

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-3336
of France Telecom Corporate)
Solutions LLC, Herndon,)
Virginia, seeking Authority to)
Operate and Offer Resold Local) Granted
Exchange and Resold)
Interexchange Telecommunications)
Services throughout the State of)
Nebraska.) Entered: March 22, 2005

BY THE COMMISSION:

By its application filed January 18, 2005, France Telecom Corporate Solutions, LLC, of Herndon, Virginia, Applicant seeks authority to offer resold local exchange and resold interexchange telecommunications services in the state of Nebraska. Notice of the application was published in the Daily Record, Omaha, Nebraska, on January 20, 2005. No protests were filed; therefore, this application is processed pursuant to the Commission's Rule of Modified Procedure.

EVIDENCE

In the application, Applicant stated that it is a limited liability company organized under the laws of the state of Delaware and is authorized to transact business in the state of Nebraska. Applicant is wholly owned by France Telecom, S.A. The Applicant stated in its application that it is authorized to provide telecommunications in the states of Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Maryland, Michigan, Montana, Nevada, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, South Dakota and Tennessee. Applications currently pending in the states of Louisiana, Minnesota, New Mexico and Oklahoma. Applicant currently has a provisional application in Pennsylvania. Neither Applicant nor its domestic member shareholders have been the subject of any formal complaints or other investigatory proceedings.

Applicant seeks authority to provide resold local exchange and resold interexchange service mainly to business customers via individually negotiated contracts. Applicant stated that it intends to provide local exchange services statewide, except in those areas which are served by rural incumbent local exchange carriers. Applicant also intends to provide resold interexchange carrier services on a statewide basis originating at points throughout the state. Applicant does not intend to collect advance payments or deposits.

Applicant intends to sell the services of its underlying carriers. Applicant does not own or control telecommunications facilities, and will not purchase or lease any facilities to provide services in Nebraska. Applicant provided in its application that it intends to resell the interexchange services of AT&T, Sprint and MCI, as well as other authorized carriers. Applicant is a non-facilities-based reseller which will rely on the technical expertise of its underlying facilities-based carriers to provide service in Nebraska. Applicant stated that it is a pure reseller of telecommunications services, and it does not intend to invest in telecommunications facilities in Nebraska. Applicant further stated it does not intend to purchase unbundled elements to provide local exchange service. It intends to enter into resale agreements with incumbent local exchange carriers in Nebraska at some point in the future.

Applicant stated that it will provide directory and operator assistance services, emergency 911 services, and Telephone Relay Service through its underlying facilities-based carrier. Additionally, Applicant agrees to adhere to all state laws and all Commission policies, rules and orders.

Applicant stated in its application that it possesses the technical and managerial resources necessary to provide the proposed services in the state of Nebraska. In Exhibit F, attached to its application, Applicant provided details of its professional experience and provided information in relation to the education of its management and technical team.

Exhibit G to the application is a copy of Applicant's last three annual financial statements including a balance sheet, profit and loss statement and evidence of adequate filing, together with the Applicant's most recent interim financial statements certified by an independent certified public accountant. Further, Exhibit G includes a copy of the latest annual report of Applicant.

Applicant states a grant of this application will serve the public interest of Nebraskans as its proposed intrastate services are developed to serve the local exchange needs of subscribers who could not otherwise realize similar cost savings through major carriers. Applicant also stated that its service will utilize existing carrier communication facilities more efficiently and provide greater revenue for facilities based local exchange carriers. Additionally, Applicant states that it will provide long-term benefits to the public through lower

prices, better quality service, innovative services, increased consumer choice, alternative billing, efficient use of existing telecommunications resources, increased diversification and reliability in the supply of telecommunications service and additional access revenues to local exchange providers.

O P I N I O N A N D F I N D I N G S

The Commission considers this application for authority in light of the following criteria and standards established in the Commission's telecommunications rules:

- (a) Whether the applicant has provided the information required by the Commission;
- (b) Whether the applicant has provided a performance bond, if required;
- (c) Whether the applicant possesses adequate financial resources to provide the proposed service;
- (d) Whether the applicant possesses adequate technical competence and resources to provide the proposed service;
- (e) Whether the applicant possesses adequate managerial competence to provide the proposed service; and
- (f) Whether granting the applicant a certificate preserves and advances universal service, protects the public safety and welfare, ensures the continued quality of telecommunications services and safeguards the rights of consumers, pursuant to Section 253(b) of the Act.

