

This is an electronic copy. Attachments may not appear.

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

CP 1094
CP 937

In the Matter of)	
)	
GE BUSINESS PRODUCTIVITY)	ORDER
SOLUTIONS, INC.)	
)	
Application for a Certificate of Authority to)	
Provide Telecommunications Service in Oregon)	
and Classification as a Competitive Provider.)	

DISPOSITION: DOCKET CP 1094, APPLICATION GRANTED;
DOCKET CP 937, ORDER NO. 01-495, CERTIFICATE OF
AUTHORITY CANCELED.

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

The Application

On August 5, 2002, GE Business Productivity Solutions, Inc., dba GE Capital Communication Services (Applicant or GEBPS) filed an application for certification to provide telecommunications service in Oregon as a competitive provider. Applicant currently has a certificate to provide telecommunications service in Oregon. *See* Order No. 01-495, docket CP 937. This application before us now requests the same authority plus authority to provide additional service. Therefore, this certificate of authority replaces the current one, and the Commission will cancel the authority granted by Order No. 01-495.

Applicant proposes to provide intraexchange (local exchange) switched service (i.e., local dial tone) and non-switched, private line service (dedicated transmission service) within all exchanges of the telecommunications utilities and cooperative corporations listed in Appendices A and B to this order. Applicant will operate as a facilities-based provider and as a reseller of intraexchange service.

Applicant also proposes to provide interexchange switched service (toll) and private line (dedicated transmission service) statewide in Oregon. Applicant will operate as a facilities-based provider and as a reseller of interexchange service. Applicant may construct its own facilities and may purchase unbundled network elements and finished services for resale from other certified carriers for interexchange and intraexchange service. Applicant will directly provide operator services as defined in OAR 860-032-0001 and will be an 'operator service provider' as defined in ORS 759.690(1)(d).

Applicant also requests authority to provide shared telecommunications service (STS) to ten locations listed in Appendix C to this order.

Background to Application

Applicant or its affiliates have previously been granted certificates of authority. GE Capital Communication Services Corporation (GECCS) was granted authority to provide interexchange service in Oregon by Order No. 93-1332, docket UM 597. That order was canceled by Order No. 01-748, August 22, 2001. GE Capital Telemanagement Services Corporation (GECTS), a subsidiary of GECCS, was granted authority to provide interexchange service in Oregon by Order No. 01-495, docket CP 937, June 19, 2001. GECCS transferred its customer base to GECTS, and GECTS changed its name to GE Business Productivity Solutions, Inc., (GEBPS), the current Applicant. As stated earlier, the Commission will cancel Order No. 01-495.

Applicant, GEBPS, is in the process of acquiring certain assets and the customer base of Advanced TelCom, Inc., dba Advanced TelCom Group, (ATG) and ATG's subsidiary Shared Communications Services, Inc., (SCS) as part of ATG/SCS bankruptcy proceedings. The ten STS locations listed in Appendix C are included in the assets and customer base Applicant will acquire. ATG and SCS hold several certificates of authority which authorize them to provide interexchange, intraexchange, or shared telecommunications service in Oregon. Applicant states that after it is granted authority to provide service by this order and the asset transfer from ATG/SCS to GEBPS is completed, then ATG/SCS will cease providing service in Oregon. GEBPS will then provide the same telecommunications services to ATG/SCS's customers, and, hopefully, the change in provider will be relatively seamless to the customers. Applicant committed to Commission staff that it will notify the Commission when the asset transfer is completed. We expect such notification, and upon receipt we will cancel all certificates of authority now held by ATG and SCS.

The Commission served notice of the application on August 12, 2002. No protests or requests to be made parties of the proceeding were filed. On September 19, 2002, the Commission Staff distributed a proposed order for review by the parties. No party filed exceptions.

