

ORDER NO. 99-738

ENTERED DEC 3 1999

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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

CP 701

In the Matter of the Application of @LINK )  
NETWORKS, INC., for a Certificate of ) ORDER  
Authority to Provide Telecommunications Service )  
in Oregon 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.

**The Application**

On August 25 1999, @link Networks, Inc. (applicant) filed with the Commission an application for certification to provide telecommunications service in Oregon as a competitive provider. Applicant seeks authority to provide local exchange (intraexchange) telecommunications service in areas coextensive with the local exchanges of U S WEST Communications, Inc. (USWC), GTE Northwest Incorporated (GTE), CenturyTel of Oregon, Inc. (CenturyTel), and United Telephone Company of the Northwest dba Sprint (United). Applicant also seeks to provide interexchange telecommunications service statewide in Oregon.

The local exchanges of USWC encompassed by the application are listed in Appendix A to this order. The local exchanges of GTE encompassed by the application are listed in Appendix B. The local exchanges of CenturyTel encompassed by the application are listed in Appendix C. The local exchanges of United encompassed by the application are listed in Appendix D.

Applicant proposes to provide intraexchange (local exchange) non-switched private line service (dedicated transmission service). Applicant also proposes to provide interexchange non-switched (dedicated transmission service) only, statewide in Oregon. Applicant will not provide local switched (dial tone) service and applicant will not provide interexchange switched

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service (toll). Applicant proposes to purchase unbundled network elements to provide the described telecommunications service. Applicant does not propose to resell the services of other carriers or to construct its own facilities for provision of the above services.

Operator services are not part of dedicated transmission service. 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.

The Commission served notice of the application on the Commission's telecommunications mailing list on September 13, 1999. The Commission did not receive any protests. However, USWC, GTE, CenturyTel, and United will be considered parties to this proceeding.

On October 11, 1999, an Administrative Law Judge (ALJ) with the Commission issued a ruling that adopted procedures for processing this docket. The ALJ set forth a procedural schedule. On October 22, 1999, the Commission staff (Staff) distributed a proposed order for review by the parties. No exceptions to the proposed order were filed.

The Commission has reviewed the proposed order and the record in this matter. Based on a preponderance of the evidence, the Commission makes the following:

**FINDINGS AND CONCLUSIONS**

**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 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 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 there are reasonably available alternatives, the commission shall consider:

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- (a) The extent to which services are available from alternative providers in the relevant market.
- (b) The extent to which 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.

Applications to provide local exchange (intraexchange) telecommunications service are reviewed pursuant to ORS 759.050, the “competitive zone law.” Under ORS 759.050(2)(a), the Commission may:

Certify one or more persons, including another telecommunications utility, to provide local exchange telecommunications service within the local exchange telecommunications service area of a certified telecommunications utility, if the commission determines that such authorization would be in the public interest. For the purpose of determining whether such authorization would be in the public interest, the commission shall consider:

- (A) The effect on rates for local exchange telecommunications service customers both within and outside the competitive zone.
- (B) The effect on competition in the local exchange telecommunications service area.
- (C) The effect on access by customers to high quality innovative telecommunications service in the local exchange telecommunications service area.
- (D) Any other facts the commission considers relevant.

Under ORS 759.050(2)(b), the Commission shall:

Upon certification of a telecommunications provider under paragraph (a) of this subsection, establish a competitive zone defined by the services to be provided by the telecommunications provider and the geographic area to be served by the telecommunications provider.

Under ORS 759.050(2)(c), the Commission may:

Impose reasonable conditions upon the authority of [the applicant] to provide competitive zone service within the competitive zone \* \* \* at the time of certification of a telecommunications provider, or thereafter.

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Subsection (5)(a) of ORS 759.050 provides that:

Unless the commission determines that it is not in the public interest at the time a competitive zone is created, upon designation of a competitive zone, price changes, service variations, and modifications of competitive zone services offered by a telecommunications utility in the zone shall not be subject to ORS 759.180 to ORS 759.190 [notice, hearing and tariff suspension procedures], and at the telecommunications utility's discretion, such changes may be made effective upon filing with 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.

**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, USWC, GTE, CenturyTel, and United provide the same or similar local exchange service in the local service area requested by applicant. AT&T, MCI, Sprint Communications, USWC, and others provide interexchange private line and operator services in the service area requested by the 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.

**Conditions of the Certificate**

As part of the application, the applicant agreed to, or acknowledged, several conditions listed in the application. Those conditions are adopted and made conditions of this certificate of authority. In addition:

1. Applicant shall comply with the Oregon Exchange Carrier Association's (OECA) informational and operational needs as specified by the Oregon Customer Access Plan (OCAP) or any successor plan approved by the Commission.
2. Applicant shall not take any action that impairs the ability of other certified telecommunications service providers to meet service standards specified by the Commission.

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3. At the request of the Commission, applicant shall conduct and submit to the Commission traffic studies regarding traffic exchanged with telecommunications service providers and other entities designated by the Commission.
4. Applicant shall comply with universal service requirements as determined by the Commission.

### **Public Interest**

In docket UM 381, Order No. 93-1850, the Commission considered the public interest aspects of local exchange competition for dedicated transmission service similar to that described in the application before us now. In dockets CP 1, CP 14, and CP 15, Order No. 96-021, the Commission made several public interest findings regarding local exchange competition in general.

