BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of tw telecom data services llc, Littleton, Colorado, seeking authority to operate as a local exchange carrier of telecommunications services within the State of Nebraska.	)	Application No. C-4225 GRANTED Entered: April 27, 2010

BY THE COMMISSION:

By its application filed March 15, 2010, tw telecom data services llc, (tw telecom or Applicant) seeks authority to provide local exchange telecommunications services in the State of Nebraska. Notice of the application appeared in The Daily Record on March 18, 2010. No protests or petitions of formal intervention were filed; therefore, the Commission processes this application pursuant to its rule on modified procedure.

E V I D E N C E

In its verified application, tw telecom provided as follows:

Applicant is a limited liability company organized under the laws of the State of Delaware and has its principal office located in Littleton, Colorado. Applicant has obtained authority to transact business in the State of Nebraska. Applicant is currently authorized to provide telecommunications services in Connecticut, Massachusetts and Pennsylvania. In no instance has any application been denied or rejected. No officer, director or shareholder having five percent or more of applicant's voting securities nor any of applicant's business operations have been involved in a formal complaint or other investigatory or enforcement proceeding.

Applicant seeks to provide integrated private line and local exchange services to business and enterprise customers in all incumbent service territories of the ILECs in the State of Nebraska. Toll services will be provided by the underlying long distance carrier. Applicant intends to contract with a third-party for directory assistance and operator services. Customer service will be available through a toll-free 800 number. Applicant may require advanced payments or deposits. Applicant agreed to adhere to all state laws and all Commission policies, rules and orders.

Applicant states that it possesses the requisite managerial and technical capabilities to provide the proposed services in

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Nebraska. Applicant also states that it possesses the financial ability to provide the proposed services. Attached to the application are Applicant's independently prepared financial statements for 2007, 2008 and 2009.

Applicant states that a grant of this application would serve the public interest. Applicant generally provides that the public will benefit from greater consumer choice and cost savings through the addition of its competitive offering.

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;

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(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 State of Nebraska. No party in this proceeding refuted the 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 local exchange service in Nebraska. 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:

1. 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

2. 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.

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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 incumbent local exchange carriers 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-4225 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 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

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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 along with the applicable tariff fee 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 27th day of April, 2010.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

//s// Frank E. Landis
//s// Gerald L. Vap

Chairman

ATTEST:

Executive Director

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