

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1840
of Dakota Services Limited,)
Waukesha, Wisconsin, seeking)
authority to obtain a Certificate)
of Public Convenience and Neces-) GRANTED
sity in the state of Nebraska for)
the purpose of providing high-)
speed data transmission and other)
telecommunications services.) Entered: June 22, 1999

BY THE COMMISSION:

By its application filed July 1, 1998, Dakota Services Limited (Dakota Services or Applicant), Waukesha, Wisconsin, seeks authority to obtain a Certificate of Public Convenience and Necessity in the state of Nebraska for the purpose of providing high-speed data transmission and other telecommunication services. Notice of the application appeared in The Daily Record, Omaha, Nebraska, on July 14, 1998. A hearing was held on March 16, 1999, in the Commission Hearing Room on the applicant's request for authority as noted above. The applicant appeared without counsel; however, testifying for the applicant was Deborah Ambruso. Michael Loeffler made an appearance for the Commission. No formal intervention was timely filed.

Ms. Ambruso testified in support of the application. Ms. Ambruso is the regulatory compliance manager and channel sales manager for Dakota Services. Ms. Ambruso testified that Dakota Services currently provides service in the states of Wisconsin and Illinois. Dakota Services is minority owned with its principal office in Waukesha, Wisconsin. The company provides high-speed data transmission and telecommunication services using xdsl technology utilizing existing phone lines supplied by the incumbent local exchange services. Transmission speeds using this technology are from 50 to 200 times the speed of current modems. The company virtually collocates in a central office of an incumbent local exchange carrier (ILEC). Customers are provided with an ascent pipeline box. While no deposit will be required, an installation charge will apply. At this point, the company will target only business customers and residential customers who are working through a home office.

Ms. Ambruso testified to her company's managerial expertise by detailing the experience of its senior management. The applicant's president and CEO, Theodore Lasser, has more than twenty years of experience in the telecommunication industry with various companies. Other members of the management team also have extensive managerial experience in the field.

The company has experience with telecommunication services using the xdsl network. The xdsl network is used strictly for data transmission. Adding to the company's technical competence is the

many years of service in the technical field enjoyed by the officers of the applicant. Through its filed application and its testimony, the company has demonstrated that it has the technical competence necessary for certification.

Ms. Ambruso testified that the public interest would be served through better rates, increased access to the Internet through the technology offered by the applicant and better service.

No other parties introduced testimony or evidence at the hearing.

The Commission requested the applicant to file, via a late-filed exhibit, updated financial information in order to evaluate the applicant's financial fitness. Such information was filed June 15, 1999.

The applicant agreed to territory restrictions being incorporated into this order reflecting the company's agreement that it would not provide any local service by its own facilities or otherwise to any customer located in a rural ILEC service area. Ms. Ambruso indicated in her testimony that she understood that any intent to enter into those markets would require the applicant to make a request before the Commission before doing so.

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 services;

(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 the rights of consumers, pursuant to Section 253 (b) of the Telecommunications Act of 1996.

The applicant has demonstrated that it meets the standards of financial, technical and managerial competence and all other criteria necessary to provide the telecommunication services sought in its initial application. The Commission examined the information

filed by the applicant summarizing its updated financial status and finds that the applicant has the necessary financial resources needed for certification.

These findings carry no precedential value other than establishing minimum standards and criteria to apply when considering applications to provide local exchange service. All telecommunication carriers seeking a certificate must prove 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:

Through negotiation, arbitration or pursuant to Section 252(i) of the Telecommunications Act of 1996, reach an interconnection/resale agreement with the pertinent incumbent local exchange carrier and receive Commission approval of the interconnection/resale agreement.

This order does not terminate, waive, or in any manner diminish the exemptions and protection created by the Federal Telecommunications Act (Act) for rural carriers, as defined by the Act. This order does not address the issue of the rural local exchange carriers' exemption under the Act. Rural exemptions may be terminated, suspended, or modified only as provided in Section 251 (f) of the Federal Act.

Prior to providing local exchange service in any area in the state of Nebraska, the applicant must file, and the Commission must approve, tariffs in accordance with the provisions of Section 002.21 of the Ne. Admin. R. & Regs. tit. 291, ch.5.

As a provider of local exchange service in the state of Nebraska, applicant will remain subject to the same laws, rules and regulations, both state and federal (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 Federal Telecommunications act of 1996.
<center

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1840 be, and it is hereby, granted.

IT IS FURTHER ORDERED that upon final approval of the interconnection/resale agreements, applicant is granted authority to provide local exchange service to the area presently served by US West Communications, Inc. and United Telephone Company of the West d/b/a Sprint.

IT IS FURTHER ORDERED that before applicant is allowed to provide local exchange service to areas currently served by rural local exchange carriers, as defined by the Federal Act, all of the requirements set forth in the Act must be evaluated.

IT IS FURTHER ORDERED that the 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 other local exchange carriers, except for obligations imposed on incumbent local exchange carriers pursuant to Section 251 (c) of the Act.

IT IS FURTHER ORDERED that to the extent the applicant provides access line service as referenced in the Telecommunications Relay System Act, Neb. Rev. Stat. §§ 86-1302 through 86-1306 (Relay Act) and defined in Neb. Admin. R. & Reg. tit. 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 Relay Surcharge and shall remit to the Commission the proceeds from the Relay Surcharge, as provided by the Relay Act.

IT IS FINALLY ORDERED that this order be, and it is hereby, made the Commission's official Certificate of Authority to provide interexchange service throughout the state and provide local exchange service in the territories presently served by US West Communications, Inc. and United Telephone Company of the West d/b/a Sprint.

MADE AND ENTERED at Lincoln, Nebraska, this 22nd day of June, 1999.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

This document was created with Win2PDF available at <http://www.daneprairie.com>.
The unregistered version of Win2PDF is for evaluation or non-commercial use only.