

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. C-2483/PI-
43
on its own motion, to re-examine)
its retail quality of service) FINDINGS AND CONCLUSIONS
standards for all local exchange)
carriers operating within the)
state of Nebraska.) Entered: August 21, 2001

BY THE COMMISSION:

B A C K G R O U N D

On March 9, 1999, Aliant Communications, Inc. (Aliant) notified the Nebraska Public Service Commission (Commission) of its intention to merge with ALLTEL Corporation (ALLTEL). The Commission conducted an investigation regarding its role and jurisdiction over the merger and held a public hearing on April 20, 1999. Subsequently, the Commission released its findings and conclusions. While the Commission found that it had no jurisdiction to approve or prohibit the proposed Aliant/ALLTEL merger, it specifically affirmed its ability and responsibility to ensure that the quality of service provided to the affected customers would not be adversely impacted by the merger. The Commission requested that Aliant submit baseline service quality information which included statistics regarding Aliant's speed of answer for toll and directory assistance; repair and business office functions; service order intervals; provisioning commitments met; held orders; and its promptness in clearing out-of-service reports.

Subsequently, on March 6, 2001, the Commission opened the above-captioned docket to re-examine retail quality of service standards for all local exchange carriers operating within the state. In that docket, we requested that interested parties file comments on various issues. We also found that it was the appropriate time to conduct a review of ALLTEL's service to determine whether it had remained constant, improved or suffered in Nebraska since the completion of the Aliant/ALLTEL merger.

Upon proper notice, the Commission held a public hearing in legislative format on June 18, 2001. The Commission received testimony from members of the general public, ALLTEL and the Commission staff. The Commission also entered customer correspondence into the record. Thirteen letters were received from persons who were unable to attend the hearing, but requested their comments be made a part of the record in this proceeding.

E V I D E N C E

Approximately 30 members from the general public testified at the June 18, 2001, hearing. Much of the testimony centered on the excessive length of hold time customers experienced in attempting to reach a representative in ALLTEL's business office. At least six people at the hearing specifically commented on the length of time they waited on hold for a service representative.¹ Evidence was received that customers have waited on hold for as long as two and-a-half (2 ½) hours.²

The Commission received evidence indicating that the face-to-face wait time at ALLTEL's offices was problematic.³ Other consumers testified about their problems with installment/repair commitments not being timely or sufficiently met.⁴

A few members from the business community testified as to problems they had experienced with ALLTEL's service and repair provisioning.⁵ One business owner testified as to problems he experienced including difficulties retrieving messages, mid-call disconnections and the company's ability to provide him with an integrated services digital network (ISDN) line.⁶ A Gallup Organization representative also testified that, in his opinion,

¹ Ms. Lynn Darling testified that the amount of time she spent on hold amounted to approximately two hours and thirty minutes. (Tr. at 8:23-25) Ms. Sharon Kolbet testified that the shortest time she spent waiting on hold was 22 minutes. The longest hold time she experienced was 48 minutes. (Tr. at 12:8-9) Ms. Lois Weber testified that she had waiting on hold for over an hour. (Tr. at 17:4-5) Ms. Susan Scribner testified she had waited over 45 minutes on hold before she finally got frustrated and hung up. She then tried later and was put on hold for another 45 minutes. She again hung up before getting through to a service representative. (Tr. at 24,25:18-25, 1-2) Ms. Beverly Hoistad testified that she had waited on hold for 35 minutes. (Tr. at 69:19-20) Mr. Ray Abbruzzese testified he had waited on hold for over 43 minutes. He further testified that he calculated that he had waited on hold an average of 16 minutes for his calls to ALLTEL during the past two years. (Tr. at 104:11-18)

² Ibid

³ Ms. Weber testified that she had waited 45 minutes in the Nebraska City ALLTEL office for someone to help her. Tr. at 14:7

⁴ See generally the testimony of Mr. Gary Tharnish, Tr. at 40.

