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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

CP 905

In the Matter of the Application of CANBY)
TELEPHONE ASSOCIATION dba CTA LONG) ORDER
DISTANCE for 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

Canby Telephone Association dba CTA Long Distance (Applicant) filed the application on January 5, 2001. 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 January 12, 2001. The Commission did not receive any protests or requests to be made parties to this proceeding. On February 16, 2001, an Administrative Law Judge (ALJ) with the Commission issued a ruling that adopted procedures for processing this docket. On March 9, 2001, the Commission Staff (Staff) distributed a proposed order for review by the parties. No exceptions to the proposed order were filed.

FINDINGS OF FACT

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

The Proposed Operation

Applicant will provide intrastate, interexchange, switched telecommunications service (toll) statewide in Oregon. Applicant will operate strictly as a reseller of interexchange service. Applicant did not request authority to provide provide non-switched, private line service. Applicant may purchase finished interexchange services for resale from other certified carriers. Applicant will not construct its own lines or transport facilities and will not purchase unbundled network elements (building blocks) from other carriers.

Operator services are part of switched telecommunications service. Applicant will not 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, Canby Telephone Association, is a telephone cooperative and is an incumbent local exchange carrier (LEC), with a certificate of authority to serve the Canby telephone exchange. *See* Order No. 88-583, docket UM 192. Applicant is also affiliated with DirectLink of Oregon, Inc. (DirectLink), formerly North Willamette Telecom, which holds several certificates of authority. The various certificates grant DirectLink authority to provide interexchange service in the Oregon City, Woodburn/Hubbard, Silverton, and Stafford exchanges. In addition, DirectLink has authority to provide intraexchange service in those same exchanges, as well as the Aurora and Charbonneau exchanges. *See* Order No. 97-204, docket CP 236; Order No. 97-237, docket CP 237; and Order No. 97-386, docket CP 352.

On June 30, 1999, the 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 Canby Telephone Association. Those rules have been codified as 47 C.F.R. §64.1901 through §64.1903. In this proceeding, the Canby telephone exchange is Applicant’s region. 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. Adherence to applicable FCC rules, as well as to state laws, Oregon Commission rules and orders, is a condition of this certificate of authority.

In previous applications, similar to this one before the Commission, there has been need for clarification of the responsibilities of current Primary Toll Carriers (PTCs) or Designated Toll Carriers (DXCs) which may serve Applicant’s customers. *See* Order No. 00-051, docket CP 731, and Order No. 99-782, docket CP 692. Though distinctions can be made between the meanings of DXC and PTC, both have similar rights and obligations. A DXC or PTC is the designated or default toll carrier.

Qwest Corporation (Qwest), formerly U S WEST Communications, Inc., is the DXC for intraLATA message toll in its exchanges and many other exchanges in Oregon. Verizon Northwest, Inc. (Verizon), formerly GTE Northwest Incorporated, is the DXC for intraLATA message toll in its exchanges, and United Telephone Company of the Northwest, dba Sprint (United) is the DXC for intraLATA message toll in its exchanges. Nothing in this order shall change the status of Qwest’s, Verizon’s, or United’s designations as Primary Toll Carriers for other customers where they are now the PTCs or DXCs.

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 . . . 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 the 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 certificate holder fails to comply with the terms and conditions of the certificate.

Resolution

Existence of Alternatives. AT&T, WorldCom, United, Qwest, and others provide interexchange telecommunications service in the service area requested by the 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 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, 756.320, and 756.350 and OARs 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. The certificate holder 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 must comply with applicable FCC rules. 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 use separate accounts. 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:

6. For interexchange telecommunications service Applicant shall operate strictly as a reseller of other certified carriers' interexchange interstate and intrastate service.
7. 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.
8. In recognition that Applicant is the incumbent local exchange carrier in the Canby exchange, and the potential for Canby Telephone Association 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 Canby Telephone Association'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 toll services in its Canby telephone exchange.

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 Canby Telephone Association dba CTA Long Distance for authority to provide interexchange switched transmission 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 _____.

Phil Nyegaard
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 ORS 756.580.