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BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

CP 957

In the Matter of the Application of	)	
NORCOM, INC., dba NORWEGIAN	)	ORDER
TELECOMMUNICATIONS, for Authority to	)	
Provide Telecommunications Service in Oregon as	)	
a Competitive Provider.	)	

DISPOSITION: APPLICATION GRANTED

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

**INTRODUCTION**

Norcom, Inc. (Applicant) filed its application on June 25, 2001. Applicant requests authority to provide interexchange telecommunications service statewide in Oregon as a competitive provider.

The Commission served notice of the application on the Commission's telecommunications mailing list on July 12, 2001. The Commission received a protest from Norcom Agency, Inc. (Protestant). The protest was based on the similarity of the business names of the two companies. Protestant requested a hearing.

On September 4, 2001, Applicant filed an amended application in which it adopted the Assumed Business Name of Norwegian Telecommunications. On September 28, 2001, Protestant filed a letter in which it stated that it desired to proceed with a hearing. A hearing was scheduled for October 19, 2001.

On October 4, 2001, Applicant filed a motion in the form of a letter requesting that the protest be dismissed and the hearing canceled. Applicant stated that Protestant is a distributor of telecommunications equipment and is not regulated by the Commission. Applicant expressed concerns whether the Commission is the appropriate forum for resolution of a name dispute. The hearing was canceled in order to provide more time to resolve these issues and to give the Protestant adequate time to respond to the motion.

On November 2, 2001, Applicant filed a formal motion to dismiss the protest of Norcom Agency, Inc. and its request for a hearing, and to grant Norcom, Inc. dba

Norwegian Telecommunications' application. The motion to dismiss was denied and a hearing was scheduled for January 11, 2002.

Lowell Bergen, an Administrative Law Judge for the Commission, presided over the hearing. EllenAnn G. Sands represented Applicant, Wayne Shipp represented Protestant, and Michael Weirich, Assistant Attorney General, represented Commission Staff. Ms. Sands and Mr. Shipp participated by telephone. At the end of the hearing, the Administrative Law Judge requested that Applicant investigate several matters raised by Protestant. He requested that Applicant try to resolve difficulties testified to by Protestant, and report to the Administrative Law Judge and the other parties Applicant's success in resolving the problems. The problems related primarily to confusion over calls that were intended for Applicant but received by Protestant.

On January 22, 2002, Applicant reported to the Administrative Law Judge that it had taken several actions in response to Protestant's concerns. Applicant discussed the actions with Protestant, who agreed that Applicant's actions would resolve number confusion problems.

### **FINDINGS OF FACT**

Based on the application and the Commission's records, the Commission makes the following findings of fact:

#### **The Proposed Operation**

The Applicant will provide intrastate, interexchange, switched telecommunications service (toll) statewide in Oregon. Applicant will resell the services of other certified carriers. Applicant will not operate as a facilities based carrier.

Operator services are part of switched telecommunications service. Applicant will not directly provide operator services as defined in OAR 860-032-0001. Applicant will not be an "operator services provider" as defined in ORS 759.690(1)(d). Commission rule OAR 860-032-0007 and Oregon statute ORS 759.690 establish conditions regarding provision of operator services.

### **OPINION**

#### **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 tele- communications 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 . . . 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 the 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.

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 certificate holder fails to comply with the terms and conditions of the certificate.

### **Resolution**

**Existence of Alternatives.** AT&T, WorldCom, Sprint Communications Company, Qwest Corporation, and others provide toll and operator services in the service area requested by the Applicant.

**Suitability of Alternatives.** Applicant's customers or those proposed to become customers have reasonably suitable alternatives to Applicant's services. Subscribers to Applicant's services can buy comparable services at comparable rates from other vendors.

**Barriers to Entry.** The level of competition in the market shows that both economic and regulatory barriers to entry are relatively low.

**Concerns Raised by Protestant.** Applicant has worked to resolve problems caused by the similarity between its name and Protestant's name and the confusion that resulted in Protestant receiving calls intended for Applicant. Its efforts appear to be effective, and are sufficient to resolve concerns raised by Protestant.

### **CONDITIONS OF THE CERTIFICATE**

There are several conditions listed in the application. Oregon Administrative Rules relating to certificates of authority are generally included in OAR chapter 860, division 032. Condition applicable to certificate holders include, but are not limited to the following: OAR 860-032-0007, 860-032-0008, 860-032-0011, 860-032-0012, 860-032-0013, 860-032-0015, 860-032-0045, 860-032-0060, 860-032-0090, and 860-032-0095. The conditions listed in the application and those contained in Oregon Administrative Rules are adopted and made conditions of this certificate of authority. A condition of this certificate of authority is that Applicant shall comply with applicable laws, Commission rules, and Commission orders related to provision of telecommunications service in Oregon.

1. Applicant shall not take any action that impairs the ability of other certified telecommunications services providers to meet service standards specified by the Commission.
2. Applicant shall comply with all conditions listed in the application.
3. Applicant shall pay an annual fee to the Public Utility Commission of Oregon pursuant to ORS 756.310, 756.320, and 756.350 and OARs 860-032-0008, 860-032-0080, 860-032-0090, and 860-032-0095. By November 1 of each year, the Commission will set the fee level that is to be based on gross retail intrastate revenues for the following calendar year. The minimum annual fee is \$100. Applicant is required to pay the fee for the preceding calendar year by April 1.
4. The certificate holder shall pay a quarterly amount to the Oregon Universal Service Fund based on a Commission approved surcharge percentage assessed on all retail telecommunications services sold in Oregon pursuant to ORS 759.425(4).
5. 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 860-032-0007.

**CONCLUSIONS**

Applicant has met the requirements for a certificate to provide telecommunications service as a competitive provider. The application should be granted.

**ORDER**

IT IS ORDERED that:

1. The application of Norcom, Inc. dba Norwegian Telecommunications for authority to provide interexchange switched (toll) telecommunications service is granted.
2. Applicant is designated as a competitive telecommunications provider.
3. Applicant may provide authorized services statewide in Oregon.
4. Applicant shall comply with conditions of the certificate.

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

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**Roy Hemmingway**  
Chairman

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**Lee Beyer**  
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 pursuant to applicable law.