

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-2107
of Panhandle Networx, LLC, of)
Scottsbluff, seeking authority to)
operate as a competitive local) GRANTED
exchange carrier of telecommuni-)
cations services within the)
state of Nebraska.) Entered: October 19, 1999

APPEARANCES:

For the Applicant:
Jon Bruning
1079 N. 204th Avenue,
Elkhorn, Nebraska 68022

For the Arapahoe Telephone Company;
Benkelman Telephone Company, Inc.;
Cozad Telephone Company; Hemingford
Cooperative Telephone Company; Henderson
Cooperative Telephone Company; and
Wauneta Telephone Company:
Tim Clare
1201 Lincoln Mall, Suite 102
Lincoln, NE 68508

For the Commission:
Michael Loeffler
300 The Atrium
1200 N Street
Lincoln, Nebraska 68508

BY THE NEBRASKA PUBLIC SERVICE COMMISSION:

By its application filed August 19, 1999, Panhandle Networx, LLC (applicant or Panhandle), of Scottsbluff, Nebraska, seeks authority to operate as a competitive local exchange carrier of telecommunications services within the state of Nebraska. Notice of the application appeared in The Daily Record on August 23, 1999. The following parties filed Petitions of Formal Intervention: Arapahoe Telephone Company; Benkelman Telephone Company, Inc.; Cozad Telephone Company; Hemingford Cooperative Telephone Company; Henderson Cooperative Telephone Company; and Wauneta Telephone Company (collectively referred to hereafter as the Intervenors). A hearing on the application was held September 29, 1999, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

In support of its application, the applicant produced one witness, Matt Larsen, Managing Partner and acting President of the applicant, who testified as follows:

Mr. Larson testified that the applicant was organized in April 1999 as a Nebraska limited liability corporation, and has its principal offices in Scottsbluff, Nebraska. Panhandle is

privately-held by five partners: Mr. Larson, Dallas Larson, Roger Frank, Max Miller and Vince Aulick, all of Scottsbluff.

Mr. Larson testified that Panhandle initially intends to offer dial-up access and high-speed Internet access using digital subscriber lines. Panhandle may later enter the local exchange marketplace and provide a combination of facilities-based and resold local exchange services, including operator services and 911 services, in full compliance with Commission orders pertaining to the Nebraska Relay System and Universal Service Fund. Although the applicant acts primarily as an Internet service provider, the applicant seeks competitive local exchange carrier (CLEC) authority to ensure access to the facilities and equipment of the incumbent local exchange carriers necessary to provide their services. Applicant has begun negotiations with Sprint regarding interconnection, but has made no other requests for interconnection. Applicant also intends to limit their initial service to the Nebraska panhandle and adjacent areas, although they request statewide authority.

Mr. Larson testified that the applicant has the managerial and technical ability to be certified as a local exchange carrier in Nebraska. Mr. Larson himself has several years of experience in providing Internet service, and Panhandle has several employees who are well-versed in all aspects of the industry. While Panhandle is a new company, the cumulative financial resources of the partners, presented in part by Exhibit 3, are more than sufficient to meet the Commission's standard of financial proficiency. Mr. Larson further testified that Panhandle's application is in the public interest because it will enable existing businesses who utilize their services to remain competitive and will attract other businesses to the area that require the level of service they are able to offer.

Upon questioning by the Mr. Clare, Mr. Larson testified Panhandle's application does not constitute a bona fide request for interconnection with any rural exchange carrier.

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;
- (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. 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-2107 should be granted.

O R D E R

IT IS THEREFORE ORDERED by the Commission that Application No. C-2107 be and is hereby granted and Panhandle Networx, LLC is authorized to provide competitive local exchange telecommunications services within the state of Nebraska.

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 19th day of October, 1999.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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