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BEFORE THE

ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF: )  
)  
NORTH COUNTY COMMUNICATIONS )  
CORPORATION )  
) No. 00 -0818  
Application for a certificate )  
of local authority to operate )  
as a reseller and )  
facilities-based carrier of )  
telecommunications services in )  
the State of Illinois )

Chicago, Illinois

March 2, 2001

Met, pursuant to adjournment at 11 o'clock  
a.m.

BEFORE:

MS. CLAUDIA SAINCOT,  
Administrative Law Judge

APPEARANCES:

MR. TODD LESSER (telephonically)  
3802 Rosencrans Street  
Suite 485  
San Diego, California 92110,  
appearing for applicant;

MR. DAVID O. KLEIN (telephonically)  
KLEIN, ZELMAN, ROTHERMEL & DICHTER, L.L.P.  
485 Madison Avenue  
New York, New York 10022  
appearing for applicant;

1 APPEARANCES (continued):

2 MS. BARB LANKFORD and (telephonically)  
3 MS. JUDITH MARSHALL  
4 527 East Capitol Avenue  
5 Springfield, Illinois 62794  
6 appearing for Illinois Commerce Commission  
7 staff.  
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I N D E X

Witnesses:	Direct	Cross	Re - direct	Re- cross	By Examiner
TODD LESSER	15		17		
			21		

E X H I B I T S

Applicant's	For Identification	In Evidence
A thru F		16

1 JUDGE SAINSOT: I think we are ready to go on  
2 the record. By the authority vested in me by the  
3 Illinois Commerce Commission, I now call Docket No.  
4 00-0818, North County Communications Corporation, an  
5 application for a certificate of local authority to  
6 operate as a reseller and facilities-based carrier  
7 of telecommunications services in the State of  
8 Illinois.

9 Will the parties please identify  
10 themselves for the record, please.

11 MR. KLEIN: David Klein of the firm Klein, Zelman,  
12 Rothermel & Dichter appearing on behalf of  
13 applicant, North County Communications Corporation.  
14 Our address is 485 Madison Avenue, New York, New  
15 York, 10022. The applicant's address is 3802  
16 Rosecrans, which is spelled R-o-s-e-c-r-a-n-s,  
17 Suite 485, San Diego, California, 92110, appearing  
18 on behalf of applicant. Its president is Todd  
19 Lesser.

20 JUDGE SAINSOT: Staff?

21 MS. LANKFORD: This is Barb Lankford, Consumer  
22 Services Division, Illinois Commerce Commission, 527

1 East Capitol Avenue, Springfield, Illinois.

2 MS. MARSHALL: Judy Marshall, Telecommunications  
3 Division, Illinois Commerce Commission, 527 East  
4 Capitol Avenue, Springfield, Illinois.

5 JUDGE SAINSOT: Okay. To begin with, you have a  
6 motion on file to protect -- for confidential  
7 treatment, Mr. Klein, of all financial records.

8 MR. KLEIN: Correct.

9 JUDGE SAINSOT: Is there any objection from staff  
10 that those are treated as proprietary and  
11 confidential?

12 MS. MARSHALL: No.

13 MS. LANGFORD: No.

14 JUDGE SAINSOT: Okay. Your motion is granted,  
15 Mr. Klein, and all financial records will be treated  
16 as confidential. And, for the record, that will  
17 include Exhibit D, Exhibit E, and Exhibit F. Okay.  
18 Are we ready to proceed with the witness?

19 MR. KLEIN: Yes.

20 JUDGE SAINSOT: Okay. Mr. Lesser, are you there?

21 MR. LESSER: Yes, I am.

22 JUDGE SAINSOT: Okay.

1 (Witness sworn.)

2 MR. KLEIN: May I proceed?

3 JUDGE SAINCOT: Sure. Go ahead, Mr. Klein.

4 TODD LESSER,

5 called as a witness herein, having been first duly

6 sworn, was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY

9 MR. KLEIN:

10 Q. Mr. Lesser, do you have copy before you of

11 your prefiled testimony dated January 20, 2001?

12 A. Yes, I do.

13 Q. Was this prefiled testimony prepared under

14 your care and supervision?

15 A. Yes, it was.

16 Q. If I would ask you the questions set forward

17 in the prefiled testimony, would your answers be the

18 same as set forth in the prefiled testimony?

19 A. Yes, they would.

20 Q. Do you have any changes or additions at this

21 time?

22 A. No, I don't.

1 MR. KLEIN: I would like to move his prefiled  
2 testimony, the application of North County  
3 Communications, as well as its exhibits and the  
4 exhibits that we have noted for the record, Exhibits  
5 A through F, for admission into the record at this  
6 time.

