

ORDER NO. 03-546

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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

CP 1174

In the Matter of	)	
	)	
COLTON TELEPHONE COMPANY dba	)	ORDER
COLTON TELEPHONE & CABLE TV	)	
	)	
Application for a Certificate of Authority to Provide	)	
Telecommunications Service in Oregon as a	)	
Competitive Provider.	)	

DISPOSITION: GRANTED

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

**INTRODUCTION**

Colton Telephone Company dba Colton Telephone & Cable TV (Applicant) filed the application on August 13, 2003. 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 August 13, 2003. The Commission did not receive any protests.

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

**FINDINGS OF FACT**

**The Proposed Operation**

Applicant will provide intrastate, interexchange, switched telecommunications service (toll) statewide in Oregon. Applicant did not request authority to provide non-switched, private line service (i.e., dedicated transmission service). Applicant will resell the services of

other certified carriers. Applicant did not indicate that it would operate as a facilities based carrier.

Operator services are part of switched transmission service. Applicant will 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.

Applicant is a telecommunications cooperative and the incumbent telecommunications provider in the Colton 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 Colton. See Order No. 88-135, docket UM 173.

## OPINION

### Applicable Law

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.

OAR 860-032-0015 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 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.

### 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: OARs 860-032-0007, 860-032-0008, 860-032-0011, 860-032-0012, 860-032-0013, 860-032-0015, 860-032-0020, 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 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.
4. Applicant 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.

Applicant, Colton Telephone Company dba Colton Telephone & Cable TV, 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:

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6. Applicant shall keep separate accounts for its cooperative services and its competitive provider services provided in its Colton exchange. 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 Colton exchange, and the potential of 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 Colton 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.

**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 Colton Telephone Company dba Colton Telephone & Cable TV 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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Lee Sparling  
Acting 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 applicable law.