

# SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

---

## BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Clear Rate                    ) Application No. C-5178  
Communications, Inc., Troy,                    )  
Michigan, seeking authority to                )  
provide competitive local                    ) GRANTED  
exchange telecommunications                )  
services within the State of                 )  
Nebraska.                                        ) Entered: November 17, 2020

### BY THE COMMISSION:

On September 23, 2020, an application was filed by Clear Rate Communications, Inc. ("Applicant") of Troy, Michigan, seeking authority to provide competitive local exchange telecommunications services within the State of Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on October 16, 2020. No protests were filed; therefore, this application is processed pursuant to the Commission's Rules of Modified Procedure.

Applicant is a Michigan corporation authorized to do business in the State of Nebraska. Applicant has been authorized by the Secretary of State to operate in Nebraska. Applicant has a pending application for certification to provide telecommunications services in South Carolina. Applicant currently operates as a telecommunications carrier in nineteen states, and is in the process of applying to four other states in addition to Nebraska. 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.

Applicant requests authority to provide local exchange telecommunications services throughout the State of Nebraska. Applicant states that it is a switchless, non-facilities-based local exchange resale carrier providing switched and dedicated local exchange telecommunications services to businesses and residences. All of Applicant's network services are supplied by CenturyLink.

Applicant plans to provide a portfolio of local exchange services and bundled services, as well as additional custom calling and class features, access to emergency call services (e.g. 911), directory assistance and other ancillary services. Applicant plans to offer these services throughout the state of Nebraska. Included as Exhibit 3 to the application is a sample tariff.

## SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

---

Application No. C-5178

Page 2

Applicant states it possesses the requisite financial, technical, and managerial expertise to provide the proposed services. Applicant provided in support of its application, as Exhibit 5, copies of its financial statements for its last three full years of operation, as well as interim statements for 2020. In Exhibit 4, Applicant also provided a description of its technical and support staff, including training and or experience of the pertinent personal.

Applicant states that the granting of the application is in the public interest because the public will benefit from greater consumer choice through the broadening of telecommunications service alternatives and affordable rates maintained by competition. Applicant further states its services are developed to serve the local service needs of subscribers who cannot otherwise realize similar cost savings through local carriers.

### 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 the 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 Telecommunications Act of 1996 ("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 services in the State of Nebraska.

## SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

---

Application No. C-5178

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 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 291 Neb. Admin. Code § 5-002.21.

Upon the offering of 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 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 C-5178 be, and is hereby, granted.

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

## SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

---

Application No. C-5178

Page 4

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. Stats. §§ 86-301 - 86-315 and defined in 291 Neb. Admin. Code 5 §-001.01B, the Applicant shall collect from its subscribers a 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 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 FURTHER ORDERED that this order be, and is hereby, 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.

# SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

---




Application No. C-5178

Page 5

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 17th day of November, 2020.


NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

  
Chair

ATTEST:

  
Deputy Director