

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of ) Application No. C-2048  
NET-tel Corporation of Washington, )  
D.C., seeking authority to amend its ) GRANTED  
authority to provide local exchange )  
services in certain areas of )  
Nebraska. ) Entered: September 29, 1999

APPEARANCES:

For the Applicant:  
Andrew S. Pollock  
Brooks, Pansing Brooks, P.C.  
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For the Commission:  
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BY THE COMMISSION:

By its Application filed May 14, 1999, NET-tel Corporation (Applicant) seeks authority to amend its current authority to provide local exchange services in certain areas of Nebraska. Notice of the application appeared in The Daily Record on May 19, 1999. The following parties filed Petitions of Formal Intervention: Arapahoe Telephone Company; Benkelman Telephone Company, Inc.; Cozad Telephone Company; Diller Telephone Company; Hemingford Cooperative Telephone Company; Henderson Cooperative Telephone Company; Wauneta Telephone Company; Consolidated Telco, Inc.; Consolidated Telephone Company; and the Nebraska Independent Telephone Association (collectively referred to hereafter as the Intervenor). A hearing on the application was held August 17, 1999, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

In support of its application, the applicant produced one witness, Thomas M. Lera, Regulatory Manager of the applicant, who testified as follows:

Mr. Lera testified that the applicant was organized in 1996 as a Florida corporation and has its corporate headquarters in Washington, D.C. Mr. Lera joined the applicant as its first employee in February 1995. In his current position, Mr. Lera is responsible for coordinating and managing all regulatory and revenue matters affecting the applicant.

Mr. Lera testified that the applicant currently operates as an interexchange service reseller in Nebraska under authority granted on May 5, 1998, in the proceeding docketed No. C-1780. In the present proceeding, the applicant is seeking to expand that certificate of authority to allow the applicant to provide resold local exchange services in certain areas of the state.

The Applicant initially intends to target its marketing efforts to customers in territory presently served by US West Communications, Inc. (US West). The applicant plans to also provide service in the territories presently served by GTE Midwest Incorporated (GTE) and United Telephone Company of the West (Sprint) in the future.

The applicant currently offers small business and residential end users long distance telecommunications services with quality and pricing levels comparable to those achieved by larger communications users. If certificated in this proceeding, the applicant will provide local service in Nebraska on a resale basis only. The applicant will target its marketing efforts primarily toward business customers but will offer service to the residential locations of the business customers as well.

Mr. Lera also testified that the applicant is certified to provide resold interexchange services in all states except Alaska, Hawaii and Maryland. The applicant is also certified to provide competitive local exchange service in Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Massachusetts, Mississippi, Missouri, Montana, Nevada, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island South Carolina, Tennessee, Texas, Washington, West Virginia, Wisconsin and Wyoming. Applications for competitive local exchange carrier (CLEC) status have also been filed in all the remaining states, with the exception of Alaska, Hawaii and South Dakota.

Mr. Lera testified that the applicant has sufficient managerial resources and technical abilities to provide local exchange telecommunications services in Nebraska. The applicant's key management employees have extensive experience in the telecommunications industry, as evidenced in Attachment H, filed with the application. For instance, the applicant's president, James Kenefick, has more than nine years of experience in the telecommunications industry. From 1990 to 1995, Mr. Kenefick founded, built and served as president and CEO of Keystone, an interexchange carrier specializing in providing telecommunications services to the hospital industry in 22 states. Mr. Kenefick founded NET-tel in 1995.

Mr. Lera also presented testimony showing that the applicant has sufficient financial resources to implement and provision its local exchange telecommunications services in the territories currently served by US West, GTE and Sprint. The audited financial statements of the applicant were filed with the application as Attachment F. The applicant supplemented these financial statements with its most current financial report, which were offered and received under seal as Exhibit 3 at the hearing. These financial reports demonstrate that applicant is financially qualified to provide the proposed telecommunications services.

Mr. Lera further testified that a grant of the applicant's application will promote the public interest by expanding the availability and variety of high quality telecommunications services in Nebraska. Competition encourages technological innovation and efficient use of resources. Increased competition has proven to benefit consumers by providing a wide variety of services and prices from which consumers can choose. Certification of NET-tel will provide Nebraska consumers with a wider choice of services and providers from which to select their long distance service and service provider.

Upon questioning by the Commission, Mr. Lera testified the applicant plans to market its services by deploying a sales force to Nebraska that may be based out of Omaha. Commissioner Frank Landis inquired as to why the applicant had not applied for certification in territory presently served by Aliant Communications Co. (ALL-TEL). After the hearing, at the Commission's request, the applicant submitted a late-filed exhibit (Exhibit No. 4), explaining that the omission of ALLTEL was simply an oversight. In the late-filed exhibit, the applicant pledged to file an application to expand its service territory to include ALLTEL territory if the present application is granted.

No other parties introduced testimony or evidence at the hearing.

#### 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;

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- (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 Act.

Applicant has demonstrated that it meets the standards of financial, technical and managerial competence and all other criteria necessary to provide local exchange service in the state of Nebraska in the territories presently served by US West, GTE and Sprint. No evidence was submitted or testimony elicited to suggest that the applicant is not qualified to provide its proposed services in light of the criteria this Commission must consider.

For the above reasons, the Commission is of the opinion and finds that Application No. C-2048 should be granted.

O R D E R

IT IS THEREFORE ORDERED by the Commission that Application No. C-2048 be and is hereby granted and NET-tel Corporation is authorized to provide local exchange telecommunications services in those territories currently served by US West Communications, Inc., GTE Midwest Incorporated, and United Telephone Company of the West (Sprint).

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 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 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 - 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 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 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 service within Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 29th day of September 1999.

NEBRASKA PUBLIC SERVICE COMMISSION


COMMISSIONERS CONCURRING:


//s//Lowell C. Johnson  
//s//Daniel G. Urwiller

  
Chairman

ATTEST:

  
Deputy Director

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