The Commission's Findings of Fact and Opinion in docket UM 381, Order No. 93-1850, at pages 4 - 6, and the Commission's Findings and Decisions in dockets CP 1, CP 14, and CP 15, Order No. 96-021, at pages 6 - 21, entered pursuant to ORS 759.050(2)(a)(A) - (C), are adopted. The Commission takes official notice of the record in dockets UM 381, CP 1, CP 14, and CP 15<sup>1</sup>. Based on review of those findings, as well as information contained in the application, the Commission concludes it is in the public interest to grant the application of @link Networks, Inc., to provide intraexchange dedicated transmission service as a competitive telecommunications provider in the exchanges listed in Appendices A, B, C, and D.

### **Competitive Zones**

The exchanges listed in Appendices A, B, C, and D to this order are designated competitive zones pursuant to ORS 759.050(2)(b), for dedicated transmission service.

### **Pricing Flexibility**

In Order No. 93-1850, docket UM 381, the Commission granted pricing flexibility for dedicated transmission service at the time the Commission granted the certificate of authority. Applicant seeks authority to provide dedicated transmission service. Accordingly, USWC, GTE, CenturyTel, and United are granted pricing flexibility in the exchanges listed in Appendices A, B, C and D for dedicated transmission service.

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<sup>1</sup> Under OAR 860-014-0050(2), a party may object to facts noticed within 15 days of notification that official notice has been taken. The objecting party may explain or rebut the noticed facts.

**ORDER**

IT IS ORDERED that:

1. The application of @link Networks, Inc. to provide local exchange (intraexchange), non-switched private line telecommunications service (dedicated transmission service) and to provide interexchange non-switched private line telecommunications service (dedicated transmission service), as described in the application, is in the public interest and is granted with conditions described in this order.
2. Applicant is designated as a competitive telecommunications provider for intraexchange service in the exchanges listed in Appendices A, B, C, and D and for intrastate, interexchange service statewide in Oregon.
3. The local exchanges of USWC listed in Appendix A, those of GTE listed in Appendix B, those of CenturyTel listed in Appendix C, and those of United listed in Appendix D are designated as competitive zones for dedicated transmission service.
4. USWC, GTE, CenturyTel, and United shall receive pricing flexibility for local exchange dedicated transmission service as set forth in this order.
5. Pursuant to ORS 759.050(2)(c), applicant shall comply with Commission imposed universal service requirements as a condition of authority to provide local exchange service.

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

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**William G. Warren**  
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

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provided by OAR 860-013-0070(2). A party may appeal this order pursuant to ORS 756.580.

APPENDIX A

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EXCHANGES OF U S WEST COMMUNICATIONS, INC.  
ENCOMPASSED BY THE APPLICATION

Albany	Mapleton
Ashland	Marcola
Astoria	Medford
Athena/Weston	Milton-Freewater
Baker	Newport
Bend	North Plains
Blue River	Oakland/Sutherlin
Burlington	Oak Grove/Milwaukie
Camp Sherman	Oakridge
Cannon Beach	Oregon City
Central Point	Pendleton
Corvallis	Phoenix/Talent
Cottage Grove	Portland
Culver	Prineville
Dallas	Rainier
Eugene/Springfield	Redmond
Falls City	Rogue River
Florence	Roseburg
Gold Hill	St. Helens
Grants Pass	Salem
Harrisburg	Seaside
Hermiston	Siletz
Independence/Monmouth	Sisters
Jacksonville	Stanfield
Jefferson	Sumpter
Junction City	Toledo
Klamath Falls	Umatilla
Lake Oswego	Veneta
Lapine	Walla Walla/Stateline
Leaburg	Warrenton
Lowell	Westport
Madras	Woodburn/Hubbard

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EXCHANGES OF GTE NORTHWEST INCORPORATED  
ENCOMPASSED BY THE APPLICATION

Amity	Lakeside
Aumsville/Turner	Langlois
Bandon	Lostine
Beaverton	McMinnville
Brookings	Mill City
Clatskanie	Murphy/Provolt
Coos Bay/North Bend	Myrtle Point
Coquille	Newberg
Cove	Port Orford
Dayton	Powers
Detroit	Reedsport
Elgin	Sandy
Enterprise	Scholls
Forest Grove	Sherwood
Gold Beach	Silverton
Grand Island	Stafford
Gresham	Sunnyside
Hillsboro	Tigard
Imbler	Union
Joseph	Vernonia
La Grande	Wallowa
	Yamhill

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EXCHANGES OF CENTURY TEL OF OREGON  
ENCOMPASSED BY THE APPLICATION

Aurora	Lakeview
Bly	Lebanon
Boardman	Lexington
Bonanza	Long Creek
Brownsville	Malin
Burns	Maupin
Camas Valley	Merrill
Charbonneau	Mitchell
Chemult	Monument
Creswell	North Powder
Depoe Bay	Paisley
Drain	Paulina
Durkee	Pilot Rock
Echo	Pine Grove
Fort Klamath	Rocky Point
Fossil	Scappoose
Gilchrist	Seneca
Glenden Beach	Shedd
Glide	Silver Lake
Government Camp	Sprague River
Harney	Spray
Heppner	Starkey
Huntington	Tygh Valley
Ione	Ukiah
John Day	Wamic
Knappa	Yoncalla

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EXCHANGES OF UNITED TELEPHONE OF THE NORTHWEST  
ENCOMPASSED BY THE APPLICATION

Arlington  
Bay City  
Beaver  
Butte Falls  
Carlton  
Cascade Locks  
Cloverdale  
Crater Lake  
Diamond Lake  
Fish Lake  
Garibaldi  
Grand Ronde  
Grass Valley  
Hood River  
Lincoln City  
Moro  
Mosier  
Odell  
Pacific City  
Parkdale  
Prospect  
Rockaway  
Rufus  
Shady Cove  
Sheridan  
The Dalles  
Tillamook  
Wasco  
White City  
Willamina

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