

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. C-2324
Application of Maverix.net,)
Inc. for authority to operate)
as a competitive carrier of) GRANTED
telecommunications services)
within the state of Nebraska)
telecommunications services)
on both a facilities-based)
and resold basis.) Entered: September 12, 2000

APPEARANCES:

For the Applicant:
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For the Intervenor:
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For the Commission:
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BY THE COMMISSION:

By its application originally filed on June 12, 2000, and amended on June 30, 2000 (collectively, the Application), Maverix.net, Inc. (Maverix or the Applicant), Chicago, Illinois, seeks authority to provide telecommunications services as a competitive local exchange carrier and intrastate interexchange carrier in the state of Nebraska. Notices of the original application and amended application appeared in The Daily Record on June 14, 2000, and July 3, 2000, respectively. Petitions for formal intervention were filed by Arapahoe Telephone Company, Benkelman Telephone Company, Cozad Telephone Company, Henderson Cooperative Telephone Company, and Wauneta Telephone Company (collectively referred to as the Intervenor). A hearing on the application was held August 29, 2000, at 1:30 p.m. in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown above.

In support of its application, the applicant presented evidence that Maverix is a corporation organized under the laws of the

state of Delaware. Maverix has obtained authority from the Nebraska Secretary of State to transact business in the state of Nebraska.

The applicant produced one witness, Nancy Kresek, chief financial officer, who testified as follows:

Ms. Kresek testified that Maverix is presently certificated to provide telecommunications services in 10 states, with applications pending in four other states at this time. Initially, Maverix intends to focus on deploying xDSL technology to provide high-speed, high-quality data connections to businesses and residential customers. Maverix intends to offer these services through its own electronic equipment collocated at incumbent local exchange carrier (ILEC) central offices and by purchasing unbundled network elements from the ILEC and/or other certified carriers. Ms. Kresek testified that to the extent market conditions warrant, Maverix contemplates supplementing its data services with resold or facilities-based local exchange and interexchange voiceband services. Ms. Kresek testified that in providing such services, Maverix will comply with all Commission requirements applicable to local exchange carriers as well as any other applicable state or federal regulations, statutes and orders.

Ms. Kresek testified that Maverix has the managerial and technical resources and abilities to provide local exchange and interexchange telecommunications services in Nebraska. She testified that Maverix has an experienced management team which combine for over 250 years of telecommunications industry management and technical experience. The telecommunications and managerial experience of the key personnel is described in detail in Exhibit 2 to its application.

Ms. Kresek also testified that Maverix has access to ample financial resources to implement and sustain its proposed services in Nebraska. She testified that the applicant recently closed a deal with a venture capital firm which is reflected in the applicant's financial statements, including cash on hand in the amount of \$12,975,000.00 as of March 3, 2000. The applicant's detailed financial statements were filed as Exhibit 4 to the application.

Ms. Kresek further testified that granting Maverix the authority to provide competitive local exchange and intrastate interexchange services would be in the public interest. She testified that Maverix's entry into the Nebraska market will enhance competition and benefit both business and residential customers by providing affordable services with an assurance of quality service.

Ms. Kresek stated that customer complaints would be handled through a toll-free number. Maverix has not had any formal complaints filed against it before the Federal Communications

Commission (FCC) or any other state commissions.

Ms. Kresek confirmed that the application does not represent a bona fide request for interconnection with any Nebraska local exchange carriers subject to the rural exemption. She testified that to date, Maverix has not asked for the rural exemption to be lifted in any states in which it is certificated.

Upon cross-examination, Ms. Kresek testified that Maverix has not yet designated to what cities the applicant intends to roll out services. However, she stated that the applicant usually waits until it gets a Certificate of Public Convenience and Necessity before it makes that determination.

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;

(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 and interexchange services 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.

These opinions and findings carry no precedential value other than establishing minimum standards and criteria to apply when considering the applications to provide local exchange service in the state of Nebraska. 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 or pursuant to Section 252(i) of the Act, 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 statement of generally available terms and conditions (SGAT) or similar offering, purchase rates from that SGAT or similar offering.

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 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 Act.

Prior to providing local exchange service in any area in the state of Nebraska, applicant must file, and the Commission must approve, tariffs in accordance with the provisions of Sections 002.21 and 003.08 Neb. Admin. R.& Regs., tit. 291, ch.5.

As a provider of local exchange service 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 local exchange company except those obligations imposed on incumbent local exchange carriers 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 No. C-2324 be, and is hereby, granted.

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 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 shall file, in accordance with the applicable statutes, on or before April 30th of each year, an annual report with this Commission consisting of: (a) a copy of any report filed with the Federal Communications Commission; (b) a copy of any annual report to stockholders; and (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission. If these are not available, applicant shall submit a balance sheet and income statement for the previous year of operation, as well as the investment made in telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues and expenses, and taxes.

IT IS FURTHER ORDERED that within 30 days from the entry of this order, that applicant file a tariff with the Commission as required by state statutes and the Commission's regulations.

IT IS FURTHER ORDERED that the applicant comply with all necessary statutes and Commission orders, 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 and intrastate interexchange service within the state of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 12th day of September, 2000.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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