7 JUDGE SAINCOT: Any objection from staff?

8 MS. LANKFORD: No.

9 (Whereupon, Applicant's  
10 Exhibits A thru F were  
11 received in evidence.)

12 MR. KLEIN: Okay. At this point we would like  
13 to turn him over to cross-examination.

14 JUDGE SAINCOT: Just for the record, your motion  
15 is granted. Before we do that, maybe I'll identify  
16 what those exhibits are so if, God forbid, anyone  
17 had to look at this on appeal.

18 MR. KLEIN: I thought we had already.

19 JUDGE SAINCOT: I think we did, but an informal  
20 basis. Okay. The prefiled testimony is Exhibit A,  
21 your application and all the attachments, except for  
22 anything financial, that is Exhibit B; Mr. Lesser's

1 resume is Exhibit C, and the tax return balance  
2 sheet is Exhibit D; Exhibit F is a late filed chart  
3 of accounts -- revised chart of accounts, or  
4 something that will be filed in the future. And  
5 finally -- did I say that was Exhibit E or Exhibit  
6 F?

7 MR. KLEIN: Exhibit E.

8 JUDGE SAINCOT: Final exhibits are the financial  
9 statements, two set of income statements, that were  
10 faxed to me in January. Okay. You can proceed,  
11 staff.

12 CROSS EXAMINATION

13 BY

14 MS. LANKFORD:

15 Q. This is Barb Lankford. Mr. Lesser, I have  
16 just a few questions. I just want to clarify that  
17 you are not seeking authority for facilities-based  
18 interexchange service.

19 A. That's correct.

20 Q. Okay. And will your company provide monthly  
21 detailed billing statements listing all services,  
22 features, taxes, and surcharges?

1 A. Yes.

2 Q. Okay. And No. 20 of the application you  
3 state that you will not switch a customer  
4 interexchange provider without first obtaining a  
5 proper letter of authority from the customer. What  
6 about when you start to provide local exchange  
7 service? Will you also obtain a letter of authority  
8 from the customer?

9 A. Yes.

10 Q. Okay. And what about cramming? Will you  
11 have guidelines in place to prevent any cramming?

12 A. Yes.

13 Q. No. 11 in the testimony you state that  
14 you'll provide a free telephone directory. Does  
15 this mean that you will provide your customers with  
16 their own directory or will you contract with an  
17 ILEC?

18 A. We'll contract with an ILEC.

19 Q. Okay. And do you realize by attaching your  
20 tariffs to the application that it is not considered  
21 filed and that you must file with the Chief Clerk's  
22 Office after your certification has been received?

1 A. I understand that now.

2 Q. Okay. All right. You state that you have  
3 five employees; is this correct?

4 A. Yes.

5 Q. Okay. Do you plan to add more employees  
6 once you start providing service in Illinois and  
7 other states?

8 A. Yes, we do.

9 Q. Are you the only managerial person within  
10 your company?

11 A. There are other levels of managerial  
12 employees, but we'll provide operators.

13 Q. Are you the person that the Consumer  
14 Services Division of the Illinois Commerce  
15 Commission would contact for complaint resolution?

16 A. Yes, at this time.

17 Q. Okay. And I just want you to verify the  
18 phone number and the fax number if we were to  
19 receive a complaint.

20 A. My telephone number's Area 619-364-4750 and  
21 my Fax Number's 619-364-4710.

22 Q. Okay. In how many states are you now

1 providing service and is it local or just long  
2 distance?

3 A. We are providing long distance in  
4 approximately 18 cities as far as originating  
5 feature group DX, which carries our own network. We  
6 cover interexchange service in all 50 states using  
7 agreements with other IXCs to transport traffic back  
8 to us. We are currently providing local exchange  
9 carrier service in California, Oregon, Washington,  
10 Arizona, and West Virginia.

11 Q. Okay. Do you know approximately how many  
12 customers you have?

13 A. Approximately -- as far as on the long  
14 distance side, approximately 20,000.

15 Q. Okay. And are you providing -- actually  
16 providing local service in some of these states you  
17 just gave me?

18 A. Yes, we are.

19 Q. Do you know approximate how many customers  
20 you have in those states?

21 A. Approximately 500.

22 MS. LANKFORD: Okay. I believe that's all the

1 questions I have. Thank you.

2 JUDGE SAINCOT: Ms. Marshall?

3 MS. MARSHALL: Yes, I was a few questions.

4 CROSS EXAMINATION

5 BY

6 MS. MARSHALL:

7 Q. If you would first turn to Exhibit B, which  
8 is the application, and I just have some follow-up  
9 questions about the specific certificate. This  
10 application is an application for local service  
11 only; is that correct?

