

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of CommPartners,) Application No. C-3452
LLC, Las Vegas, Nevada, for)
authority to operate as a)
facilities-based local and) GRANTED
interexchange carrier of)
Telecommunications Services)
within the state of Nebraska.) Entered: November 8, 2005

BY THE COMMISSION:

By its application filed July 20, 2005, CommPartners, LLC, Las Vegas, Nevada, Applicant seeks authority to operate as a facilities-based local and interexchange carrier of telecommunications services within the state of Nebraska. Notice of the application was published in the Daily Record, Omaha, Nebraska, on August 1, 2005. On September 1, 2005, Petitions of Formal Intervention were filed by Arapahoe Telephone Company d/b/a ATC Communications; Benkelman Telephone Company, Inc.; Cozad Telephone Company; Curtis Telephone Company; Diller Telephone Company; Glenwood Telephone Membership Corporation; Hartman Telephone Exchanges, Inc.; WestTel Systems f/k/a Hooper Telephone Company; Keystone-Arthur Telephone Company; Mainstay Communications; Plainview Telephone Company and Wauneta Telephone Company. All intervenors have entered into a stipulation with Applicant; therefore this application is processed pursuant to the Commission's Rule of Modified Procedure.

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

Applicant is a privately held limited liability company organized under the laws of the state of Nevada and is authorized to transact business in the state of Nebraska. The Applicant is authorized to provide telecommunications in the states of California, Colorado, Florida, Georgia, Hawaii, Idaho, Kentucky, Massachusetts, Montana, Nevada, New York, North Dakota, Oregon, Pennsylvania, South Carolina, Texas, Utah and Wyoming, with applications currently pending in the states of Louisiana, Minnesota, New Mexico and Oklahoma. Neither Applicant nor its domestic member shareholders have been the subject of any formal complaints or other investigatory proceedings.

Applicant seeks authority to offer switched and dedicated access telecommunications services suitable for voice and limited data applications in the state of Nebraska. Applicant does not intend to collect advance payments or deposits.

All services provided by Applicant will be facilities-based. Applicant has entered into a one-year, renewable contract with Internap to manage CommPartners' VoIP traffic that originates with non-dedicated broadband access.

Applicant has contracted with a telecommunications solutions provider to develop a 911 application for VoIP. This partner currently provides 911 functionality to many carriers. This solution should be available in mid-2005. In the meantime, CommPartners will utilize standard E911 systems to provide emergency systems to its wholesale customers. Additionally, Applicant agrees to adhere to all state laws and all Commission policies, rules and orders.

As a result of the stipulation entered into by Applicant and the Intervenors, Applicant has voluntarily restricted its application to the service territories of the nonrural incumbent local exchange carriers. Accordingly, at this time, Applicant does not seek to provide service to customers in small or rural territories pursuant to Section 251(f)(1) of the Federal Act.

Applicant states 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 managerial experience and technical qualifications.

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 the Applicant's most recent interim financial statements certified by an independent certified public accountant.

Applicant states a grant of this application will serve the public interest of Nebraskans by ensuring competition in the local exchange, intraLATA toll and interLATA markets. Applicant proposes to compete with the incumbent LECs, other competitive local carriers, and providers of long distance services by providing high quality, fairly priced, innovative telecommunications services. Applicant states that entry into the market will make efficient use of existing communications resources and increase diversification and reliability in the supply of communications services. Further, its services will aid the expansion of the telecommunications industry in Nebraska and promote attendant employment opportunities for Nebraska citizens.

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 local exchange service in the service territories of the nonrural incumbent local exchange carriers as provided by the stipulation and to provide interexchange service 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

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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 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-3452 be, and hereby is, granted.

IT IS FURTHER ORDERED that the Applicant is granted authority to provide local exchange services throughout the state of Nebraska in areas served by incumbent local exchange carriers in Nebraska that are not eligible for a small or rural carrier exemption pursuant to Section 251(f)(1) of the Federal Act.

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 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 interexchange and local exchange telecommunications services in the state of Nebraska as provided herein.

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MADE AND ENTERED at Lincoln, Nebraska, this 8th day of
November, 2005.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Lowell Johnson

Ann C. Boyle

Frank E. Landis

//s// Frank E. Landis

//s// Gerald L. Vap

Chairman

Donald F. Upp

ATTEST:

And S. Pollock

Executive Director