⁵ Id. See, also, Testimony of Mr. Don Marti, Tr. at 81-88; Susan Scribner, Tr. at 24.

⁶ Testimony of Mr. Tharnish, Tr. at 40.

ALLTEL spent far too much time looking at its bottom line, and is now left with inexperienced technicians.⁷

The public also voiced dissatisfaction with ALLTEL's new billing system. Several witnesses testified that the print was too small to read and that the bill was confusing.⁸ One witness stated that an ALLTEL representative could not explain the charges listed on the new bill.⁹ Ms. Barbara Mullenax testified that she formerly was a service representative with ALLTEL, known as Aliant and LT&T, for 9 years. She stated that ALLTEL was in the process of implementing a customer record and billing system which was more antiquated than the system Aliant already had in place. The system ALLTEL was implementing, she stated, was designed for small telephone company operations and was unsuitable for a community the size of Lincoln.

Some witnesses said that they had experienced problems with ALLTEL's ability to provide timely service. One witness testified that he didn't get service until 24 days after it was ordered.¹⁰ A communications specialist for the police department testified that she spent hours with ALLTEL trying to fix simple problems that used to take one phone call when dealing with LT&T, and later, Aliant.¹¹

Yet another individual provided evidence that in some areas, the static has gotten so bad on the landline telephone that it was a danger to the public.¹² Evidence was provided that a person could not even complete a call to "911" at certain times, because of the static.

Several witnesses complained about the lack of choice in local service providers.¹³ While some did testify they were

⁷ Testimony of Mr. Phil Weber, Tr. at 126.

⁸ Testimony of Ms. Weber, Tr. at 16:1-5; and Testimony of Ms. Janet Douglas, Tr. at 59:5-8.

⁹ Id. at 14:12-13.

¹⁰ Testimony of Mr. Don Marti, Tr. at 86-7-8.

¹¹ Testimony of Ms. Cheri Marti, Tr. at 73:10-17.

¹² Letter of Ms. Pamela Carmichael, dated June 15, 2001. See also Testimony of Dr. Robert Prokov, Tr. at 132.

¹³ See, e.g., Testimony of Mr. Ray Abbruzzese, Tr. at 103; and Testimony of Mr. Korey Lloyd, Tr. at 67:3-6.

pleased about the opportunity to choose amongst cellular providers, many of the witnesses expressed their frustration in not having that same option for their landline local telephone service.¹⁴

In summary, the Commission received 26 service quality-related letters and numerous telephone calls from the public, in addition to the testimony given at the hearing. The Commission appreciates the time spent by those consumers who came before the Commission to file or phone in complaints and, in particular, those who appeared at the June hearing. The enormous public response in this proceeding is an excellent example of the process working the way it was intended. The information consumers provide is invaluable, as it supplies the Commission with the most important and direct assessment of the quality of telecommunications service provided by any carrier.

ALLTEL representatives also presented testimony at the hearing.¹⁵ In summary, ALLTEL's testimony was as follows:

ALLTEL's main focus was on customer satisfaction; the importance of which supercedes the importance of meeting the objectives outlined in the Commission's Telecommunications Rules and Regulations. ALLTEL stated that the lengthy hold times customers were experiencing were due to recent customer record and billing system conversions. The ALLTEL witnesses testified that employment levels have decreased in all areas with the exception of customer sales representatives. Further, ALLTEL was in the process of hiring 118 people. ALLTEL representatives testified that service report data was compiled on a daily basis by the company. This data was also verified internally. With respect to central office outages, the increase of reported outages was due to the fact that they had upgraded some remote switches and some of the outages were an expected outcome. ALLTEL further testified that the trouble reporting system was more sophisticated now and that certain outages are reported

¹⁴ Id.

¹⁵ The summary by Joe Schuele, Government Relations Manager, provided the Commission with a comparison with the status of the company prior and post-merger. Linda Berg, Director-Customer Services, Stephanie Johanns, Vice President-External Affairs, and Ray Thomas, Vice President & General Manager-Southeast Nebraska, also answered questions on behalf of ALLTEL.

which would have gone undetected by the system that was used prior to the merger.

