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WT-970336
(P)

October 1, 1997

Steve McLellan, Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

Re: Verified Petition for Designation and Waiver -
Mashell Telecom, Inc.

Dear Mr. McLellan:

Enclosed for filing are the original and three copies of the above-referenced
Petition.

Thank you for your assistance with this matter.

Sincerely,

Richard A. Finnigan
aul

RICHARD A. FINNIGAN

RAF/aw
Enclosures as noted

cc: Arne L. Haynes
Bob Shirley

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STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

RECEIVED
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STATE OF WASHINGTON
UTILITY AND TRANSPORTATION
COMMISSION

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of
the Petition of
MASHELL TELECOM, INC.

)
)
) DOCKET NO. UT- _____
)
) VERIFIED PETITION
) FOR DESIGNATION
) AND WAIVER

for Designation as an
Eligible Telecommunications Carrier
and Other Relief.
.....)

COMES NOW Mashell Telecom, Inc. ("Company" or "Petitioner") and, pursuant to RCW 80.01.040(3) and Section 214(e)(2) of the Communications Act of 1934, as amended, 47 U.S.C. § 214(e)(2), respectfully petitions the Washington Utilities and Transportation Commission ("Commission") for an order designating the Company as an eligible telecommunications carrier for a service area consisting of the entirety of the Company study area, encompassing its Eatonville and Kapowsin exchanges, as defined in exchange area maps on file with the Commission.

1. The Company is a telecommunications company and a public service company, as defined in RCW 80.040.010. It is also a telecommunications carrier, as defined in Section 3(49) of the Communications Act of 1934, as amended, 47 U.S.C. § 153

VERIFIED PETITION FOR
DESIGNATION AND WAIVER - 1

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1 (49). Further, the Company is a local exchange carrier, as defined in RCW 80.04.010 and
2 Section 3(44) of the Communications Act of 1934, as amended, 47 U.S.C. § 153(44),
3 providing local exchange service, pursuant to authorization by the Commission, throughout
4 the Company's study area described more fully in Paragraph 5 below.

6 2. The Company certifies that it is also a rural telephone company, as defined
7 in Section 3(47) of the Communications Act of 1934, as amended, 47 U.S.C. § 153(47),
8 and Section 51.5 of the rules and regulations of the Federal Communications Commission
9 ("FCC"), 47 C.F.R. § 51.5, and is an incumbent local exchange carrier, as defined in
10 Section 51.5 of the FCC's rules and regulations, 47 C.F.R. § 51.5. The Company qualifies
11 as a rural telephone company under multiple provisions of 47 U.S.C. § 153(47) and 47
12 C.F.R. § 51.5, and, in any case, it provides telephone exchange service to a local
13 exchange carrier study area with fewer than 100,000 access lines.

16 3. Section 214(e) of the Communications Act of 1934, as added by Section 102
17 of the Telecommunications Act of 1996, provides that a common carrier designated as an
18 eligible telecommunications carrier shall be eligible to receive Federal universal service
19 support. In order to receive such support, a designated eligible telecommunications carrier
20 must
21

22 "(A) offer the services that are supported by Federal universal service support
23 mechanisms under section 254(c), either using its own facilities or a combination
24 of its own facilities and resale of another carrier's services (including the services
25 offered by another eligible telecommunications carrier); and
26
27

1 (B) advertise the availability of such services and the charges therefor using
2 media of general distribution.”

3
4 47 U.S.C. § 214(e)(1). See also 47 C.F.R. § 54.201.

5 4. The services that are to be supported by Federal universal service support
6 mechanisms, and thus are to be offered by common carriers designated as eligible
7 telecommunications carriers, have been identified by the FCC in Section 54.101(a) of its
8 rules and regulations, 47 C.F.R. § 54.101(a), as interpreted and explained in the FCC's
9 *Report and Order*, adopted May 7, 1997, and released May 8, 1997, in its CC Docket No.
10 96-45 (FCC 97-157) (the "FCC USF Order"). For convenience only, these services are
11 hereinafter referred to as "USF Services."

