

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. C-5114
Application of Velocity Fiber,)
LLC, Lenexa, Kansas, seeking)
authority to provide) ORDER GRANTING AUTHORITY
competitive facilities-based)
and resold competitive local)
exchange and interexchange)
services within the State of) Entered: June 2, 2020
Nebraska.

BY THE COMMISSION:

By application filed April 6, 2020, Velocity Fiber, LLC of Lincoln, Nebraska ("Applicant") seeks authority to offer competitive facilities-based and resold local exchange and interexchange services within the State of Nebraska. Notice of the application was published in the Daily Record, Omaha, Nebraska, on April 10, 2020. No protests were filed; therefore, this application is processed pursuant to the Commission's Rule of Modified Procedure.

Applicant is a Kansas limited liability company authorized to do business in the State of Nebraska. Applicant does not have any pending applications for certification to provide telecommunications services in any other state. Applicant currently transacts business in the following states: Iowa, Pennsylvania, New Jersey, and Washington. Additionally, Applicant has an application to provide competitive telecommunications services in California. No officer, director, or shareholder having 5% or more of Applicant's voting securities nor any of Applicant's business operations has been involved in a formal complaint or other investigatory or enforcement proceeding.

In support of its application, Applicant submitted its Articles of Incorporation, a Certificate of Authority to Transact Business in Nebraska, information regarding its key executives and shareholders, and financial statements. Applicant states it possesses the requisite financial, technical, and managerial expertise to provide the proposed services.

Applicant requests authority to provide local exchange and interexchange telecommunications services throughout the State of Nebraska. Applicant plans to construct fiber optic wide area networks (WANs) for businesses, K-12 school districts, and other

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5114

Page 2

governmental entities. Applicant does not intend to offer local dial tone or switched services and therefore will not offer directory assistance, operator assistance, or Telecommunications Relay Service; however, Applicant will offer these services if local dial tone services are offered in the future.

Applicant states a grant of the application is in the public interest by increasing the level of competition in the state's telecommunications market, and that as a result of competition, the overall quality of telecommunications service will improve.

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 47 U.S.C. § 253(b).

Applicant has demonstrated that it meets the standards of financial, technical, and managerial competence and all other criteria necessary to provide local exchange services in the State of Nebraska.

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5114

Page 3

These opinions and findings carry no precedential value other than establishing minimum standards and criteria to apply when considering applications to provide local exchange services. 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 service in any area in the State of Nebraska, Applicant must file tariffs in accordance with the provisions of 291 Neb. Admin. Code § 5-002.21. Applicant has attached its proposed tariff to the application as Exhibit F.

The Applicant must also ensure it is in compliance with Commission regulations regarding directory assistance, operator assistance, emergency 911 services, access to Telephone Relay Service, and all required remittances, should it begin to offer switched services and/or voice services, including interconnected VoIP services. The Applicant is instructed to contact the Commission for guidance should it begin offering services beyond those described in its Application.

Upon the offering of local exchange and/or interexchange 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),

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5114

Page 4

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-5114 be, and hereby is, granted.

IT IS FURTHER ORDERED that the Applicant comply with 47 U.S.C. § 251(f)(1)(B), 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 applicable, the Applicant shall comply with all laws pertaining to, and all rules and regulations promulgated under, the Telecommunications Relay System Act (Neb. Rev. Stat. §§ 86-301 - 315) and the Nebraska Telecommunications Universal Service Fund Act (Neb. Rev. Stat. §§ 86-316 - 329).

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 FURTHER ORDERED that pursuant to Commission rules and regulations, Applicant shall file with the Commission, each year, an annual report for each authority it holds on or before April 30th of the succeeding year. Applicant is hereby instructed to consult with Commission staff regarding each year's report to ensure all necessary information is included.

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 and

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5114





Page 5

interexchange telecommunications services in the State of Nebraska.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 2nd day of June, 2020.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:


Chair

ATTEST:


Executive Director