

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE SALE OF THE)	FINAL DECISION AND
MAJORITY OF KENNEBEC TELEPHONE)	ORDER APPROVING SALE
COMPANY, INC. STOCK TO ROD AND DONNA)	OF STOCK; NOTICE OF
BOWAR)	ENTRY OF ORDER
)	TC98-114

On June 9, 1998, the current stockholders of Kennebec Telephone Company, Inc. (KTC) and Rod and Donna Bowar (Bowars), jointly applied to the South Dakota Public Utilities Commission (Commission) for approval of the sale of the majority of KTC stock to Bowars. The joint application stated, "As part of the overall transaction, KTC would redeem certain shares of the stock of the principal shareholder, Delores Johnstone. KTC would continue to operate and provide local telephone service under its existing Certificate of Authority after the stock sale." The KTC consists of the Kennebec and Presho exchanges.

On June 11, 1998, the Commission electronically transmitted notice of the filing and the intervention deadline of June 26, 1998, to interested individuals and entities. No petitions to intervene or comments were filed.

A hearing was held on August 18, 1998, at 2:00 p.m., at the Kennebec Community Room, Kennebec, South Dakota. The issue at the hearing was whether the sale of the majority of KTC's stock to the Bowars should be approved. After hearing the testimony presented at the hearing, the Commission voted unanimously to approve the sale of the majority of KTC's stock to the Bowars.

The Commission having reviewed the evidence of record and being fully informed in the matter makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

I

KTC is an independent telephone company located in Kennebec, South Dakota, and serves the Kennebec and Presho exchanges which have approximately 760 access lines. Exhibit 2 at 2.

II

Rod Bowar will become the President and General Manager upon the effective date of acquiring the majority of KTC stock. Id. at 1. He has 22 years of experience working at KTC. Id.

III

During the hearing in Kennebec, there was no public opposition to the sale of the stock.

ADEQUACY OF LOCAL TELEPHONE SERVICE

IV

The Bowars will honor all existing contracts, commitments, leases, and other arrangements and will not eliminate any services currently provided by KTC. Tr. at 10, 15.

V

The Bowars will retain all of KTC's employees, except for Delores Johnstone who is retiring. Tr. at 12. Customers will continue to be able to make trouble reports and ask service questions by calling a local telephone number. Tr. at 13.

REASONABLENESS OF RATES

VI

The Bowars have no plans to increase the existing rates for at least 18 months. Tr. at 9.

PUBLIC SAFETY ISSUES

VII

KTC will continue to provide 911 service in the Kennebec and Presheo exchanges. Tr. at 12.

ABILITY OF THE BUYER TO PROVIDE SERVICE

VIII

The Bowars are fit, willing, and able to purchase and thereafter operate, maintain, and upgrade to the level required by the Commission the facilities of the Kennebec and Presheo exchanges. Tr. at 7-16.

IX

The Bowars have the ability to obtain capital and the incentive to invest in the Kennebec and Presheo exchanges. Exhibit 1. The Bowars will upgrade the current DMS 10 switch to provide ISDN and SS7 capabilities. Tr. at 11.

X

The Bowars will support local economic development efforts and will work with the schools and clinics to meet their telecommunications needs. Tr. at 14-15.

PROTECTION OF THE PUBLIC INTEREST

XI

The Bowars' purchase of the Kennebec and Presho exchanges is in the public interest of the customers within the exchanges for the following reasons:

- a. Quality local service will be maintained;
- b. The customers of the exchanges will continue to receive customer service through the same business office;
- c. Rates will not increase for at least 18 months as a result of the sale;
- d. Emergency services will continue to be provided to the exchanges at the level currently provided; and
- e. Customers in the exchanges will be able to obtain additional, advanced telecommunications services.

Tr. at 7-16.

TAXES

XII

There will be no changes in the taxes paid as a result of the sale of the stock. Tr. at 13.

CONDITIONS OF SALE

I

The Commission shall approve the proposed sale of the stock of the KTC subject to the following conditions:

1. That current local rates not be increased for 18 months from the date the Bowars begin to operate the purchased exchanges;
2. That the Bowars shall not recover any of the acquisition adjustment through regulated interstate or intrastate rates, through local rates, or through federal or state universal service funds;
3. That the Bowars shall honor all existing contracts, commitments, leases, licenses, and other agreements which relate to, arise from, or are used for the operation of the purchased exchanges;
4. That the Bowars offer, at a minimum, all existing services currently offered by the purchased exchanges; and

5. That the Bowars not discontinue any existing extended area service without first obtaining approval from the Commission.

CONCLUSIONS OF LAW

I

The Commission has jurisdiction over the sale of stock of KTC to the Bowars pursuant to SDCL Chapters 1-26 and 49-31, specifically 1-26-17.1, 49-31-3, 49-31-5.1, 49-31-7, 49-31-7.1, 49-31-11, 49-31-18, 49-31-19, and 49-31-59.

II

The hearing held by the Commission relative to this matter was an evidentiary hearing pursuant to SDCL Chapter 1-26.

III

The Commission has considered, among other things, the requirements of SDCL 49-31-59 in regard to the proposed sale of stock, and protection of the public interest pursuant to SDCL 49-31-7. The Commission finds that it is in the public interest to approve the sale of stock because the sale will enable the customers in the Kennebec and Presheo exchanges to receive high quality service.

IV

The Bowars have satisfied their burden of proof under SDCL Chapter 49-31, specifically 49-31-3, 49-31-5.1, 49-31-7, 49-31-7.1, 49-31-11, 49-31-18, 49-31-19, and 49-31-59 for approval of the sale of stock of KTC to the Bowars.

V

The Commission has considered the adequacy of local telephone service in reviewing this sale of stock of KTC. The Bowars are required to provide all services currently offered. In addition, the Bowars must honor existing contracts and other agreements.

VI

The Commission has also considered the reasonableness of local rates. The Commission finds that rates for the customers in the KTC exchange will remain at the same levels and there will be no increase in rates for at least 18 months. Further, the Bowars are prevented from recovering any of the acquisition adjustment through local rates.

VII

Any existing public safety services currently provided will continue.

VIII

The Commission has determined that there will be no change in the amount of taxes paid as a result of the sale of stock.

IX

The Commission has determined that the Bowars have the ability to provide modern state-of-the-art telecommunications services that will facilitate economic development, telemedicine, and distance learning in rural South Dakota after the sale.

X

The Commission approves the sale of stock of KTC to the Bowars.

Pursuant to SDCL Chapter 1-26, the Commission hereby enters its final decision in this docket. It is therefore

ORDERED that the sale of stock of KTC to the Bowars is approved subject to the Conditions of Sale.

PLEASE TAKE NOTICE that this Decision and Order in Docket TC98-114 was duly entered this 10th of September, 1998, and filed in the Commission's docket.

Dated at Pierre, South Dakota, this 10th day of September, 1998.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: William Koelbe

Date: 9/10/98

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner