BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of YMax Communications Corp., Palm Beach, Florida, for authority to provide facilities-based and resold local exchange and Exchange Access Services within the state of Nebraska.	)	Application No. C-3575 GRANTED Entered: May 16, 2006

BY THE COMMISSION:

By application filed March 20, 2006, YMax Communications Corp. (YMax or Applicant) of Palm Beach, Florida seeks authority to offer facilities-based and resold competitive local exchange services within the state of Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on March 29, 2006. No protests were filed; therefore, this application is processed pursuant to the Commission's Rule of Modified Procedure.

EVIDENCE

YMax is a privately held corporation organized under the laws of the state of Delaware with its corporate headquarters located in Palm Beach, Florida. YMax has obtained a certificate of authority from the Secretary of State to conduct business in Nebraska as a foreign corporation. The Applicant is authorized to provide telecommunications services in the states of Flordia, Iowa, Maryland, Pennsylvania, New York, Montana, Texas and Wisconsin. No officer, director or shareholder has been involved in a formal complaint or other investigatory or enforcement proceeding.

Applicant proposes to provide competitive facilities-based local exchange services via unbundled network elements and interconnection services provided by underlying incumbent local exchange carriers. Applicant will initially utilize resold services and combinations of network elements provided by the underlying carriers; therefore, Applicant will rely on the technical capabilities of the underlying carriers. YMax may in the future install its own switching facilities to provide services to Nebraska customers.

The Applicant further proposes to offer services to business and residential customers. YMax intends to provide its customers with access to emergency call services, directory assistance, operator services, and other ancillary services. Applicant does not propose to collect customer deposits or to

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require advanced payments. YMax will offer a toll free customer service telephone number with live operator response Monday through Friday from 8 a.m. to 6 p.m. Eastern Standard Time.

YMax intends to initially offer local exchange service in the areas of the state currently serviced by Qwest, but seeks authority to also offer local exchange service in Nebraska in the areas serviced by GTE, United Telephone d/b/a Sprint and ALLTEL.

In support of its managerial, technical and financial capabilities, Applicant submitted a description of its senior officer's management and telecommunications experience as well as financial statements. Applicant further supplemented its application with a description of its technical staff.

Applicant states that a grant of the proposed application will serve the public interest by increasing the level of competition in the Nebraska telecommunications market. The Applicant will provide consumers with greater choice, telecommunications alternatives and affordable rates maintained by competitive pressure.

OPINION AND FINDINGS

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

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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 competitive local exchange service in the Qwest, GTE, ALLTEL and Sprint exchange areas. Applicant is granted authority to provide local exchange services throughout Nebraska except in areas served by incumbent local exchange carriers eligible for a small or rural carrier exemption pursuant to Section 251(f)(1) of the Federal Act. By this application, Applicant does not seek to provide service to customers in the rural incumbent territories.

If Applicant desires to provide service to those customers in small or rural company territories which qualify for an exemption pursuant to Section 251(f)(1), Applicant must first make a subsequent application to the Commission to extend its certificate of authority to those areas.

These opinions and findings carry no precedential value other than establishing minimum standards and criteria to apply when considering applications to provide local exchange service 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.

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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. Rule. & Regs. Title 291, Chapter 5.

As a provider of local exchange service 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.

Applicant requested certain waivers of requirements not imposed by the Commission on Competitive Local Exchange Carriers; therefore, no waivers are required or granted by this Commission. If the Applicant desires to have certain Commission requirements waived in the future, Applicant will have to submit a request to the Commission requesting such waiver.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application C-3575 be, and hereby is, granted as provided herein.

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 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, Chapter 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.

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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 the ARMIS filed with the Federal Communications Commission if applicable; (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 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 local exchange telecommunications services in the state of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 16th day of May, 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

//s// Lowell C. Johnson
//s// Frank E. Landis

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