The Commission staff also presented testimony. The staff prepared a comparison study with the data available from ALLTEL to determine if service quality had suffered, improved or remained constant. The staff also introduced testimony with respect to central office outages. The reports submitted by ALLTEL included pre-merger service data and data for the calendar year 2000, but ALLTEL was unable to supply the service data for the calendar year 2001, at the time of the hearing.

The staff testified that the data indicated in most areas, service quality had stayed the same or declined. In some areas ALLTEL showed some improvement. Overall, however, the staff testified that ALLTEL was not meeting many of the objectives in the Commission's Telecommunications Rules and Regulations. Further, the staff witness stated that central office outage reports indicated that ALLTEL might not have been keeping up with its preventative maintenance program as required by Commission rules.

F I N D I N G S A N D O P I N I O N S

In the June 8, 1999, Commission order in Application No. C-2016, the Commission found that it has the legal authority to investigate the acquisition of Aliant to ensure that it will bring benefits to consumers, and to Nebraska. After a detailed analysis of Neb. Rev. Stat. §75-146 and Neb. Const. Art. X, §3, the Commission also found that it did not have the authority to deny the ALLTEL/Aliant merger. It did, however, find it appropriate to conduct a pre-merger and post-merger service comparison because of the concerns expressed at the June 8, 1999, hearing. The proposed service quality comparison was initiated due, in most part, to the comments at that hearing about ALLTEL's reputation with respect to service quality.

The Commission has considerable jurisdiction in regulating the service quality of telecommunications carriers. In accordance with this responsibility the Commission has taken measures in an attempt to protect consumers from poor service.¹⁶

¹⁶ Many of the Commission's current service quality rules have been in effect since 1990. See generally, Neb. Admin. R & Regs. tit. 291, ch.

In legislation launching competition in the local marketplace, Congress recognized that the states have extensive regulatory control over service quality. The Telecommunications Act of 1996 provides:

Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services and safeguard the rights of consumers.¹⁷

State legislators also clearly affirmed the Commission's jurisdiction over service quality by providing:

The commission shall retain quality of service regulation over the services provided by all telecommunications companies and shall investigate and resolve subscriber complaints concerning quality of telecommunications service, subscriber deposits, and disconnection of service.¹⁸

Through its own initiatives, the Commission has long since recognized the significance of service quality to Nebraska

5, section 002.02 et seq.

Additionally, in 1995, the Commission established a Consumer Bill of Rights, which all telecommunications carriers are expected to adhere to. *In the matter of the Application of the Nebraska Public Service Commission on its own motion to conduct an investigation into the effects of the local competition on the telecommunications industry in Nebraska.* Application No. C-1128, Progression Order, entered December 19, 1995. Included in the Consumer Bill of Rights is a statement which provides in pertinent part that, "(1) Consumers should receive better service at competitive prices and have an increased choice of telecommunications providers and services within reasonable time frames . . . (11) Consumers should receive consumer protection through complaint resolution, monitoring and enforcement by the Nebraska Public Service Commission."

¹⁷ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (the Act) codified at 47 U.S.C. '253(b).

¹⁸ Neb. Rev. Stat. ' 86-803(7)(Reissue 1999).

consumers. This is evidenced through its service quality standards set forth in Neb. Admin. R. & Regs., tit. 291, ch. 5, section 002.02 et seq., the adoption of a Consumer Bill of Rights and through previous investigatory proceedings it has conducted with respect to US West and GTE.

All local carriers are expected, and indeed required, to attain or exceed our service quality standards. The Commission's current review of these rules and regulations are intended to ensure that consumers receive adequate protections from inadequate service. The Commission believes that strong retail quality of service standards and close company monitoring are particularly important when customers, as in this instance, have nowhere else to turn. Several people testifying at the public hearing expressed the frustration at not having a choice in alternative providers. The Commission has been keenly aware and concerned about the lack of competition in the Lincoln area and elsewhere in ALLTEL's territory.

In the present case, based upon the testimony received at the hearing and through written comments made a part hereto, the Commission finds that ALLTEL has failed to provide the quality of service required by the standards of the Commission's duly promulgated service quality rules and regulations and has also failed to meet the industry standards recently reviewed by the Commission as part of the Qwest 271 proceeding (Commission Docket No. C-1830.)

Neb. Admin. R. & Regs., tit. 291, ch. 5, section 002.02A specifies that:

Each exchange carrier shall provide adequate access line service. In determining whether the access line service provided by an exchange carrier is adequate, the Commission's consideration will include, but shall not be limited to, the adequacy of the carrier's plant and equipment, the number and nature of service interruptions, trouble reports, customer complaints, and held applications, the nature of access line service offered by the carrier and the nature of the access line services desired by the public served. (Emphasis added)

This rule imposes an affirmative duty upon all local exchange carriers to at all times, render adequate access line service. In its determination of whether access line service is adequate, the Commission must take into consideration the number and nature of consumer complaints. Additionally, the Commission must take into consideration the wants and the needs of the public at large. Upon review of the number of complaints received while the record was open and the evidence presented at hearing, the Commission finds that ALLTEL has failed to render adequate service in conformance with this rule.

More specifically, the Commission finds that ALLTEL has failed to meet the objectives enumerated in Neb. Admin. R. & Regs., tit. 291, ch. 5, section 002.11 which provides in pertinent part,

Each exchange carrier shall provide equipment designed and engineered on the basis of realistic forecasts of growth, and shall make all reasonable efforts to provide personnel so as to attain the following operator answer performance objectives under normal operating conditions. . .

002.11B Where the performance criteria is in terms of the percentage of calls which are answered within a specified period, the following objectives shall apply . . .

002.11B2 Ninety percent (90%) of repair service calls, calls to the business office, and other calls shall be answered within twenty (20) seconds (Emphasis added).

The data provided to the Commission and the testimony adduced at the hearing demonstrated that ALLTEL had not met the 90 percent objective in a majority of the months reported. Data for speed of answer for businesses was provided for the year 2000, but not for 1998. Therefore, the Commission staff evaluated the 2000 year data but could not provide a pre-merger and post-merger comparison. The evidence demonstrated that ALLTEL had met the Commission's objective in only four out of the twelve months. For repair service calls, which are held to

the same standard, the evidence indicated that ALLTEL did not meet the Commission objective once in the year 1998 or once in the year 2000.

Additionally, the Commission is concerned about the amount of time it takes for customers to reach an ALLTEL service representative which appears related to the employment levels maintained by ALLTEL. In its June 8, 1999, order, the Commission found that it does not have direct control over the employment levels of ALLTEL. The Commission found, however, that it does have an indirect role when employment levels directly affect the quality of the service provided. ALLTEL generally testified that its quality of service was affected substantially by its internal system conversion, the Commission is fearful that ALLTEL's service quality may worsen before it improves. The Commission notes that ALLTEL representatives testified that only sales staff employment has increased, while all other areas of employment have decreased. Even though ALLTEL states it is in the process of hiring 118 employees, it is disturbing that service records indicate that problems have existed for quite some time, that new hiring is only recent, and many employees are in training. We further note that this does not necessarily mean that these new employees are permanent employees of ALLTEL nor does it mean that these employees are involved in regulated telephone services.

Despite the fact that the Commission requested the information, no calendar year 2001 data was provided to the Commission prior to the hearing. This information was requested as a late-filed exhibit at the hearing.

