek

Eagle Telephone System, Inc.  
Richland

Helix Telephone Company  
Helix  
Meacham

Home Telephone Company  
Condon

Humboldt Telephone Company  
Quinn

Malheur Home Telephone Company  
Nyssa  
Ontario  
Oregon-Slope  
Vale

Midvale Telephone Exchange  
Harper  
Juntura

Monroe Telephone Company  
Monroe

Mt. Angel Telephone Company  
Mt. Angel

Nehalem Telephone & Telegraph Co.  
Nehalem

North-State Telephone Company  
Dufur

Oregon Telephone Corporation  
Bates  
Dayville  
Hereford-Unity  
Mt. Vernon  
Prairie City

Oregon-Idaho Utilities, Inc.

Adrian  
Jordon Valley  
Ridgeview

People's Telephone Company

Lyons

Pine Telephone System, Inc.

Granite  
Halfway

Roome Telecommunications, Inc.

Halsey

Trans-Cascade Telephone Company

Antelope

APPENDIX B

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COOPERATIVE CORPORATIONS WHOSE EXCHANGES ARE  
ENCOMPASSED BY THE APPLICATION

Canby Telephone Association  
Canby

Clear Creek Mutual Telephone  
Redland

Colton Telephone Company  
Colton

Gervais Telephone Company  
Gervais

Molalla Telephone Company  
Molalla

Monitor Cooperative Telephone Co.  
Monitor

Pioneer Telephone Cooperative  
Alsea  
Bellfountain  
Blodgett  
Chitwood  
Deadwood  
Harlan  
Horton  
Lobster Valley  
Philomath

South Beach  
Summit  
Tidewater  
Triangle Lake  
Waldport  
Yachats

APPENDIX B  
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Scio Mutual Telephone Association  
Scio

St. Paul Cooperative Telephone Association  
St. Paul

Stayton Cooperative Telephone Co.  
Stayton



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APPENDIX A  
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