12 A. That is correct.

13 Q. Do you currently have an Illinois IXC  
14 certificate?

15 A. No, we don't. We only carry interstate  
16 traffic in Illinois.

17 Q. You carry no traffic that would be from one  
18 location in Illinois to another location in  
19 Illinois?

20 A. That is correct.

21 Q. And once you get your local service  
22 authority, you still do not intend to offer service

1 from one location in Illinois to another?

2 A. Not at this time.

3 Q. Okay. The reason I'm asking is because I  
4 think it would be relatively easy to modify if you  
5 believe it's appropriate to seek that authority.

6 A. That would be really up to David Klein.

7 MR. KLEIN: We'll look into it.

8 MS. MARSHALL: I mean, you need to do it now if  
9 you want to modify your application.

10 MR. KLEIN: I don't think it's so simple as just  
11 saying that, or is it, or are we going to have to  
12 supply additional information and other tariffs,  
13 maybe further disclosure in the application?

14 MS. MARSHALL: I wouldn't think so.

15 JUDGE SAINCOT: The tariff -- you wouldn't need  
16 to do anything. The tariff doesn't concern us at  
17 this point.

18 MR. KLEIN: Todd, we might as well do it in case  
19 you decide to do it as well.

20 THE WITNESS: Okay.

21 MS. MARSHALL: Q Would there be facilities -based  
22 or resale?

1 A. Facilities-based.

2 MR. KLEIN: It would be both.

3 THE WITNESS: Both. Thank you.

4 MS. MARSHALL: Q So we would need to request  
5 authority under 13-403 and as well as the sections  
6 that I have marked on the application.

7 JUDGE SAINCOT: Okay. So, Mr. Klein, you are  
8 moving to request or to amend your petition to  
9 include or request for authority under Section  
10 13-403?

11 MR. KLEIN: Yes.

12 JUDGE SAINCOT: Okay. Any objection from staff?

13 MS. LANKFORD: No.

14 JUDGE SAINCOT: Okay.

15 MR. KLEIN: This is for facilities-based and  
16 resold authority?

17 MS. MARSHALL: That is correct.

18 JUDGE SAINCOT: Okay. Your motion is granted.  
19 Your petition is amended to reflect the authority  
20 requested under Section 13-403, 13-404, and 13-405.  
21 I'm afraid it's not very glamorous. I'll just check  
22 it off myself by hand with my initials, but it does

1 the trick.

2 MR. KLEIN: Old fashion.

3 JUDGE SAINCOT: Right. Now just so we're clear,  
4 you are requesting the whole -- for lack of a more  
5 dignified phrase -- kit and kaboodle? You are  
6 asking for everything?

7 MR. KLEIN: The whole --

8 JUDGE SAINCOT: Okay. Proceed, Ms. Marshall.

9 MS. MARSHALL: Thank you. Thank you.

10 JUDGE SAINCOT: You have no further questions?

11 MS. MARSHALL: I have some more questions I was  
12 just saying. Thank you.

13 JUDGE SAINCOT: Okay.

14 MS. MARSHALL: Q I would refer you now in the  
15 application to Question No. 12. It's on Page 4.

16 A. Yes.

17 Q. And is it correct you are requesting  
18 authority to keep your books and records outside the  
19 State of Illinois?

20 A. That is correct.

21 Q. And is it your understanding that -- first  
22 of all, what location will those books be located?

1 A. They'll be located at Duban.

2 JUDGE SAINCOT: Mr. Lesser, would you repeat it.

3 The court reporter is having some trouble --

4 THE WITNESS: It will be located at Duban

5 Account C (sic) -- D-u-b-a-n, 4250 Wilshire

6 Boulevard, W-i-l-s-h-i-r-e, Los Angeles, California,

7 90010.

8 MS. MARSHALL: Q And, Mr. Lesser, is it your

9 understanding that should the location of those

10 records change that you will notify the Illinois

11 Commerce Commission?

12 A. Yes, I do understand.

13 Q. Do you also understand in the event it would

14 become necessary for staff to audit and inspect your

15 records that you would be responsible for the cost

16 of any out-of-state travel associated with such a

17 review?

18 A. Yes, I understand that.

19 Q. Are you requesting authority to operate

20 throughout the State of Illinois --

21 A. Yes, we are.

22 Q. -- but excluding rural areas? Does that

1 mean the areas that are defined by the  
2 Telecommunications Act of 1996?

3 A. Yes. We serve all areas that are defined by  
4 the Telecommunications Act of 1996.

5 MR. KLEIN: Excluding the rural service area?

6 MS. MARSHALL: Right.

7 MS. MARSHALL: Q That's what I meant was the  
8 definition of rural area.

9 A. Yes.

10 Q. Thank you. And I'm moving now to your  
11 testimony, Exhibit A, and I don't see a page number  
12 but we have some question numbers here. It's the top  
13 of the page begins with Question 43. It's regarding  
14 9-1-1 provision service.