12
13 5. Section 214(e)(2) of the Communications Act of 1934, as amended, 47
14 U.S.C. § 214(e)(2), provides that designation of an eligible telecommunications carrier
15 shall be for a service area designated by the State commission. Section 214(e)(5)
16 provides as follows:
17

18 The term "service area" means a geographic area established by a
19 State Commission for the purpose of determining universal service
20 obligations and support mechanisms. In the case of an area served by a
21 rural telephone company, "service area" means such company's "study area"
22 unless and until the commission and the States, after taking into account
23 recommendations of a Federal-State Joint Board instituted under section
24 410(c), establish a different definition of service area for such company.

25 6. The Company's study area is designated by the National Exchange Carrier
26 Association, Inc. as study area number 522431 and includes the entire geographic area
27

28 VERIFIED PETITION FOR
DESIGNATION AND WAIVER - 3

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1 encompassed by the Company's Eatonville and Kapowsin exchanges, as depicted on
2 exchange area maps on file with the Commission.

3
4 7. Except to the extent described in Paragraph 8 below, the Company currently
5 provides to subscribers throughout its study area all of the USF Services.

6 8. Among the USF Services is the service denominated by the FCC as "toll
7 limitation." As defined by the FCC, "toll limitation" includes both "toll blocking" and "toll
8 control," as those terms are defined by the FCC in Section 54.400 of its rules and
9 regulations, 47 C.F.R. § 54.400. The Company provides "toll blocking" as so defined, but
10 does not presently have the technical capability of providing "toll control." To the best of
11 the Company's information, knowledge and belief, there is no commercial solution
12 currently available for providing "toll control."
13

14
15 In order to accomplish toll control, the Company would require systems in place
16 allowing that, at a minimum at the completion of each toll call, either the Company would
17 immediately rate the call and keep a real time record accumulating the customer's toll calls
18 for the billing period or immediately receive from the carrier who handled the call, a record
19 of the rated call that could be accumulated in the customer's toll summary record. When
20 that summary amount reached the limit set by the customer, the Company's billing system,
21 which today is a function performed by a third-party vendor, would then have to
22 communicate with the central office switch serving the customer to impose the toll blocking
23 feature in the switch so that further toll calls could not be made and cause the Line
24
25
26
27

1 Information Database (LIDB) used by the Company to immediately deny authorization for
2 calling card, collect, and third number calls billed to the customer's account.

3
4 At the beginning of each new cycle, the central office switch would have to be reset
5 to remove the toll blocking feature for the next billing cycle until the limit were again
6 reached and the LIDB would have to be reset. All of this assumes that real time monitoring
7 is a process available to the Company.

8
9 Under today's environment, most telephone companies rate messages, **that they**
10 **bill**, periodically during the month or at the end of each month. Furthermore, the billing
11 systems currently do not normally summarize a customer's toll usage until the end of the
12 month when the bill is prepared. Of even greater concern is the fact that customers may
13 receive toll bills from several different carriers depending on their choices for interLATA
14 or intraLATA presubscription and the extent to which they use the 10XXX or 800/888
15 dialing patterns to reach carriers other than the presubscribed carrier.

16
17 As to the best of the Company's information, knowledge and belief, there are no
18 provisions for carriers that do their own billing to provide rated messages to the Company
19 on any basis, let alone on a real time basis; and, there are no billing systems established
20 that communicate with the switching entity to impose toll blocking restrictions on a real
21 time basis.

22
23 If the offering of full control is required, in order for the Company to provide toll
24 control, there will have to be extensive revisions to telephone company billing systems,
25 switching software, carrier billing systems, and totally new information exchanges
26
27

28 VERIFIED PETITION FOR
DESIGNATION AND WAIVER - 5

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1 established between the Company and other carriers. For the Company at the present
2 time, toll control is not technically feasible and the Company is incapable of offering this
3 service.
4

5 9. The Company believes that Section 54.101(9) of the FCC's rules and
6 regulations, 47 C.F.R. § 54.101(a)(9), does not require the Company to provide toll control
7 if it provides toll blocking.¹ Nevertheless, out of an abundance of caution, the Company
8 respectfully requests that the Commission waive such requirement, if any, that the
9 Company provide toll control. The Company respectfully submits that such waiver is
10 authorized by Section 54.101(c) of the FCC's rules and regulations, 47 C.F.R. § 54.101(c),
11 and by the FCC USF Order.²
12

13 10. The FCC USF Order also appears to require that a designated eligible
14 telecommunications carrier offer toll blocking without charge to low-income consumers, as
15 defined in the FCC's rules and regulations.³ The Company hereby represents that it will
16 file with the Commission, no later than December 1, 1997, such revisions, if any, to its
17 local exchange service tariff as may be necessary in order to comply with this requirement.
18

19 11. Section 214(e)(1)(B) of the Communications Act of 1934, as amended, 47
20 U.S.C. § 214(e)(1)(B), and Section 54.201(d)(2) of the FCC's rules and regulations, 47
21 C.F.R. § 54.201(d)(2), require that an eligible telecommunications carrier shall advertise
22
23

24
25 ¹See Paragraph 388 of the FCC USF Order.