Applicant has demonstrated that it meets the standards of financial, technical, and managerial competence and all other criteria necessary to provide interexchange and local exchange services in the state of Nebraska. No party in this proceeding refuted Applicant's competence.

These opinions and findings carry no precedential value other than establishing minimum standards and criteria to apply when considering applications to provide interexchange and local exchange services in the above-mentioned territories. All telecommunications carriers seeking such a certificate must demonstrate that they meet, at a minimum, the standards and criteria set forth herein.

Before the applicant is allowed to provide local exchange service to its users, it must either:

- (a) Through negotiation or arbitration, reach an interconnection/resale agreement with the pertinent incumbent local exchange carrier and receive Commission approval of the interconnection/resale agreement; or
- (b) In the event a certified local exchange carrier provides a wholesale tariff, purchase rates from that tariff, file its own tariff and receive Commission approval of its tariff.

This order does not terminate, waive or in any manner diminish the exemptions and protections created by the Act for rural carriers, as defined by the Act. This order does not address the issue of the rural local exchange carrier exemption under the Act. Rural exemptions may be terminated, suspended or modified only as provided in Section 251(f) of the Act.

Prior to providing local exchange service in any area in the state of Nebraska, applicant must file and the Commission must approve, tariffs in accordance with the provisions of Section 002.21 of the Neb. Admin. R. & Regs. Title 291, ch. 5.

As a provider of interexchange and local exchange services in the state of Nebraska, applicant would be subject to the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to any other local exchange company except those obligations imposed on ILECs pursuant to Section 251(c) of the Act.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-3336 be, and hereby is, granted.

IT IS FURTHER ORDERED that the applicant comply with Section 251(f)(1)(B) of the Telecommunications Act of 1996 and that the applicant submit any bona fide request(s) for interconnection, services or network elements from a rural telephone company to the Commission for its approval.

IT IS FURTHER ORDERED that applicant is obligated to abide by the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal

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service, restrictions on joint marketing and quality of service), applicable to any other interexchange and local exchange carriers, except obligations imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Act.

IT IS FURTHER ORDERED that, to the extent applicant provides access line service as referenced in the Telecommunications Relay System Act, Neb. Rev. Stat. §§ 86-301 through 86-315 (Relay Act) and defined in Neb. Admin. R. & Reg. Title 291, ch. 5 § 001.01B, the applicant shall collect from its subscribers a surcharge (Relay Surcharge) pursuant to the relay act and the Commission's annual orders establishing the amount of the surcharge, and shall remit to the Commission the proceeds from the relay surcharge as provided by the Relay Act.

IT IS FURTHER ORDERED that the applicant comply with all necessary statutes and Commission Rules and Regulations as they pertain to the Nebraska Universal Service Fund.

IT IS FURTHER ORDERED that applicant shall file, in accordance with the applicable statutes, on or before April 30 of each year, an annual report with the Commission consisting of: (a) a copy of any report filed with the Federal Communications Commission; (b) a copy of any annual report to stockholders; and (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission. If such reports are unavailable, applicant shall file a balance sheet and income statement for the previous year of operation, and for the state of Nebraska on a combined interstate-intrastate basis, the investment in the telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues, operating expenses and taxes.

IT IS FURTHER ORDERED that within 30 days from the entry of this order that the applicant file a tariff and pay appropriate filing fees with the Commission as required by state statutes and the Commission's regulations.

IT IS FINALLY ORDERED that this order be, and hereby is, made the Commission's official Certificate of Public Convenience and Necessity to the applicant to provide resold interexchange and resold local exchange telecommunications services in the state of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 22nd day of March, 2005.

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COMMISSIONERS CONCURRING:

Lowell G. Durre

Ann C. Baugh

Paul Johnson

//s// Frank E. Landis

//s// Gerald L. Vap

Chairman

Gerald L. Vap

ATTEST:

A. S. Pollock

Executive Director