

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-2343
of Metromedia Fiber Network)
Services, Inc., White Plains, New)
York, seeking authority for a certi-) GRANTED
ficate of authority to provide local)
exchange service, exchange access)
and intrastate interexchange)
facilities-based and resold tele-)
communications services.) Entered: October 18, 2000

APPEARANCES:

For the Applicant:
Karen Nation
One Meadowlands Plaza
East Rutherford, NJ 07073-2137

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

BY THE COMMISSION:

By application filed July 10, 2000, Metromedia Fiber Network Services, Inc. of White Plains, New York, (Metromedia or Applicant) seeks a certificate of authority to provide local exchange service, exchange access and intrastate interexchange facilities-based and resold telecommunications services within the state of Nebraska. Notice of the application appeared in The Daily Record on July 12, 2000. Petitions of Formal Intervention were timely filed by Arapahoe Telephone Company; Benkelman Telephone Company, Inc.; Cozad Telephone Company; Henderson Cooperative Telephone Company and Wauneta Telephone Company, through their attorney, Tim Clare.

On September 21, 2000, the executive director of this Commission sent by first class mail a copy of the notice of hearing. A hearing was held on October 3, 2000, in the Commission Library, Lincoln, Nebraska, with appearances as shown above.

In support of its application, applicant produced one witness, Mr. Mark Behning, director of the central region for Metromedia. Mr. Behning testified that Metromedia is a Delaware corporation headquartered in White Plains, New York. Metromedia Fiber Network Services is a wholly-owned subsidiary of Metromedia Fiber Network, Inc. The company is currently certified in 39 states.

The company proposes to provide facilities-based and resold non-switched dedicated local exchange, exchange access, and intrastate private line, high capacity fiber optic communications along

with plans to lease private line fibers and capacity to corporate and government customers. Metromedia has negotiated an interconnection agreement with US West (Qwest) and intends to negotiate other interconnection agreements as required.

Initially, the applicant will provide only non-switched service and will not provide directory assistance, operator services, telephone relay service or E-911 service.

Mr. Behning described the business experience of the directors and key personnel of the company. He further testified that the directors and principal officers have the extensive technical and managerial experience to execute the company's proposed business plan.

Metromedia supplied financial information in its application which describes the company's financial capability. This capability, which includes a significant cash inflow from recent stock conversions, is sufficient to allow the applicant to provide the proposed services described in its application.

Mr. Behning testified that the granting of a certificate would benefit the public interest through increased competition and greater consumer choice.

The applicant further testified that this application did not represent a bona fide request for interconnection with a rural carrier covered by the rural exemption of the federal Telecommunications Act of 1996.

No appearance was made on behalf of any of the intervenors.

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 the services described in the application. 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-2343 be, and it is hereby, granted.

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

MADE AND ENTERED at Lincoln, Nebraska, this 18th day of October, 2000.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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