26 ²*Ibid.*

27 ³See especially Paragraph 385 of the FCC USF Order.

1 the availability of USF Services and the charges therefor using media of general
2 distribution. The Company represents that it either already satisfies this requirement or
3 will satisfy it prior to January 1, 1998.
4

5 12. The relief requested by this Petition is in the public interest.

6 WHEREFORE, the Company respectfully requests that the Commission enter its
7 order

8 (1) designating the Company as an eligible telecommunications carrier, as that
9 term is used in Section 214(e) of the Communications Act of 1934, as
10 amended, 47 U.S.C. § 214(e), and Section 54.201 of the FCC's rules and
11 regulations, 47 C.F.R. § 54.201, for the entirety of the Company's study
12 area, encompassing all of the geographic area included within the
13 Company's Eatonville and Kapowsin exchanges and
14
15

16 (2) waiving any requirement of the FCC rules and regulations, and of the FCC
17 USF Order, that the Company provide toll control, as that term is defined in
18 Section 54.400(c) of the FCC's rules and regulations, 47 C.F.R. § 54.400(c),
19 until not less than 90 days after further order of the Commission rescinding
20 such waiver.
21

22 A proposed form of order is attached.
23

24 DATED at Olympia, Washington, this 1st day of October, 1997.
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28 VERIFIED PETITION FOR
DESIGNATION AND WAIVER - 7

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Respectfully submitted,

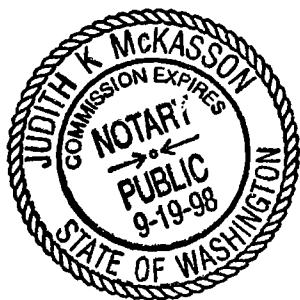
[Signature]
RICHARD A. FINNIGAN, WSBA #6443
Attorney for Petitioner -
Mashell Telecom, Inc.
2405 Evergreen Park Drive SW, Suite B-3
Olympia, WA 98502

[Signature]
ARNE L. HAYNES, President
Mashell Telecom, Inc.

STATE OF WASHINGTON)
County of Pierce) ss.

ARNE L. HAYNES, being first duly sworn, deposes and says that he is the President of Mashell Telecom, Inc., Petitioner in the proceeding entitled above, that he has read the foregoing Petition and knows the contents thereof; that the same is true of his own knowledge, except as to matters which are therein stated on information or belief, and as to those matters he believes them to be true.

SUBSCRIBED AND SWORN to before me this 23 day of September, 1997.



[Signature]
Judith K. McKasson
[Printed Notary Name]

NOTARY PUBLIC in and for the State of
Washington, residing at Edomulle
My commission expires: 9/19/98

VERIFIED PETITION FOR
DESIGNATION AND WAIVER - 8

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BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of)
the Petition of)
MASHELL TELECOM, INC.) DOCKET NO. UT- _____
)
) PROPOSED ORDER
)
for Designation as an)
Eligible Telecommunications Carrier)
and Other Relief.)
.....)

11 This matter, having come before the Washington Utilities and Transportation
12 Commission (the "Commission") on Petition of Mashell Telecom, Inc. (the "Company") for
13 Designation as an Eligible Telecommunications Carrier and Other Relief ("Petition"), and
14 the Commission having considered the Petition, and having provided the opportunity for
15 comment, hereby finds as follows:
16

17 1. The Commission is an agency of the State of Washington vested by statute
18 with the authority to regulate the rates, rules, regulations, practices and accounts of public
19 service companies, including telecommunications companies.
20

21 2. The Commission is authorized by RCW 80.01.040(3), Chapter 80.36 RCW
22 and Section 214(e)(2) of the Communications Act of 1934, as amended, 47 U.S.C. §
23 214(e)(2), to designate an eligible telecommunications carrier and the service area for
24 such eligible telecommunications carrier as those terms are defined in the
25 Communications Act of 1934, as amended.
26

