

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-3882
of HCI Investment Company d/b/a)
Native Sky Technologies,)
Winnebago, seeking authority to)
provide competitive facilities-) GRANTED
based and resold local exchange)
services in the Winnebago)
exchange within the State of)
Nebraska.) Entered: December 18, 2007

BY THE COMMISSION:

By application filed November 7, 2007, HCI Investment Company d/b/a Native Sky Technologies, ("HCI" or "Applicant"), Winnebago, Nebraska, seeks authority to offer resold and facilities-based competitive local exchange services within the Winnebago exchange in the State of Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on November 12, 2007. No protests were filed; therefore, this application is processed pursuant to the Commission's Rule of Modified Procedure.

EVIDENCE

HCI is a domestic limited liability corporation organized under the laws of the State of Nebraska with its principal headquarters located in Winnebago, Nebraska. HCI is a wholly-owned subsidiary of Ho-Chunk, Inc., which in turn is a wholly-owned subsidiary of the Winnebago Tribe of Nebraska. Applicant is authorized by the Secretary of State to operate in Nebraska. Additionally, no officer, director or shareholder has been involved in a formal complaint or other investigatory or enforcement proceeding.

Applicant proposes to provide competitive resold and facilities-based local exchange services in the Winnebago exchange served by the Incumbent Local Exchange Carrier ("ILEC") Eastern Nebraska Telephone Company ("Eastern"). Applicant will utilize the network and/or facilities of the underlying ILEC and plans to initiate service upon the execution of necessary interconnection agreements. To that end, HCI included a copy of its bona fide request to Eastern for Interconnection. On November 26, 2007, both HCI and Eastern filed a joint statement with the Commission stating that the interconnection sought by HCI does not have any implications regarding Eastern's small or rural carrier exemption pursuant to Section 251(f)(1) of the

Federal Act of 1996. Therefore, no analysis is required by the Commission to review and/or terminate Eastern's rural exemption.

The Applicant proposes to offer local exchange services similar to the services offered by the underlying ILEC, which will include serving both business and residential customers. HCI proposes to offer local dial tone, enhanced emergency services, operator services, directory services, toll and 900 number blocking, various custom calling features, and high-speed internet access. Applicant does not plan to require customer deposits or advanced payments. Further, HCI will offer toll-free customer service 7 days a week during regular business hours.

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

Applicant states that a grant of the proposed application is in the public interest because Applicant's proposed service will provide a competitive alternative to the public and will promote, through competition, the efficient use of local exchange and long distance telecommunications networks. HCI also holds that customers will benefit from increased competition through improvements in price, features, and options available. Further, the Applicant states that granting it a certificate of authority will benefit customers through consolidated billing options and a single point of contact for their telecommunication needs.

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 telecommunication 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 competitive local exchange service in the above-referenced exchange area. Applicant is granted authority to provide local exchange services throughout the Winnebago exchange in Nebraska currently served by Eastern Nebraska Telephone Company. Applicant does not seek authority to serve areas served by other incumbent local exchange carriers eligible for a small or rural carrier exemption pursuant to Section 251(f)(1) of the Federal Act. Both the Applicant and the ILEC Eastern agree that this application, and the interconnection agreement sought by HCI with Eastern, have no impact on Eastern's small or rural carrier exemption pursuant to Section 251(f)(1) of the Federal Act.

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.

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.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-3882 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

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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.

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 within the State of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 18th day of December, 2007.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Gerald L. Upp

Chairman

Aune C. Boyle

ATTEST:

Tom Schram

Neil S. J. J.

Executive Director

//s// Rod Johnson

//s// Frank E. Landis