Based on the record in this matter, the Commission makes the following:

FINDINGS AND CONCLUSIONS

Applicable Law

Three statutory provisions apply to this application. First, ORS 759.020 governs Applicant's request to provide telecommunications as a competitive provider. Under ORS 759.020(5), the Commission shall classify Applicant as a competitive provider if Applicant demonstrates that its services are subject to competition, or that its customers or those proposed to become customers have reasonably available alternatives. In making this determination, the Commission must consider the extent to which services are available from alternative providers that are functionally equivalent or substitutable at comparable rates, terms and conditions, existing economic or regulatory barriers to entry, and any other factors deemed relevant.

Second, ORS 759.050 governs Applicant's request to provide local exchange (intraexchange) telecommunications service. Under ORS 759.050(2)(a), the Commission may authorize Applicant to provide local exchange service within the local exchange of a telecommunications utility if the Commission determines such authorization would be in the public interest. In making this determination, the Commission must consider the extent to which services are available from alternative providers, the effect on rates for local exchange service customers, the effect on competition and availability of innovative telecommunications service in the requested service area, and any other facts the Commission considers relevant. *See* Order No. 96-021.

Third, under ORS 759.030(10) if the Commission finds that customers of a shared telecommunications service (STS) provider have no alternative access to local exchange telecommunications service, the Commission may, after notice and investigation, require the STS provider to make alternative facilities or conduit space available on reasonable terms, conditions, and prices.

Designation as a Competitive Provider

Applicant has met the requirements for classification as a competitive telecommunications service provider. Applicant's customers or those proposed to become customers have reasonably available alternatives. The incumbent telecommunications utilities and cooperative corporations listed in Appendices A and B provide the same or similar local exchange services in the local service area requested by Applicant. AT&T, WorldCom, Sprint Communications, Qwest Corporation, Verizon Northwest Inc., and others provide interexchange telecommunications service in the 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.

Public Interest

With regard to the general factual conclusions relevant to this proceeding, the Commission adopts the Commission's findings in Order No. 93-1850 and Order No. 96-021. 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 GE Business Productivity Solutions, Inc., to provide local exchange telecommunications service as a competitive telecommunications provider in exchanges of the telecommunications utilities and cooperative corporations listed in Appendices A and B, as described in the application. Also, it is in the public interest to grant statewide interexchange authority as described in the application. Further, it is in the public interest to grant authority as an STS provider to the locations listed in Appendix C. This finding will have no bearing on any determination the Commission may be called upon to make under sections 251 or 252 of the Telecommunications Act of 1996 (47 USC § 251, 252) with regard to the telecommunications utilities and cooperative corporations in this docket.

Conditions on the Certificate

In Order No. 96-021, the Commission interpreted ORS 759.050 and established conditions applicable to competitive local exchange carriers (CLECs). Also, other conditions are listed in administrative rules, including among others OAR 860-032-0007. Applicant, as a competitive provider, shall comply with the conditions adopted in Order No. 96-021, as well as all applicable laws, Commission rules, and orders related to provision of telecommunications service in Oregon.

Per ORS 759.050(2)(c) and Order No. 96-021, Applicant shall comply with the following conditions.

1. Applicant shall terminate all intrastate traffic originating on the networks of other telecommunications 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.
3. Applicant shall offer E-911 service. Applicant has primary responsibility to work with the E-911 agencies to ensure that all users of its services have access to the emergency system. Applicant will deliver or arrange to have delivered to the correct 911 Controlling Office its customers' Automatic Number Identification telephone numbers so the lead 911

telecommunications service provider can deliver the 911 call to the correct Public Safety Answering Point. Applicant shall work with each 911 district and lead 911 telecommunications service provider to develop 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 shall provide the lead 911 telecommunications service provider with daily updates of new customers, moves, and changes with the correct ESN for each.

4. 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.
5. When Applicant is assigned one or more NXX codes, Applicant shall limit each of its NXX codes to a single local exchange or rate center, whichever is larger, and shall establish a toll rate center in each exchange or rate center proximate to that established by the telecommunications utility or cooperative corporation serving the exchange or rate center.
6. Applicant shall pay an annual fee to the Commission pursuant to ORS 756.310 and 756.320 and OAR 860-032-0095. The minimum annual fee is \$100. Applicant is required to pay the fee for the preceding calendar year by April 1.
7. Pursuant to Oregon Laws 1987, chapter 290, sections 2-8, and to OAR chapter 860, division 033, Applicant shall ensure that the Residential Service Protection Fund surcharge is remitted to the Commission. This surcharge is assessed against each retail subscriber at a rate that is set annually by the Commission.

