

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE SALE OF THE STOCK OF JEFFERSON TELEPHONE CO. TO JEFFERSON COMMUNICATIONS, LLC.</b>	) ) ) ) ) )	<b>DECISION AND ORDER REGARDING SALE OF THE STOCK OF JEFFERSON TELEPHONE CO.; NOTICE OF ENTRY OF ORDER TC97-159</b>
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On September 23, 1997, the Public Utilities Commission (Commission) received a joint application from Jefferson Telephone Co. and Jefferson Communications, LLC, collectively referred to as Applicants. The Applicants jointly applied to the Commission for approval of the sale of the stock of Jefferson Telephone Co. to Jefferson Communications, LLC.

On September 25, 1997, the Commission electronically transmitted notice of the filing and the intervention deadline of October 10, 1997, to interested individuals and entities. No parties have sought intervention in this docket.

On October 10, 1997, Commission staff filed a resistance to Jefferson Communications' request that the purchase price of the exchange be afforded confidential treatment on the grounds that Jefferson Communications has not shown entitlement to such treatment as a matter of law and further upon the grounds that the public is entitled to such information concerning public utilities.

A duly noticed hearing was held in Jefferson, South Dakota, on December 4, 1997, to receive comments from the public. No members of the public attended the hearing. By order dated December 5, 1997, the Commission set a second hearing for this matter for 2:00 P.M., on December 11, 1997, in Room 423, State Capitol, Pierre, South Dakota. The issues at the hearing were: 1) Is the purchase price of the exchange confidential and therefore not subject to disclosure to the public?; 2) Whether the sale of the stock of Jefferson Telephone Co. to Jefferson Communications should be approved?

The hearing was held as scheduled. At the hearing, the Commission ruled that the purchase price was confidential (Commissioner Schoenfelder, dissenting) and unanimously approved the sale of the stock.

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

Jefferson Telephone Co. (Jefferson Telephone) is an independent telephone company located in Jefferson, South Dakota, and serves the Jefferson exchange which has approximately 550 access lines. Exhibit 1.

II

Jefferson Communications, LLC (Jefferson Communications) is a limited liability company with authority to do business in South Dakota. Id. It is a wholly owned subsidiary of Long Lines, Ltd., which also owns Northwest Iowa Telephone Company (NITC). Id. NITC is a local telephone company that offers service to 4,700 access lines and will provide engineering, switching, billing, maintenance, and outside plant support to Jefferson Telephone. Id. NITC is located only 22 miles from Jefferson, South Dakota. Id.

III

Hearings were held in Jefferson, South Dakota on December 4, 1997, and in Pierre, South Dakota, on December 11, 1997. There has been no public opposition to the sale of the stock.

CONFIDENTIALITY OF SALE PRICE

IV

James McKenna, executive vice-president and chief telecommunications officer for Long Lines, stated that disclosure of the purchase price could materially damage Long Lines' financial position with respect to future purchases because the price would be considered a starting price for similar properties instead of a cap. Tr. at 17-18. He further testified that the purchase price has independent economic value to his company and the company has taken reasonable efforts to keep the purchase price confidential. Tr. at 19.

V

Mr. McKenna also noted that there was no relationship between the purchase price and future rates due to the Commission's condition in other sales that the acquisition adjustment cannot be recovered through a company's local or regulated rates. Tr. at 20-21. He also stated that since the purchase price includes both the telephone company and the cellular interest, the disclosure of the purchase price will not reveal the actual purchase price of Jefferson Telephone. Tr. at 22.

VI

The Commission finds that the purchase price shall be kept confidential. Jefferson Communications has shown that disclosure would result in material damage to its financial and competitive position.

ADEQUACY OF LOCAL TELEPHONE SERVICE

VII

Jefferson Communications will honor all existing contracts, commitments, leases, and other arrangements and will not eliminate any services currently provided by Jefferson Telephone. Tr. at 37-39.

VIII

Jefferson Communications will retain some of Jefferson Telephone's employees who will continue to operate out of the Jefferson central office. Exhibit 2 at page 5. In addition, these employees will have access to back-up support from NITC, which is located 22 miles away. *Id.* Customers will continue to make service and billing inquiries by calling a local telephone number. *Id.* at pages 5-6.

