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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
CP 820

In the Matter of the Application of TDS LONG)
DISTANCE CORPORATION 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.

INTRODUCTION

On June 6, 2000, TDS Long Distance Corporation (Applicant) filed with the Commission an application for certification to provide telecommunications service in Oregon as a competitive provider. Applicant requests authority to provide interexchange telecommunications service statewide in Oregon.

FINDINGS OF FACT

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

The Proposed Operation

The applicant will provide intrastate, interexchange switched telecommunications service (i.e., long distance toll) statewide in Oregon. Applicant did not seek authority to provide non-switched private line service (dedicated transmission service). Applicant will operate strictly as a reseller of interexchange service and will not be a facilities based carrier. Applicant will resell services of other certified carriers.

Operator services are part of switched telecommunications 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 affiliated with two incumbent local exchange carriers (LECs). They are: Home Telephone Co. d.b.a. TDS TELECOM-Condon, which provides local service in the Condon exchange (*See* Order No. 86-1189, docket UM 64), and Asotin Telephone Co. d.b.a. TDS TELECOM-Asotin, which provides local service in the Flora-Troy exchange (*See* Order No. 86-1185, docket UM 56). Applicant seeks to provide interexchange telecommunications service statewide in Oregon. Statewide service includes the Condon and Flora-Troy telephone exchanges, where affiliates of Applicant are incumbent LECs.

On June 30, 1999, the Federal Communications Commission (FCC) released the Second Order on Reconsideration and Memorandum Opinion and Order, CC Docket No. 96-149 and CC Docket No. 96-61 (the Order). In the Order the FCC adopted rules pertaining to in-region, interstate toll service provided by independent incumbent LECs, such as Home Telephone Co. and Asotin Telephone Co. Those rules have been codified as 47 C.F.R. §64.1901 through §64.1903. In this proceeding, the Condon and Flora-Troy telephone exchanges are the regions of Applicant's affiliates. The FCC requires incumbent LECs, which provide in-region, interstate telecommunications service, to do so through a separate subsidiary and to use separate books of account. If the incumbent LEC provides such service strictly on a resale basis, then the incumbent may use a separate division, but must still use separate books of account. Applicant will provide service strictly on a resale basis. Further, Applicant is a separate subsidiary from the two incumbent LECs in TDS Telecommunications Corp., a holding company.

Procedure

The Commission served notice of the application on the Commission's telecommunications mailing list on June 12, 2000. The Commission did not receive any protests. On July 14, 2000, an Administrative Law Judge (ALJ) with the Commission issued a ruling that adopted procedures for processing this docket. The ALJ set a procedural schedule. On August 3, 2000, 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:

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 telecommunications utility or 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 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, WorldCom, Sprint Communications Company, Qwest Corporation (Qwest), formerly known as U S WEST Communications, Inc., 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: 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 service providers to meet service standards specified by the Commission.
2. Applicant shall comply with all conditions listed in the application, applicable laws, Commission rules, and Commission orders related to provision of telecommunications service in Oregon.
3. Applicant shall pay an annual fee to the Public Utility Commission of Oregon 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.

Applicant, TDS Long Distance Corporation, must comply with applicable FCC rules, including rules regarding separate books of account. Applicable rules include the FCC rules in 47 C.F.R. §64.1901 through §64.1903. Applicant will provide interexchange telecommunications service through a separate corporate division and is required to use separate books of account. 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:

5. Applicant shall operate strictly as a reseller of other certified carriers' interexchange interstate and intrastate service.
6. 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.
7. In recognition that Applicant is affiliated with two incumbent LECs, one in the Condon exchange and one in the Flora-Troy exchange, and the potential for those two LECs to favor Applicant 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 Home Telephone Company's or Asotin Telephone Company's local exchange networks;
 - 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 detect and resolve any competitive issues that may arise with Applicant's provision of interexchange toll services in its affiliates' telephone exchanges.

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 TDS Long Distance Corporation for authority to provide interexchange switched telecommunications service (long distance toll) 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 _____.

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 provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.