Applicant, GE Business Productivity Solutions, Inc., will provide local exchange service as a competitive provider, i.e., as a CLEC, and also will be a STS provider at several locations. Therefore, the Commission adopts the conditions which were placed on Shared Telecommunications Services, Inc., by Order No. 97-423, docket CP 351. The provision of STS to a user group is done under separate conditions and separate interconnection arrangements from those used for providing service to the public at large. Therefore, the following conditions apply to Applicant's operations as a STS provider.

8. Applicant shall limit its operations as a STS provider to only those geographic areas and user groups for which it has a certificate of authority from the Commission as a STS provider.

9. Applicant shall obtain services from local exchange carriers (LECs) for its STS operations by means of trunks which are separate from trunks or other facilities which Applicant uses to interconnect its CLEC operations with the LEC. Nothing in this paragraph shall require applicant to obtain any services from any LEC.
10. Applicant will assign a NXX code that it obtains for its CLEC operations only to those customers that it serves in its capacity as a CLEC. Applicant will assign telephone numbers it obtains from a LEC for its STS operations only to customers that applicant serves in its capacity as a STS provider.
11. Applicant will separately account for and maintain records reflecting its distinct CLEC and STS operations for the purpose of identifying all intrastate terminating carrier common line switched access traffic for which Applicant has Oregon Customer Access Fund (OCAF) responsibility.

Competitive Zones

All exchanges of the telecommunications utilities and cooperative corporations listed in Appendices A and B to this order are designated competitive zones pursuant to ORS 759.050(2)(b).

Pricing Flexibility

Dedicated Transmission Service

The telecommunications utilities listed in Appendix A are granted pricing flexibility for dedicated transmission service in their respective exchanges by this order. *See* Order No. 93-1850, docket UM 381.

Local Exchange Service

Cooperative telephone companies are generally not regulated by the Commission for local exchange services, and therefore already have pricing flexibility for local exchange service. Any exempt telecommunications utility under ORS 759.040 listed in Appendix A has pricing flexibility for local exchange service. Moreover, Qwest and Verizon also have pricing flexibility for local exchange service. *See* Order No. 96-277 and Order No. 96-278. Other telecommunications utilities listed in Appendix A will gain pricing flexibility for intraexchange, switched service on an exchange-by-exchange basis by meeting the requirements set forth in ORS 759.050(5) and Order No. 96-021.

ORDER

IT IS ORDERED that:

1. The application of GE Business Productivity Solutions, Inc., dba GE Capital Communication Services, is granted with 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 and cooperative corporations listed in Appendices A and B. Also, Applicant is designated as a competitive telecommunications provider for interexchange service statewide in Oregon. In addition, Applicant is designated as a shared telecommunications provider for the locations listed in Appendix C.
3. The local exchanges of the telecommunications utilities and cooperative corporations listed in Appendices A and B are designated as competitive zones.
4. Any obligation regarding interconnection between Applicant and the telecommunications utilities and cooperative corporations listed in Appendices A and B shall be governed by the provisions of the Telecommunications Act of 1996 (the Act). Commission Order No. 96-021 will govern the interconnection obligations between such parties for the provision of switched local services, unless otherwise addressed by an interconnection agreement or subsequent Commission order.
5. No finding contained in this order shall have any bearing on any determination the Commission may be called upon to make under sections 251 or 252 of the Act with regard to the telecommunications utilities and cooperative corporations listed in the appendices to this order.
6. The telecommunications utilities listed in Appendix A shall receive pricing flexibility on an exchange-by-exchange basis as set forth in this order.

7. The authority granted to GE Capital Telemangement Services Corp., now known as GE Business Productivity Solutions, Inc., by Order No. 01-495, docket CP 937, is canceled.

