

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-2327
KMC Telecom V, Inc., Bedminster,)
New Jersey, seeking authority to)
obtain a Certificate of Public) GRANTED
Convenience and Necessity to)
provide competitive local exchange)
services on a combined resale and)
facilities basis and to provide)
resold interexchange service in)
Nebraska.) Entered: September 12, 2000

APPEARANCES:

For the Applicant:

Jon Bruning
1079 North 204th Avenue
Elkhorn, Nebraska 68022

For the Intervenors:

Mark Fahleson
1201 Lincoln Mall, Suite 102
Lincoln, Nebraska

For the Commission:

Michael T. Loeffler
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1200 "N" Street
Lincoln, Nebraska 68508

BY THE COMMISSION:

By its application filed June 16, 2000, KMC Telecom V, Inc. of Bedminster, New Jersey (KMC Telecom or Applicant), seeks to obtain a Certificate of Public Convenience and Necessity to provide competitive local exchange service on a combined resale and facilities-based basis, and to provide resold interexchange service in the state of Nebraska. Notice of the application appeared in The Daily Record on June 21, 2000. Petitions of formal intervention were filed by

Arapahoe Telephone Company, Benkelman Telephone Company, Inc., Cozad Telephone Company, Henderson Cooperative Telephone Company and Wauneta Telephone Company, through their attorney, Mark Fahleson.

On August 16, 2000, the deputy director of this Commission sent by first class mail a copy of the notice of hearing. A hearing was held on August 22, 2000, in the Commission Library, Lincoln with appearances as shown above.

In support of its application, applicant produced one witness, Mr. John McLaughlin, director of state government affairs for KMC Telecom. Mr. McLaughlin testified that KMC Telecom is a subsidiary under KMC Holdings

Telecom. KMC Telecom has started negotiations for interconnection with Qwest and ALLTEL.
The applicant has
approximately 768,000 access lines company-wide.

KMC Telecom intends initially to provide data services with equipment deployed in non-incumbent local exchange carrier (ILEC) collocation space. These remote access servers will allow large Internet providers to touch the local footprint in lieu of these providers having to rely on ILECs to terminate their traffic. The applicant will purchase trunks from its facilities to switches at the ILEC.

KMC Telecom intends to provide the service described in its application statewide. Upon request of the Commission, the applicant filed an amendment to the application that clarifies certain ambiguities in the initial application as it related to service area. The applicant stated that he understood that this application was not a bona fide request for interconnection to a carrier that may be covered by the rural exemption in the federal Telecommunications Act of 1996.

Mr. McLaughlin testified that he believes the company has the financial capability to operate the proposed service. KMC Telecom will rely on the guaranteed financial backing of its parent company.

He further testified that his company has the managerial and technical expertise required by the Commission. He pointed out that the company's core leadership has extensive telecommunications experience. As to technical expertise, he described the experiences of the parent company and the large number of access lines currently being served successfully.

KMC Telecom, through its initial offerings, will bring benefits of greater access and increased choice to its end users, particularly by providing options for Internet service

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 applicant has provided the information required by the Commission;
- (b) Whether applicant has provided a performance bond, if required;
- (c) Whether applicant possesses adequate financial resources to provide the proposed service;

(d) Whether applicant possesses adequate technical competence and resources to provide the proposed service;

(e) Whether applicant possesses adequate managerial competence to provide the proposed service; and

(f) Whether granting 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 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 competitive local exchange services on a combined resale and facilities-based basis and to provide resold interexchange service as described in the application filed with the Commission. The Commission finds that no performance bond should be required at this time.

Before the applicant is allowed to provide competitive local exchange service and resold services to its end users:

(a) The applicant, either through negotiation or adoption, must reach an interconnection agreement with Qwest, GTE, ALLTEL, or Sprint.

(b) The Commission must approve the interconnection agreement; and

(c) Applicant must file, and the Commission must approve, a tariff in accordance with the provisions of Section 002.21 of Neb. Admin. R. & Regs. Title 291, Chapter 5.

Further, prior to providing local exchange service to any area covered by the rural exemption, the applicant must obtain additional authority from this Commission to expand its service territory.

As a provider of competitive local exchange service in the state of Nebraska, the applicant should 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-2327 be, and it is hereby, granted.

IT IS FURTHER ORDERED that upon final approval of the interconnection agreement and tariff, applicant is granted authority to provide competitive local exchange service and resold services throughout the state of Nebraska.

IT IS FURTHER ORDERED that applicant shall 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 applicant shall file, in accordance with the applicable statutes, on or before April 30 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 such reports are unavailable, applicant shall file a balance sheet and income statement for the previous year of operation, and for the state of Nebraska on a combined interstate-intrastate basis, the investment in telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues, operating expenses, and taxes.

IT IS FINALLY ORDERED that this order be, and hereby is made, the Commission's official Certificate of Public Convenience and Necessity to applicant to provide competitive and resold services, including resold 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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