

This is an electronic copy. Attachments may not appear.
BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

CP 1040

In the Matter of)
)
CLEAR CREEK MUTUAL TELEPHONE) ORDER
COMPANY dba CLEAR CREEK TELEPHONE &)
TELEVISION)
)
Application for a Certificate of Authority to Provide)
Telecommunications Service and Classification 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

Clear Creek Mutual Telephone Company dba Clear Creek Telephone & TeleVision (Applicant) filed an application for a certificate of authority to provide telecommunications service and classification as a competitive provider on March 1, 2002. 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 March 12, 2002. The Commission did not receive any protests.

FINDINGS OF FACT

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

The Proposed Operation

Applicant will provide intrastate, interexchange switched telecommunications service statewide in Oregon. Applicant did not request authority to provide non-switched, private line telecommunications service (i.e. dedicated transmission service). Applicant will operate strictly as a reseller of interexchange service. Applicant also did not request authority to construct its own facilities or to purchase unbundled network elements from other certified telecommunications providers. Applicant may purchase finished services for resale only from certified telecommunications providers.

Operator services are part of switched transmission service. Applicant will 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). A statement of compliance with Commission rules and with state law, including ORS 759.690 and OAR 860-032-0005 (regarding operator services), was included in the application.

Applicant is a telecommunications cooperative and the incumbent telecommunications provider in the Redland exchange. Pursuant to ORS 759.025, applicant currently has authority as a cooperative corporation to provide switched and private line local exchange service in its own exchange of Redland. *See* Order No. 88-625, docket UM 196.

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

RESOLUTION

Existence of Alternatives

AT&T, MCI WorldCom, Sprint Communications Company, Qwest Corporation, Verizon Northwest Inc., and others provide switched and non-switched private line, 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 into the market are relatively low.

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. Conditions 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 and with laws, Commission rules, and Commission orders related to provision of telecommunications service in Oregon.
3. Applicant shall pay an annual fee to the Commission pursuant to ORS 756.310, 756.320, and 756.350 and OAR 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. 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.
5. 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).

Applicant, Clear Creek Mutual Telephone Company, is a cooperative corporation, but will operate as a competitive provider of interexchange service statewide. Applicant is required to comply with applicable FCC rules regarding separate books of account. Applicable rules include the FCC rules in 47 C.F.R. §64.190 through §64.1903. This Commission recognizes that the FCC rules pertain to interstate telecommunications service. We also recognize that our jurisdiction is limited to intrastate service. However, as a practical business reality, Applicant, like most interexchange carriers, will provide both interstate and intrastate interexchange service

using the same business operation, personnel, and facilities. This is so because customers make both intrastate and interstate calls. Therefore, the following are also conditions of this certificate of authority:

6. Applicant shall keep separate accounts for its cooperative services provided in its Redland exchange and its competitive provider services. Applicant shall comply with OAR 860-034-0740, regarding allocation of costs and revenues.
7. For interexchange telecommunications service Applicant shall operate strictly as a reseller of other certified carriers' interexchange interstate and intrastate service.
8. Applicant shall provide interexchange interstate and intrastate telecommunications service subject to and in compliance with FCC rules in 47 C.F.R. §64.1901 through §64.1903, as adopted by the FCC in the Second Order on Reconsideration and Memorandum Opinion and Order, CC Docket No. 96-149 and CC Docket No. 96-61, released on June 30, 1999.
9. In recognition that Applicant is the incumbent local exchange carrier in the Redland exchange, and the potential for Applicant to favor itself over other competitive providers of interexchange service, Applicant shall comply with the following conditions. Applicant shall not have arrangements or practices that discriminate in favor of itself, or provide preferential treatment for itself, over other competitive interexchange carriers in regards to rates, terms, or conditions for:
 - a. The provision of access to Clear Creek Mutual Telephone Company's local exchange network;
 - b. The provision of customer billing, collection, verification and credit card information, and related services; and
 - c. The provision of other products and services such as shared or joint use of facilities and equipment, customer dialing codes, maintenance, testing and repair services, market promotions and advertised services, network information, and customer and market information.

These conditions will allow the Commission to readily detect and resolve any competitive issues that may arise with applicant's provision of interexchange toll services in its Redland telephone exchange.

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 Clear Creek Mutual Telephone Company dba Clear Creek Telephone & TeleVision for authority to provide interexchange switched service as a reseller 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 _____.

John Savage
Director
Utility Program

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 ORS 756.580.