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 to a court pursuant to applicable law.

APPENDIX A

CP 1094

EXCHANGES ENCOMPASSED BY THE APPLICATION:

ALL EXCHANGES OF THE TELECOMMUNICATIONS
UTILITIES LISTED BELOW

Telecommunications Utilities Not Exempt Pursuant to ORS 759.040

CenturyTel of Eastern Oregon, Inc.
CenturyTel of Oregon, Inc.
Qwest Corporation
United Telephone Company of the Northwest dba Sprint
Verizon Northwest Inc.

Telecommunications Utilities Exempt Pursuant to ORS 759.040

Asotin Telephone Company
Cascade Utilities, Inc.
Citizens Telecommunications Company of Oregon
Eagle Telephone System, Inc.
Helix Telephone Company
Home Telephone Company
Malheur Home Telephone Company
Midvale Telephone Exchange
Monroe Telephone Company
Mt. Angel Telephone Company
Nehalem Telephone & Telegraph Co.
North-State Telephone Company
Oregon Telephone Corporation
Oregon-Idaho Utilities, Inc.
People's Telephone Company
Pine Telephone System, Inc.
Roome Telecommunications, Inc.
Trans-Cascade Telephone Company

APPENDIX B

CP 1094

EXCHANGES ENCOMPASSED BY THE APPLICATION:

ALL EXCHANGES OF THE COOPERATIVE
CORPORATIONS LISTED BELOW

Beaver Creek Cooperative Telephone Company
Canby Telephone Association
Clear Creek Mutual Telephone
Colton Telephone Company
Gervais Telephone Company
Molalla Telephone Company
Monitor Cooperative Telephone Co.
Pioneer Telephone Cooperative
Scio Mutual Telephone Association
St. Paul Cooperative Telephone Association
Stayton Cooperative Telephone Co.

APPENDIX C

CP 1094

SHARED TELECOMMUNICATIONS SERVICE
SITES ENCOMPASSED BY THE APPLICATION:

Note: The Commission granted certificates of authority to Shared Communications Services, Inc., to serve the following apartment complexes, as a shared telecommunications service provider, by the orders shown below.

<u>Apartment Complex and Location</u>	<u>Order No., Docket, Date</u>
Centerpointe Apartments 15290 SW Millikan Blvd. Beaverton, Oregon	No. 96-157 UM 337(1) June 18, 1996
The Colonnades Apartments 2911 NW Overlook Dr. Hillsboro, Oregon	No. 96-157 UM 337(2) June 18, 1996
The Verandas at Hazel Grove 2882 NW Overlook Dr. Hillsboro, Oregon	No. 96-157 UM 337(2) June 18, 1996
Rock Creek Landing 3009 NW Overlook Dr. Hillsboro, Oregon	No. 96-157 UM 337(2) June 18, 1996
Murray North Townhouses 15035 Millikan Way Beaverton, Oregon	No. 97-059 CP 265 February 18, 1997
Murray North Garden Apartments 15021 Millikan Way Beaverton, Oregon	No. 97-059 CP 265 February 18, 1997

APPENDIX C

CP 1094

SHARED TELECOMMUNICATIONS SERVICE
SITES ENCOMPASSED BY THE APPLICATION:

Note: The Commission granted certificates of authority to Shared Communications Services, Inc., to serve the following apartment complexes, as a shared telecommunications service provider, by the orders shown below.

<u>Apartment Complex and Location</u>	<u>Order No., Docket, Date</u>
Tanasbourne IV 2500 NW Overlook Dr. Hillsboro, Oregon	No. 97-142 CP 274 April 14, 1997
Thorncroft Farms Apartments 2120 NW Thorncroft Dr. Hillsboro, Oregon	No. 98-407 CP 512 October 1, 1998
Avalon Palladia 2615 NW 194 th Terrace Hillsboro, Oregon	No. 99-699 CP 721 November 15, 1999
Chinook Way 21989 NE Chinook Way Fairview Village, Oregon	No. 99-699 CP 721 November 15, 1999