BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of Barr Tell USA, Inc., Long Beach, New York seeking authority to provide competitive local exchange and interexchange telecommunications services within the State of Nebraska.	)	Application No. C-5560
	)	ORDER GRANTING APPLICATION
	)	Entered: March 5, 2024

BY THE COMMISSION:

On January 16, 2024, an application was filed by Barr Tell USA, Inc. ("Barr Tell" or "Applicant"), Long Beach, New York, seeking authority to provide competitive local exchange and interexchange telecommunications services within the State of Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on January 19, 2024. No protests were filed; therefore, this application is processed pursuant to the Commission's Rules of Modified Procedure.

Applicant is a privately held domestic corporation organized and existing under the laws of the State of Nebraska. Applicant is authorized by the Nebraska Secretary of State to conduct business in Nebraska. Applicant's principal office is located in Long Beach, New York. 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 within the past two years.

Applicant is authorized to provide competitive local exchange service in 21 states and in Washington, D.C. Applicant's parent company Barr Tell USA has been in business for over 25 years. Applicant proposes to provide facilities-based and resold local exchange, interexchange, and data services directly to business customers. From the customer's perspective, the telecommunications service consists of a detailed Hosted PBX Solution that is comprised of a multitude of features and characteristics including real time reporting capabilities. In addition, the service includes software features along with unlimited calling, faxing, text messaging, as well as access to the public switched network and emergency services. Applicant's service is directly connected to a national E-911 network. Applicant's service does not require advanced deposits or any commitment from its customers. Applicant does not plan to provide any operator assistance services in the traditional sense.

Applicant will begin by establishing interconnection agreements with incumbents who have the densest coverage by population. Applicant intends to first offer services to business customers in the Omaha and Bellevue areas. Applicant states it possesses the requisite financial, technical, and managerial expertise to provide the proposed services. In support of its application, Applicant provided its financial statements in Exhibit 6 and a description of its technical experience and management team in Exhibit 5. Applicant agreed to adhere to all state laws and all Commission policies rules and orders.

Applicant states that approval of its Application will serve the public interest. Applicant states that granting its application will provide Nebraska business customers with access to new technologies and service choices. Further, Applicant states that its entry into the market will materially enhances the state's telecommunications infrastructure as well as facilitate economic diversity.

O P I N I O N A N D F I N D I N G S

Applications for interexchange authority are subject to Commission jurisdiction under Neb. Rev. Stat. § 86-129 and 291 Neb. Admin. Code § 5-003.12. From examination of the application filed herein, the Commission finds the Applicant has provided all the information required by the Commission, possesses adequate financial resources to provide the proposed service, and possesses adequate technical competency to provide the proposed service. A grant of the application will serve the public interest. Accordingly, the portion of the application for interexchange authority should be granted.

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 Section 253(b) of the Federal Telecommunications Act of 1996 (Act).

Applicant has demonstrated that it meets the standards of financial, technical and managerial competence and all other criteria necessary to provide interexchange and local exchange service in the requested territory in 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 interexchange and 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 nor 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 § 5-001.21.

Upon the offering of local exchange and interexchange services in the State of Nebraska, Applicant shall 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-5560 be, and hereby is, granted and Barr Tell USA, Inc. is authorized to operate as a local exchange and an interexchange telecommunications service provider within the state of Nebraska.

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. 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 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 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 for each authority it holds with the Commission in accordance with Commission regulations and requirements.

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 FINALLY 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 and interexchange services in the State of Nebraska.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 5th day of March, 2024.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director