15 A. Okay.

16 Q. Now is it correct that you are the contact  
17 person for 9-1-1 service?

18 A. Yes, I am.

19 Q. And is your fax number included on your  
20 application?

21 A. I believe it is.

22 Q. And do you have an E-mail address?

1 A. Yes. It is Todd@CCOM.com.

2 Q. I'm sorry. Could you repeat that again.

3 MC --

4 A. ComTODD, Charley, Charley, Oscar, Mary.com.

5 Q. Okay. Now do you understand that there's a  
6 difference between the requirements for  
7 facilities-based local service regarding 9-1-1 and  
8 the resold service regarding 9-1-1?

9 A. Yes.

10 Q. And you understand that the underlying  
11 carrier will handle the billing and remittance to  
12 the -- or the collection and remittance to the 9-1-1  
13 provider for the resolved services?

14 A. Yes.

15 Q. And you understand that you would be  
16 responsible for that relating to the  
17 facilities-based service?

18 A. Yes, I do.

19 Q. In response to Question 46, you indicate  
20 that both North County and Illinois Bell would be  
21 responsible for building and maintaining the data  
22 base. Do you understand that you are -- it's your

1 responsibility to maintain a database and to provide  
2 that to underlying carriers?

3 A. Yes.

4 Q. How often will you update the database for  
5 9-1-1?

6 A. Daily.

7 Q. Thank you. Now with regard to Questions 51  
8 and 52, I found those answers confusing because on  
9 51 you indicate that you can meet the Call Box  
10 Provisions of our regulations and under 5 2 you  
11 indicate that you will be requesting a waiver in the  
12 future.

13 MR. KLEIN: That's a mistake. It should be no on  
14 52.

15 MS. MARSHALL: Q Okay. So you are confident you  
16 will be able to meet the Call Box Provision?

17 A. Yes.

18 Q. In the event you can't, would you agree to  
19 request a waiver in a separate petition?

20 A Yes.

21 Q And is it correct that you have retained an  
22 accountant to insure that your records will be

1 maintained in the -- in accordance with  
2 generally-accepted accounting principles?

3 A. Yes.

4 Q. Now I have some questions about taxes. I'm  
5 sure you are aware that there are a number of taxes  
6 related to the provisions of telecommunications  
7 service.

8 A. Yes.

9 Q. Do you want to handle those taxes yourself  
10 or will you be using a tax service?

11 MR. KLEIN: We'll be using a tax service.

12 MS. MARSHALL: Q Do you know what tax service  
13 you'll be using?

14 A. Mark Adams most likely.

15 MS. MARSHALL: That's all the questions that I  
16 have. Thank you.

17 JUDGE SAINCOT: Okay. Does staff have any  
18 recommendations at this -- at this time?

19 MS. MARSHALL: I'm sorry. I do have one  
20 additional question I overlooked, if I may.

21 JUDGE SAINCOT: Sure. No problem, Ms. Marshall.

22 MS. MARSHALL: Q Mr. Lesser, you no doubt have a

1 copy of a three-page fax or two-page fax that came  
2 to us from your accounting firm that purports to be  
3 a chart of accounts, a chart of accounts that you  
4 initially submitted. I have not seen what came  
5 directly from the accountant. Okay.

6                   Would it be your intention that you are  
7 going to change your accounting system or will you  
8 be maintaining the account numbers that you are  
9 currently operating under to the extent that they're  
10 applicable?

11       A.   Well, our accounting system has one chart of  
12 accounts account number and the accountant keeps a  
13 separate chart of accounts once he gets it from our  
14 accounting system and we are going to keep. Unless  
15 advised of the accountant to change it, we'll  
16 continue doing it the way we have been doing it.

17       Q.   So the column that he labeled ID is for his  
18 own purposes and you'll have the details as  
19 indicated in your original chart of accounts?

20       A.   Yes.

21       MS. MARSHALL: That's all the questions I have.

22       JUDGE SAINOT: Okay. Staff have any

1 recommendations at this time?

2 MS. MARSHALL: At this point, subject to receipt  
3 of the revised chart of accounts, I know of no  
4 reason why this petition could not be granted.

5 JUDGE SAINCOT: Ms. Lankford?

6 MS. LANKFORD: I don't have any reason why the  
7 certificate cannot be granted either.

8 JUDGE SAINCOT: Okay. Thank you very much. Have  
9 a good weekend everyone. Take care. Bye -bye.

10 HEARD AND TAKEN.

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