REASONABLENESS OF RATES

IX

Jefferson Telephone's current local rates range from \$7.50 to \$17.50. Exhibit A. Jefferson Communications has no plans to increase the existing rates. Tr. at 38.

## PUBLIC SAFETY ISSUES

X

At this time Jefferson Telephone currently provides fire bar service. Tr. at 40. Union County has not yet instituted 911 service. Id. Jefferson Communications will be able to provide 911 and E911 services when the county requires the service. TR. at 40-41.

## ABILITY OF THE BUYER TO PROVIDE SERVICE

XI

Jefferson Communications is fit, willing, and able to purchase and thereafter operate, maintain, and upgrade to the level required by the Commission the facilities of the Jefferson exchange. Tr. at 41; Exhibit 3.

XII

Jefferson Communications has the ability to obtain capital and the incentive to invest in the Jefferson Exchange. Exhibit 3. Jefferson Communications will invest \$450,000 to upgrade from the current DMS 10 switch and will provide for alternative toll routing for long distance service. Tr. at 39. Customers will then be able to receive CLASS services, ISDN, voice mail, and E911 when the county requests it. Tr. at 39-40.

XIII

Jefferson Communications will support local economic development efforts and will offer distance learning and telemedicine services. Exhibit 2 at pages 4 and 6.

## PROTECTION OF THE PUBLIC INTEREST

XIV

Jefferson Communications' purchase of the Jefferson exchange is in the public interest of the customers within the exchange for the following reasons:

- a. Quality local service will be maintained;
- b. The customers of the Jefferson exchange 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 Jefferson exchange at the level currently provided and additional emergency services will be offered when the county authorizes those services; and
- e. Customers in the exchange will be able to obtain additional, advanced telecommunications services.

Exhibit 2 at pages 3-7.

## TAXES

### XV

There will be no changes in the taxes paid as a result of the sale of the stock. Exhibit 2 at page 6.

## CONDITIONS OF SALE

### I

The Commission shall approve the proposed sale of the stock of the Jefferson Telephone Co. exchange subject to the following conditions:

1. That current local rates not be increased for 18 months from the date Jefferson Communications begins to operate the purchased exchange;
2. That Jefferson Communications shall not recover any of the acquisition adjustment through its regulated interstate or intrastate rates, through its local rates, or through federal or state universal service funds;
3. That Jefferson Communications 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 exchange; and
4. That Jefferson Communications offer, at a minimum, all existing services currently offered by the purchased exchange.

## CONCLUSIONS OF LAW

### I

The Commission has jurisdiction over the sale of stock of Jefferson Telephone to Jefferson Communications pursuant to SDCL Chapters 1-26 and 49-31, specifically 1-26-17.1, 49-31-3, 49-31-3.1, 49-31-4, 49-31-5.1, 49-31-7, 49-31-7.1, 49-31-11, 49-31-18, 49-31-19, 49-31-20, 49-31-21, 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

Pursuant to ARSD 20:10:01:42, the Commission finds that the purchase price is confidential because disclosure would result in material damage to Jefferson Communications' financial and competitive position

### IV

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 Jefferson Telephone exchange to receive high quality service.

V

Petitioners have satisfied their burden of proof under SDCL Chapter 49-31, specifically 49-31-3, 49-31-3.1, 49-31-4, 49-31-5.1, 49-31-7, 49-31-7.1, 49-31-11, 49-31-18, 49-31-19, 49-31-20, 49-31-2.1 and 49-31-59 for approval of the sale of stock of Jefferson Telephone to Jefferson Communications.

VI

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

VII

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

VIII

Any existing public safety services currently provided will continue.

IX

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

X

The Commission has determined that Jefferson Communications has 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.

XI

The Commission approves the sale of stock of Jefferson Telephone to Jefferson Communications.

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 Jefferson Telephone to Jefferson Communications is approved subject to the Conditions of Sale.

PLEASE TAKE NOTICE that this Decision and Order in Docket TC97-159 was duly entered this 23<sup>rd</sup> of December, 1997, and filed in the Commission's docket.

Dated at Pierre, South Dakota, this 23<sup>rd</sup> day of December, 1997.

**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: Alaine Kelso

Date: 12/23/97

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg  
JAMES A. BURG, Chairman

Pam Nelson  
PAM NELSON, Commissioner

Laska Schoenfelder  
LASKA SCHOENFELDER, Commissioner  
(dissenting on confidentiality price issue)