We note that there was testimony suggesting ALLTEL was converting to a system which was not compatible with existing systems used to process orders in exchanges that ALLTEL acquired from Aliant. Rather, the testimony indicated that, in lieu of using programs specifically designed for Aliant, ALLTEL was converting to a system which would tie into its nationwide operations. ALLTEL stated that the system conversion would promote efficiency in its operations, thereby permitting ALLTEL to improve service to its customers. The Commission finds it appropriate to monitor the effects of the conversion rather than pass premature judgment on its alleged deficiencies or efficiencies.

In order to determine whether improvements are made in compliance with this order, the Commission finds it appropriate to actively monitor ALLTEL's quality of service. Effective immediately, ALLTEL must submit monthly reports to the Commission indefinitely on an ongoing basis. These reports must contain at least the following information:

- (1) Speed of Answer on calls for Directory Assistance; percent answered within twenty (20) seconds;¹⁹
- (2) Speed of Answer on calls for Toll Operator Services; percent answered within ten (10) seconds;
- (3) Calls to ALLTEL's business office-business; percent answered within twenty (20) seconds;
- (4) Calls to ALLTEL's business office-residential; percent answered within twenty (20) seconds;
- (5) Calls for repair service residence and business combined; percent answered within twenty (20) seconds;
- (6) Installation Commitments Met;
- (7) Installation Interval;
- (8) Percent Calls Answered within Twenty Seconds-Interconnect Provisioning Center;
- (9) Out of Service cleared within 24 hours;
- (10) All Troubles Cleared within 48 hours;
- (11) Repair Repeat Report Rate (i.e. within thirty (30) days for the same customer experiencing similar trouble);
- (12) Repair Appointments Met.

The Commission finds that the report data should be measured, described and reported in conformance with industry standards. The relevant industry standards, the Commission finds, are those which have been adopted by the multi-state collaborative as part of the Qwest 271 proceedings, also known as, the Service Performance Indicator Definitions (PIDs). The

¹⁹ The term Answered@ in the Commission's Telecommunications Rules and Regulations is defined as follows:

02.11C The term Answered@ as used in this subsection shall be construed to mean that the operator or exchange carrier representative is ready to render assistance and/or accept information as necessary to process the call. An acknowledgment that the customer is waiting on the line shall not constitute an Answered@ call. Neb. Admin. R. & Regs., tit. 291, ch. 5, sec. 002.11C.

PID requirements are attached hereto as Appendix A, which provide a more complete description of each service indicator. ALLTEL will be required to submit the foregoing information on a monthly basis until further notice.

This review will be ongoing until the Commission is satisfied that ALLTEL is providing its consumers with an acceptable level of service. If the Commission finds that ALLTEL has made and maintained significant improvements in certain areas, it may, on a going-forward basis by order, relieve ALLTEL of a particular reporting requirement.

The Commission will also require a review, through face-to-face meetings by Commissioners and staff with ALLTEL representatives. The review will be conducted every three months so that the Commission's concerns about service quality may be addressed on an ongoing basis. This quarterly review will be required until further notice by the Commission.

The Commission will further undertake audits of the service quality data collected and submitted by ALLTEL. Commission staff is also directed to conduct independent service audits as necessary, which may include unannounced visits to service centers, throughout the period ALLTEL's service quality is monitored to ensure permanent improvement in the quality of service ALLTEL customers receive.

This order is a telecommunications order entered pursuant to the Commission's statutory authority in accordance with chapter 86 of Nebraska Revised Statutes; therefore, violation of this order is subject to administrative penalties pursuant to Neb. Rev. Stat. §75-156 (Cum. Supp. 2000).

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the service provided by ALLTEL shall be subject to continued monitoring and that ALLTEL be required to report to the Commission on a monthly basis the data described herein until further notice.

IT IS FURTHER ORDERED that a formal review of the service provided by ALLTEL be performed every three months until further notice by the Commission.

IT IS FURTHER ORDERED that ALLTEL shall be subject to service quality auditing by this Commission until further notice.

MADE AND ENTERED at Lincoln, Nebraska, this 21st day of August, 2001.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director