

STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners:

Sam Cotten, Chairman
Alyce A. Hanley
Dwight D. Ornquist
Tim Cook
James M. Posey

In the Matter of the Application)
by ELECTRIC LIGHTWAVE, INC., for a) U-97-217
Certificate of Public Convenience)
and Necessity To Operate as a) ORDER NO. 1
Telecommunications (Intrastate)
Interexchange) Public Utility within)
Alaska)
_____)

ORDER APPROVING APPLICATION, SUBJECT
TO CONDITIONS; APPROVING TARIFF, IN PART;
REQUIRING BOND; ALLOWING RECORDS TO BE KEPT
OUT OF STATE; AND CONDITIONALLY GRANTING WAIVER

BY THE COMMISSION:

Background

On January 21, 1998,¹ Electric Lightwave, Inc. (ELI),
filed an application for a certificate of public convenience and
necessity to resell intrastate interexchange telecommunications
public utility service within Alaska. ELI stated that it will
provide the proposed telecommunications services in Alaska over
transmission facilities leased from other carriers. ELI proposes

¹An incomplete application was filed November 7, 1996. The
application was considered complete for notice purposes on
October 20, 1997, pending the filing of additional information to
perfect the application. The application was perfected on
January 21, 1998.

to provide message telecommunications, 800/888, travel calling card, and prepaid calling-card services.

Notice of the application was issued to the public on November 5, 1997, with a closing date of December 5, 1997, for submission of statements in support of, or in opposition to, the application. No comments have been received by the Commission in response to the notice.

The Commission Staff (Staff) reviewed the filings in this proceeding and on January 28, 1998, submitted its analysis and recommendations (Report) thereon. Staff's Report sets out in detail the history of the proceeding, the public noticing of the application, and Staff's findings and recommendations regarding disposition of the application. A copy of Staff's Report is attached to this Order as an Appendix.

Among other things, Staff concluded that ELI is fit, willing, and able to furnish intrastate interexchange telecommunications public utility service in Alaska. Staff recommended that the application be approved subject to the conditions that ELI:

(a) pay intrastate access charges in accordance with the tariff of the Alaska Exchange Carriers Association, Inc.;

(b) file Bulk Bill reports;

(c) by March 15th of each year, file its audited or reviewed financial statements for the previous year; and

(d) post a \$5,000 bond or escrow account solely for payment of customer refunds for debit card services.

In addition, Staff recommended that ELI's request to keep its books, records, and accounts out of state be approved, subject to the condition that ELI provide certified copies of its books, records, and accounts upon request by the Commission. Staff also recommended that ELI's tariff Sheet Nos. 1 through 38 filed January 21, 1998, be approved. Staff further recommended that tariff Sheet Nos. 39 and 40, relating to prepaid calling-card services, not be approved until ELI demonstrates that it has established a \$5,000 bond or escrow account for refunding of debit card services. Additionally, Staff recommended that ELI's request for a waiver of the requirement to provide wholesale services under its tariff be approved, subject to conditions.

Discussion

Based on its review of the record in this proceeding, the Commission concurs with Staff that ELI is fit, willing, and able to furnish the proposed intrastate interexchange telecommunications public utility service.² Accordingly, the Commission accepts Staff's recommendation to approve ELI's application subject to the conditions set out above and in Staff's Report.

²The Commission notes that under its regulations at 3 AAC 52.350(b), the competitive provision of intrastate interexchange telephone service in accordance with the provisions of 3 AAC 52.350 - 3 AAC 52.399 is required by the public convenience and necessity.

The Commission also concurs with Staff's recommendation to approve ELI's request to keep its books, records, and accounts out of state. That approval is subject to the condition that ELI provide certified copies of its books, records, and accounts upon the request of the Commission or pay the actual expenses incurred by the Commission in sending personnel to examine ELI's books and records at the place where they are kept. (AS 42.05.491.)

In addition, the Commission concurs with Staff's recommendation that ELI's request for a waiver of the requirement for a wholesale tariff be approved subject to the condition that if ELI constructs or operates interexchange facilities in Alaska, or expands its intrastate services in Alaska, it will be required to file a wholesale tariff for the Commission's approval before the new intrastate services are provided or the facilities are placed into service. ELI is placed on notice that it may also be required to provide wholesale services in the future if another carrier requests purchase of ELI's services on a wholesale basis.

Additionally, the Commission concurs with Staff's recommendation to approve ELI's tariff Sheet Nos. 1 through 38 filed January 21, 1998. The Commission also concurs with Staff's recommendation that tariff Sheet Nos. 39 and 40, regarding prepaid calling cards, should not be approved until ELI has demonstrated that it has established a \$5,000 bond or escrow account for the sole purpose of providing refunds to debit card customers. Upon ELI demonstrating to the Commission that it has established the

bond or escrow account, the Commission will approve tariff Sheet Nos. 39 and 40 filed January 21, 1998.

Finally, the Commission concurs with Staff's recommendation that ELI's request for a waiver of the requirement to provide wholesale services under its tariff be approved, subject to conditions. Staff's Report is incorporated herein by reference and adopted as the Commission's findings of fact and conclusions of law.

ORDER

THE COMMISSION FURTHER ORDERS:

1. The application filed by Electric Lightwave, Inc., for a certificate of public convenience and necessity to provide telecommunications (intrastate interexchange) public utility service in Alaska is approved, subject to the conditions set out in the Appendix attached to this Order and further discussed in the body of this Order.

2. By April 20, 1998, Electric Lightwave, Inc., shall file with the Commission a \$5,000 bond or establish an escrow account to be used solely for payment of customer refunds.

3. Tariff Sheet Nos. 1 through 38 filed January 21, 1998, by Electric Lightwave, Inc., are approved.³

4. The request by Electric Lightwave, Inc., to keep its books, records, and accounts out of state is approved, subject to

³A validated copy of the approved tariff Sheets will be returned to the utility by separate cover.

the condition that Electric Lightwave, Inc., provide, under AS 42.05.491, certified copies of its books, records, and accounts upon the request of the Commission or pay the actual expenses incurred by the Commission in sending personnel to examine the utility's books and records at the place where they are kept.

5. The request by Electric Lightwave, Inc., for a waiver of the requirement to provide wholesale services under its tariff is conditionally approved. If Electric Lightwave, Inc., constructs interexchange facilities in Alaska, expands its intrastate services in Alaska, or another carrier requests wholesale services from Electric Lightwave, Inc., the utility shall file a wholesale tariff with the Commission for its approval before the new intrastate services are provided or the facilities are placed into service.

DATED AND EFFECTIVE at Anchorage, Alaska, this 20th day of March, 1998.

BY DIRECTION OF THE COMMISSION
(Commissioners Sam Cotten, Chairman,
and Alyce A. Hanley, not participating.)

(S E A L)