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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

CP 1193
UM 67
UM 1017
UM 873

In the Matter of)	
)	
NEHALEM TELECOMMUNICATIONS, INC.)	
and)	
NEHALEM TELEPHONE & TELEGRAPH CO.)	ORDER
)	
Application to Transfer Certificates of Authority)	
to Provide Telecommunications Service in)	
Oregon. (CP 1193, UM 67))	
)	
In the Matter of the Investigation Into Expansion)	
of the Oregon Universal Service Fund to Include)	
the Service Areas of Rural Telecommunications)	
Carriers. (UM 1017))	
)	
In the Matter of Applications to be Designated)	
Eligible Telecommunications Carriers in the State)	
of Oregon. (UM 873))	

DISPOSITION: CP 1193, APPLICATION GRANTED;
UM 67, ORDER NO. 86-1192, CERTIFICATE
OF AUTHORITY* TRANSFERRED;
UM 1017, MONTHLY OUSF SUPPORT TRANSFERRED
FROM NEHALEM TELEPHONE AND TELEGRAPH TO
NEHALEM TELECOMMUNICATIONS; and
UM 873, NEHALEM TELECOMMUNICATIONS
DESIGNATED AS ELIGIBLE RURAL
TELECOMMUNICATIONS CARRIER.

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

The Application

On November 12, 2003, Nehalem Telecommunications, Inc., dba Nehalem Tel & Tel and dba NTT, (Nehalem Telecommunications or Applicant) and Nehalem Telephone & Telegraph Co. (NT&T) filed a joint application to transfer authority to provide telecommunications service in Oregon. The application requests to transfer from NT&T to Nehalem Telecommunications the authority as a telecommunications utility granted to NT&T by Order No. 86-1192. The application also requested transfer of NT&T's authority as a competitive provider granted by Order No. 01-1099, docket CP 982. By letter dated December 18, 2003, the parties requested a hold be placed on the transfer of that competitive authority pending approval from the Federal Communications Commission.

The application was filed pursuant to OAR 860-032-0005. Nehalem Telecommunications is the transferee. NT&T is the transferor. Both entities together will be referred to as Joint Applicants.

NT&T is currently authorized as the telecommunications utility to provide intraexchange (local exchange) switched service (i.e., local dial tone) and non-switched, private line service (dedicated transmission service) within the Nehalem exchange. *See* Order No. 86-1192, docket UM 67. NT&T serves approximately 3300 access lines, and is considered a small telecommunications utility under ORS 759.040.

Like NT&T, Nehalem Telecommunications, the Applicant, will not directly provide operator services as defined in OAR 860-032-0001, but will be an 'operator service provider' as defined in ORS 759.690(1)(d).

Joint Applicants request January 1, 2004, as the effective date for transfer of the certificate of authority. Joint Applicants also requested that Nehalem Telecommunications be designated as an Eligible Telecommunications Carrier for purposes of the Oregon Universal Service Fund and the Federal Universal Service Fund.

Background

Applicant, Nehalem Telecommunications, is a subsidiary of Rural Telephone Company, Inc., which is headquartered in Glenns Ferry, Idaho. Rural Telephone provides local exchange service in several rural areas of Idaho, Nevada, and Washington. Rural Telephone now plans to expand into Oregon.

The Joint Applicants also applied to transfer NT&T's allocated territory, the Nehalem exchange, from NT&T to Nehalem Telecommunications. The transfer of allocated territory is being addressed separately in docket UA 102.

The Transferor, NT&T, is an affiliate of Nehalem Broadband LLC, which is a competitive provider with authority to provide intraexchange service in the Nehalem

exchange and interexchange service statewide in Oregon. *See* Order No. 03-547, docket CP 1173. Joint Applicants state that Nehalem Telecommunications is acquiring NT&T's entire membership in Nehalem Broadband. The authority of Nehalem Broadband is neither affected by nor transferred by this order.

The Joint Applicants stated in their application to transfer allocated territory, UA 102, that Nehalem Telecommunications will provide high quality, local exchange telecommunications service in the Nehalem exchange, and intends to maintain all services currently being offered by NT&T. They stated that no other entity provides local exchange telecommunications service in any part of the Nehalem exchange.

The Commission served notice of the application on November 19, 2003. No protests or requests to be made parties of the proceeding were filed. Based on the record in this matter, the Commission makes the following:

FINDINGS AND CONCLUSIONS

Applicable Law

ORS 759.020 governs Applicant's request to provide telecommunications service as a telecommunications utility. Under ORS 759.020(5), the Commission may classify Applicant as a telecommunications utility or 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.

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.

Unless exempt pursuant to ORS 759.040(5), the tariff requirements of ORS 759.175 and ORS 759.205 to 759.215 apply to Applicant.

Designation as a Telecommunications Utility

Applicant, Nehalem Telecommunications, has requested to be designated as a telecommunications utility for intraexchange service, as is the transferor, NT&T. Applicant will be subject to all tariff filing and other requirements previously applicable to NT&T.

Public Interest

The parent company of Applicant, Nehalem Telecommunications, is experienced in providing local exchange service. Applicant states that it will provide high quality local exchange telecommunications service in the Nehalem exchange, and that it intends to maintain all services currently being offered by NT&T. The transfer of the authority to provide intraexchange service as a telecommunications utility is not contrary to the public interest.