1 3. The Company serves the exchanges of Eatonville and Kapowsin which are
2 depicted on the exchange maps on file with the Commission and which geographic area
3 is wholly included in the study area for the Company under NECA study area number
4 522431.
5

6 4. The Company has certified that it qualifies as a rural telephone company as
7 defined in Section 3(47) of the Communications Act of 1934, as amended, 47 U.S.C. §
8 153(47) and Section 51.5 of the rules and regulations of the Federal Communications
9 Commission ("FCC"), 47 C.F.R. § 51.5. The Commission finds that the Company's
10 certification is appropriate.
11

12 5. Section 214(e)(5) of the Communications Act of 1934, as amended, 47
13 U.S.C. § 214(e)(5) provides that the service area for a rural telephone company which is
14 designated as an eligible telecommunications carrier is the company's study area unless
15 specific action is taken to modify the service area. The Commission finds that in this case
16 the Company's study area which is designated by the National Exchange Carrier
17 Association, Inc. ("NECA") as study area number 522431 is the appropriate geographical
18 area to be the Company's service area for eligible telecommunications carrier purposes.
19
20

21 6. The Company offers all of the services that are to be supported by Federal
22 universal support mechanisms as set out in 47 C.F.R. § 54.101(a), as interpreted and
23 explained in the FCC's Report and Order, adopted May 7, 1997 and released May 8, 1997
24 in its CC Docket No. 96-45 (FCC 97-157). There is arguably an ambiguity in the FCC's
25 Report and Order whether the toll limitation service which must be offered must include
26 both toll control and toll blocking. The Company does offer toll blocking as defined by the
27
28

1 FCC in 47 C.F.R. § 54.400. The Company does not offer toll control because it does not
2 presently have the technical capability of providing toll control as defined in 47 C.F.R. §
3 54.400. Under the FCC's Report and Order, the Commission may grant the Company a
4 waiver of the responsibility to provide toll limitation. See Report and Order, Paragraph
5 388. For the purposes of this Order, if the FCC's rules are interpreted as requiring a
6 company to offer both toll blocking and toll control as the toll limitation service under 47
7 C.F.R. 54.101(a), then the Company should be granted a waiver from providing toll control
8 until ninety days after this Commission determines otherwise, after due notice and
9 opportunity for a hearing.
10
11

12 7. The Company has committed to file tariff revisions to provide toll blocking
13 without a charge to low income consumers, if necessary, by December 1, 1997.
14

15 8. The Company is providing or will provide by January 1, 1998, advertisement
16 of the availability of the services that are to be supported by Federal universal support
17 services, except as waived by this Order, and the charges therefor using media of general
18 distribution.
19

20 CONCLUSIONS OF LAW

21 1. The Commission has jurisdiction over the subject matter of this proceeding
22 and all parties to this proceeding.

23 2. The Petition and the relief it requests are consistent with the public interest,
24 convenience, and necessity.
25

26 3. Granting the relief requested in the Petition is consistent with applicable
27 Washington and Federal law.
28

1 4. The Company is a rural telephone company as defined by 47 U.S.C. §
2 153(47).

3
4 5. The Company should be designated as an eligible telecommunications
5 company for its study area, NECA study area number 522431, including but not limited to
6 the Company's Eatonville and Kapowsin exchanges as set forth on its exchange maps on
7 file with the Commission.

8
9 Based on the foregoing findings, reasoning, conclusions, ultimate findings, and
10 conclusions of law, the Commission makes and enters the following ORDER:

11 1. The Petition filed by Mashell Telecom, Inc. to be designated as an eligible
12 telecommunications carrier for the study area identified in Conclusion of Law 5, above, is
13 hereby granted.

14
15 2. The conditional request for a waiver from providing toll control is hereby
16 granted, which waiver may be removed by order of this Commission, after due notice and
17 opportunity for a hearing, effective not less than ninety days from the date of such order.

18
19 3. Mashell Telecom, Inc. appropriately certified that it is a rural telephone
20 company under 47 U.S.C. § 153(47) and 47 C.F.R. § 51.5.

21 DATED at Olympia, Washington and effective this _____ day of _____,
22 1997.

23
24 **WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

25
26 _____
27 ANNE LEVINSON, Chairwoman

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RICHARD HEMSTAD, Commissioner

WILLIAM R. GILLIS, Commissioner