

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. C-3480/NUSF-49
Application of Mobius)
Communications Company,) ORDER GRANTING DESIGNATION AS AN
Hemingford, seeking designation) ELIGIBLE TELECOMMUNICATIONS
as an eligible) CARRIER
telecommunications carrier that)
may receive federal and state)
universal service support.) Entered: March 7, 2006

APPEARANCES:

For the Applicant:

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For the Intervenors:

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For the Commission:

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BY THE COMMISSION:

By application filed September 9, 2005, and amended December 30, 2005, Mobius Communications Company (Mobius or Applicant), Hemingford, seeks designation as an eligible telecommunications carrier (ETC) so that it may receive state and federal universal service support. Notice of this application was published in The Daily Record, Omaha, Nebraska, on September 13, 2005. On October 12, 2005, the Commission received a Petition for Formal Intervention filed by the Rural Independent Companies¹ (Intervenors). A public hearing on the

¹ The "Rural Independent Companies" include Arlington Telephone Company, Blair Telephone Company, Cambridge Telephone Company, Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco Inc., Consolidated Telcom, Inc., Eastern Nebraska Telecommunications Co. Inc., Great Plains Communications, Inc., Hartington Telephone Company, Hershey Cooperative Telephone Company Inc., K & M Telephone Company, Inc., Nebraska Central

application was held on January 11, 2006, in the Commission Hearing Room, Lincoln. Notice of the public hearing was mailed to interested parties. Appearances at the hearing were entered as indicated above.

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

Mobius was granted a Certificate of Public Convenience and Necessity to provide competitive facilities-based local exchange telecommunications services in Application No. C-2551, on August 7, 2001. According to its application, Mobius seeks federal and state ETC status for the area in which it has been certificated as a local exchange carrier. Accordingly, Mobius seeks federal and state ETC designation only in areas served by Qwest Corporation. Mobius seeks Nebraska eligible telecommunication carrier designation so that it can provide Nebraska Telephone Assistance Program (NTAP) assistance to its qualifying customers and so that it may receive high cost support for customers served via unbundled network elements leased from Qwest Corporation.

Federal ETC Designation

Mobius offers voice-grade access to the public switched network, local usage for both data and voice, dual tone multi-frequency signaling or its functional equivalent, single party service, access to emergency service, access to operator service, access to interexchange service, access to directory assistance and toll limitation for qualifying low-income consumers.

Theron Jensen, General Manager for Mobius, testified on behalf of Mobius. Mr. Jensen testified that Mobius brings competitive services to residential customers in the Panhandle of Nebraska. Currently, it offers Internet services and it intends to offer voice services in the Qwest territories. Furthermore, Mobius has provided documentation of its planned advertisements in a publication of general circulation, as well as other media. Finally, Mobius indicated that in its opinion, certification of Mobius as an ETC would be consistent with the public interest, convenience and necessity.

Section 214(e) of the Act sets forth the standards and processes for a state commission to grant carriers the designation of a federal eligible telecommunications carrier. The three general requirements listed in Section 214(e) are that:

Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company, Stanton Telephone Co., Inc., and Three River Telco.

(1) the carrier must be a common carrier; (2) the carrier must offer the "services" that are supported by the federal fund; and (3) the carrier must advertise the availability of those services. In addition, the carrier must fulfill these criteria throughout the service area for which the designation is received.

The "services" supported by the federal fund as provided by 47 C.F.R. § 54.101(a) are as follows:

- a. Voice-grade access to the public switched telephone network;
- b. Local usage;
- c. Dual tone multi-frequency signaling or its functional equivalent;
- d. Single-party service or its functional equivalent;
- e. Access to emergency services;
- f. Access to operator services;
- g. Access to interexchange service;
- h. Access to directory assistance;
- i. Toll limitation for qualifying low-income consumers.

Mobius provided documentation that it fulfills the requirements of 47 C.F.R. § 54.101(a) and confirms that it will provide all of the above-referenced services.

Mobius also provided adequate evidence that it will advertise the availability of the supported services. Mobius agrees with the Commission that, in the event ETC status is granted, it will advertise its universal service offerings and the charges therefore using media of general distribution pursuant to federal and Commission requirements.

Applicant has demonstrated that it meets the standards set forth in 47 U.S.C. § 214(e) and applicable federal law for the designation of eligible telecommunications carriers in the proposed geographic area.

On June 28, 2005, in Docket C-3415, this Commission adopted guidelines which were designed to provide clarity for carriers seeking ETC designation in Nebraska. The Interim Guidelines were intended to mirror the guidelines established by the FCC in its March 17, 2005, *FCC ETC Order*, concerning ETC applications (the "FCC Guidelines"). In our Order adopting the Interim Guidelines (the "Guideline Order"), the Commission incorporated a provision that a common carrier seeking to be designated an ETC in Nebraska must submit a five-year plan describing with specificity proposed improvements or upgrades to the Applicant's

network on a wire center-by-wire center basis throughout its proposed designated service area.

Mobius filed a five-year plan and requested confidential treatment of its five-year plan. At the hearing on the Application, Mr. Jensen testified that Mobius would be willing to file additional information with respect to the five-year plan, if requested by the Commission. The Commission believes that Mobius' five-year plan is sufficient and is satisfied with Mobius' affirmation to provide additional information in the future as needed.

Mr. Jensen confirmed Mobius does and will continue to meet the Commission's ETC guidelines as established in the Guideline Order and will file the required certified statements with the Commission on an annual basis.

Mobius also provided evidence that it has the ability to remain functional during emergency situations, that it will abide by the applicable consumer protection and service quality standards and that it will provide a comparable local usage service offering similar to that offered by the incumbent local exchange carrier.

Finally, the Commission has jurisdiction and authority to ensure that Mobius continues to meet the ETC criteria set forth in Section 214(e) of the Act. Nothing prevents the Commission from, on its own motion, modifying, suspending or revoking Mobius's ETC designation if it does not continue to meet those obligations. We find Mobius' application for federal ETC designation should be granted.

Nebraska ETC Designation

The Applicant also sought designation as a Nebraska Eligible Telecommunications Carrier (NETC) in order to be eligible for NUSF support. In support of Mobius' application for NETC designation, Mr. Jensen testified that Mobius' application is limited to support for UNE loops pursuant to the Commission's decision in NUSF-26. In addition to the federal ETC designation requirements, Mr. Jensen testified the Applicant meets the state requirements for designation as an NETC. Mobius intends to offer Lifeline-Linkup or NTAP services, and it is committed to doing so in compliance with the Commission's orders. Mobius

provides equal access to interexchange services. Mobius also provides customer access to a white page directory listing.

In summary, upon review of the application and evidence presented at the hearing, we find Mobius' application for state NETC designation should be approved.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the application of Mobius, Inc., to be designated an Eligible Telecommunications Carrier shall be, and it is hereby, granted.

IT IS FURTHER ORDERED that Mobius, Inc., is hereby declared to be an Eligible Telecommunications Carrier for federal support in the areas served by Qwest Corporation.

IT IS FURTHER ORDERED that Mobius, Inc., is hereby declared to be a Nebraska Eligible Telecommunications Carrier for state universal service support.

MADE AND ENTERED at Lincoln, Nebraska this 7th day of March, 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Anne C. Boyle

Red Johnson

//s// Lowell C. Johnson

//s// Frank E. Landis

Lowell C. Johnson
Chairman

ATTEST:

A. B. Pollock
Executive Director