

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. C-5304
Application of Windstream)
Communications, LLC, Little)
Rock, Arkansas, seeking)
authority to operate as a) GRANTED
competitive local exchange)
carrier of telecommunication)
services within the State of)
Nebraska.) Entered: August 31, 2021

BY THE COMMISSION:

On July 22, 2021 an application was filed by Windstream Communications, LLC, ("Applicant") of Little Rock, Arkansas, seeking authority to operate as a competitive local exchange carrier of telecommunication services within the State of Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on July 27, 2021. No protests were filed; therefore, this application is processed pursuant to the Commission's Rules of Modified Procedure.

Applicant is a limited liability company, organized under the laws of the State of Delaware. Applicant has been authorized by the Secretary of State to operate in Nebraska. Applicant is a wholly owned subsidiary of Windstream Services, LLC. Applicant is preparing applications for local exchange service authority in the states of Alabama, Florida, Iowa, Minnesota, Missouri, New Mexico, New York, Ohio, Oklahoma, and Texas. Applicant currently operates in Alaska, Arkansas, Georgia, Kentucky, Mississippi, North Carolina, Pennsylvania, and South Carolina. In no instance has any application been denied or rejected. Applicant or an officer, director, or shareholder having 5% or more of Applicant's voting securities have been involved various customer complaints in the ordinary course of business. On November 23, 2020, Applicant entered into a Consent Decree with the Federal Communications Commission ("FCC") regarding noncompliance with NEPA and NHPA rules.

Applicant requests authority to provide local exchange telecommunications services throughout the State of Nebraska. Applicant plans to provide a combination of a proven fiber-to-the-premise network architecture and resold services to deliver broadband and voice services to residential and business customers. Applicant proposes to provide 911 services through a to be negotiated interconnection agreement with the incumbent local

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5304

Page 2

service provider. Applicant proposes to provide Telephone Relay Service through a to be negotiated interconnection agreement with the incumbent local service provider.

Applicant states it possesses the requisite financial, technical, and managerial expertise to provide the proposed services. In 2020, Applicant and affiliated companies generated nearly \$5 billion in revenue. Applicant will draw upon this financial capability and extensive communications network engineering resources. In addition, Applicant will continue to leverage the operational, managerial, and technical expertise of its subsidiaries and affiliates to perform billing, installation, customer service, and other needs related to providing services in Nebraska. Applicant has technical support staff throughout Nebraska who are available to assist Applicant's customers as part of its local service operations and have knowledge supporting broadband and local exchange telecommunications services. Applicant and its affiliates and subsidiaries have been long-time advanced telecommunications service providers in Nebraska, offering landline telephone and fiber and fixed wireless-based television, telephone, and broadband products. In Exhibit D, Applicant provided a true and correct copy of its financial statement for its last year of operation, 2020, as well as annual Form 10K filings for 2018 and 2019. A copy of Applicant's latest annual report is incorporated into Exhibit D. In Exhibit F, Applicant provided a sample tariff describing the services to be offered by Applicant and the proposed rates, tolls, rentals, charges, classifications, and rules and regulations.

Applicant states that a grant of the application is in the public interest by facilitating the continued investment and advanced telecommunication service deployment by Applicant subsidiaries and affiliates throughout Nebraska. Applicant will preserve and advance universal service, protect the public safety and welfare, ensure the continuous quality of telecommunications services in Nebraska, and safeguard the rights of consumers.

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;

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5304

Page 3

- (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 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.

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.

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5304

Page 4

Prior to providing 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.

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-5304 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 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. & Regs. 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)

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5304

Page 5

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.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 31st day of August, 2021.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



Chair

ATTEST:


Executive Director