

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE JOINT APPLICATION OF LITEL )  
TELECOMMUNICATIONS CORPORATION AND )  
CHARTER NETWORK COMPANY FOR )  
AUTHORITY TO ENTER INTO THE \$25 ) CASE NO. 90-016  
MILLION REVOLVING CREDIT FACILITY, )  
TO EXECUTE CROSS-GUARANTIES, AND )  
FOR AUTHORITY TO EXECUTE RELATED )  
DOCUMENTATION )

O R D E R

On January 24, 1990, LiTel Telecommunications Corporation ("LiTel") and Charter Network Corporation ("Charter") filed an application pursuant to KRS 278.300 and 807 KAR 5:001, Sections 6, 8, and 11, seeking authority from the Commission to enter into a \$25 million revolving credit arrangement, to execute cross-guaranties, and to execute the documentation necessary to complete the financing. The cross-guaranties impose on LiTel and Charter, as well as a nonregulated affiliated company called Afford-A-Call Corp., the obligation to pay any portion of the debt defaulted upon by any of the other parties to the financing arrangement.

LiTel was granted a Certificate of Public Convenience and Necessity to provide intrastate, interLATA long-distance telecommunications service within the Commonwealth of Kentucky in

Case No. 10090.<sup>1</sup>

Charter, formerly known as Phoenix Network Corporation, was authorized to provide intrastate, interLATA long-distance telecommunications services within the Commonwealth of Kentucky in Case No. 89-288.<sup>2</sup>

In their application, LiTel and Charter correctly state that they are non-dominant carriers, subject only to those requirements of 807 KAR Chapter 5, which were expressly imposed on non-dominant carriers in Administrative Case No. 273.<sup>3</sup> The Order in Case No. 273 did not specifically require compliance by non-dominant carriers with regulations governing financing applications. Therefore, LiTel and Charter are not required to file the financing information required under 807 KAR 5:001.

However, the authority to guarantee the debt of another party does require Commission approval under KRS 278.300. Specifically, the statute prohibits any utility from issuing securities or evidences of indebtedness, or assuming any obligation or liability

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<sup>1</sup> Case No. 10090, The Application of LiTel Telecommunications Corporation for a Certificate of Public Convenience and Necessity to Provide Intrastate Long Distance Telephone Service to the Public in the Commonwealth of Kentucky and for Establishment of Rates.

<sup>2</sup> Case No. 89-288, Application of Phoenix Network Corporation for a Certificate of Public Convenience and Necessity to Provide Long Distance Telecommunications Services Statewide as a Reseller Within the Commonwealth of Kentucky.

<sup>3</sup> Administrative Case No. 273, An Inquiry Into Inter- and IntraLATA Intrastate Competition in Toll and Related Services Markets in Kentucky.

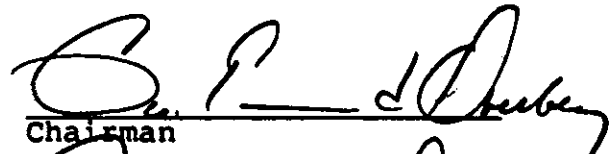
with respect to securities or evidences of indebtedness of any other person until it has been authorized to do so by Order of the Commission. The statute further states that the Commission will not approve the assumption of debt unless it finds that the issue or assumption is for some lawful object within the corporate purposes of the utility. The application states that borrowings under the revolving credit arrangement will be used for the acquisition of telecommunications companies. It appears that the ultimate beneficiary of this arrangement may be the parent corporation. Because of this the Commission is concerned to some extent that the financing arrangements may not be for the benefit of LiTel and Charter in the long run.

However, the Commission is aware that LiTel and Charter are non-dominant carriers providing service in a competitive marketplace. The exit of either company from such a marketplace would not harm their existing customers in the long run because there are similar companies in the marketplace which could fill the void should either company become unable to continue providing service as a result of financial difficulties arising from the guaranties included in this financing arrangement. The financial consequences would be the burden of the shareholders of the corporation, not the customers of either LiTel or Charter.

IT IS THEREFORE ORDERED that the application of LiTel and Charter seeking authority to participate in the \$25 million revolving credit facility, to execute cross-guaranties, and to execute the necessary documentation to complete the financing is approved.

Done at Frankfort, Kentucky, this 12th day of March, 1990.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

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Commissioner

ATTEST:

  
Executive Director