Because Applicant is designated as a telecommunications utility, it is in the public interest for Applicant to keep on file with the Commission, relevant, accurate tariffs of its services and an accurate map of its service territory. Further, it is in the public interest for Applicant to continue to maintain all services currently being offered by NT&T. In the future, Nehalem Telecommunications may petition to abandon a telecommunications service pursuant to OAR 860-032-0020.

Conditions on the Certificate

The conditions attendant on the certificate of authority held by the transferor, NT&T, Order No. 86-1192, are transferred to and applicable to this certificate of authority. Several conditions are listed in the application. Oregon Administrative Rules relating to small telecommunications utilities are generally, but not exclusively, located in OAR Chapter 860, Division 034. 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.

In addition, Applicant, Nehalem Telecommunications, 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 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 shall comply with universal service requirements as determined by the Commission.
5. 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.
6. 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 its local exchange beyond the EAS area for that exchange.
7. 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.
8. Applicant shall pay an annual fee to the Commission pursuant to ORS 756.310 and 756.320 and OAR 860-034-0095. The minimum annual fee is \$100. Applicant is required to pay the fee, for the preceding calendar year, by April 1.
9. 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.
10. Applicant, as transferee, shall be liable for all fees incurred and reports due by the transferor as of the effective date of this order.

11. Applicant shall not take any action that impairs the ability of other certified telecommunications services providers to meet service standards specified by the Commission.

**OREGON UNIVERSAL SERVICE FUND
UM 1017**

Nehalem Telecommunications requested to be designated as an Eligible Telecommunications Carrier (ETC) for the Oregon Universal Service Fund (OUSF). Nehalem Telephone & Telegraph Co. (NT&T) is currently designated as an ETC for the Nehalem exchange and has been authorized a monthly OUS support amount per basic telephone service line. *See* Order No. 03-595, docket UM 1017. That monthly support level will be transferred to Nehalem Telecommunications by this order.

**FEDERAL UNIVERSAL SERVICE FUND
UM 873**

On December 15, 2003, Nehalem Telecommunications applied for designation as an Eligible Telecommunications Carrier (ETC) for federal Universal Service Fund (federal USF) purposes. The application included an Affidavit Certifying Use of Universal Service Funds signed by Jim Martel, President of Nehalem Telecommunications, Inc. In September 2001 this Commission certified several rural telecommunications carriers, including NT&T, as eligible to receive federal USF support. *See* Order No. 01-819, docket UM 873. In September 2002 and September 2003 we recertified those rural telecommunications carriers, including NT&T, as eligible to continue receiving federal USF support. *See* Order Nos. 02-605 and 03-551. The study area for Nehalem Telecommunications will be identical to that for NT&T. We conclude that Nehalem Telecommunications, Inc., is qualified for designation as a telecommunications carrier eligible to receive federal universal service support.

ORDER

IT IS ORDERED that:

1. The joint application of Nehalem Telecommunications, Inc., dba Nehalem Tel & Tel and dba NTT, and Nehalem Telephone & Telegraph Co. to transfer the authority granted by Order No. 86-1192, docket UM 67, from Nehalem Telephone & Telegraph Co. to Nehalem Telecommunications, Inc., is granted. Applicant, Nehalem Telecommunications, Inc., is granted authority to provide intraexchange telecommunications service in the Nehalem exchange.
2. The transfer is effective January 1, 2004.

3. Nehalem Telecommunications, Inc., is designated as the new incumbent telecommunications utility for intraexchange service in the Nehalem exchange.
4. The authority granted to Nehalem Telephone & Telegraph Co. by Order No. 86-1192, docket UM 67, dated November 24, 1986, is cancelled. Nehalem Telephone & Telegraph Co. no longer has authority to operate in Oregon as a telecommunications utility.
5. Nehalem Telecommunications, Inc., shall file a revised map of the Nehalem exchange, with the name of the new utility, within 15 days of this order.
6. Nehalem Telecommunications, Inc., shall file a revised cover page for the current Nehalem Telephone & Telegraph Co. tariff, designating Nehalem Telecommunications, Inc., as the new utility, within 15 days of this order.
7. Nehalem Telecommunications, Inc., shall file an entire new tariff for its Oregon service territory within one year of this order.
8. Nehalem Telecommunications, Inc., shall file a concurrence in the Oregon Exchange Carrier Association (OECA) access tariff within 15 days of this order, and revised pages to the OECA access tariff specific to Nehalem Telecommunications, Inc., within one year of this order. Alternatively, rather than filing a concurrence, Nehalem Telecommunications, Inc., may file an entire new access charge tariff within 15 days of this order.
9. Nehalem Telecommunications, Inc., shall continue to provide all services currently provided by Nehalem Telephone & Telegraph Co., unless service is abandoned in accordance with OAR 860-032-0020.
10. Nehalem Telecommunications, Inc., shall comply with conditions of the certificate of authority.
11. Nehalem Telecommunications, Inc., is designated as an Eligible Telecommunications Carrier (ETC) for Oregon Universal Service Fund purposes. The monthly support level per basic telephone service line, as specified by Order No. 03-595, docket UM 1017, is transferred from Nehalem Telephone & Telegraph Co. to Nehalem Telecommunications, Inc.

12. Nehalem Telecommunications, Inc. is designated as an Eligible Telecommunications Carrier eligible to receive federal universal service support.
13. We certify that all federal high cost support (which includes high cost loop support, local switching support, high cost support received pursuant to the purchase of exchanges, high cost model support, and hold harmless support) will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended consistent with Section 254(e) of the Telecommunications Act of 1996.

Made, entered, and effective _____.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
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 applicable law.