

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-2421
of Arbros Communications)
Licensing Company Central, LLC,)
Silver Spring, Maryland, seeking) GRANTED
authority to obtain a certificate)
of public convenience and)
necessity to provide facilities-)
based and resold local exchange)
access and interexchange)
telecommunications services in the)
state of Nebraska.) Entered: February 6, 2001

APPEARANCES:

For the Applicant:

Loel Brooks
984 Wells Fargo Center
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For the Intervenors:

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For the Commission:

Michael T. Loeffler
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BY THE COMMISSION:

By its application filed November 9, 2000, Arbros Communications Licensing Company Central, LLC (Arbros or Applicant) of Silver Spring, Maryland, seeks to obtain a certificate of public convenience and necessity to provide facilities-based and resold local exchange, exchange access and interexchange telecommunications services in the state of Nebraska. Notice of the application appeared in The Daily Record on November 10, 2000. Petitions of formal intervention, were filed by Arapahoe Telephone Company, Henderson Cooperative Telephone Company, Wauneta, Cozad and Benkelman Telephone Companies and were subsequently amended to correct information, in a timely manner.

On December 6, 2000, the executive director of this Commission sent by first class mail a copy of the notice of hearing. A hearing was held on December 12, 2000, in the Commission Library, Lincoln, Nebraska, with appearances as shown above.

In support of its application, applicant produced one witness,

Mr. Robert Condon, vice-president of regulatory and external affairs for Arbros Communications, Inc. Mr. Condon testified that Arbros is a corporation organized under the laws of the state of Delaware and is qualified to do business in Nebraska as a foreign corporation. Arbros seeks authority to provide facilities-based and resold local exchange service and interexchange telecommunications services throughout the state. Specifically, Arbros intends to offer high-speed data transmission services, although the company expects to eventually offer a full array of local exchange and long distance service to both business and residential customers. The company is building a network that consists of class 4/5 central office switches and associated transmission facilities interconnected to the public switched network.

Mr. Condon further testified that Arbros intends to have interconnection agreements in place with incumbent local exchange carriers to ensure the provisioning of telecommunications services including operator services 911 services, and customer information listings.

He further testified that Arbros has the requisite financial backing and necessary assets to support the services described in the application. Arbros has access to capital through privately-placed investment.

As to managerial expertise, Mr. Condon testified that Arbros is well qualified to provide the applied-for services. Arbros will rely on the experience and expertise in the telecommunications industry of the senior management of its parent company. All told, the management team has over 200 years of combined experience in the telecommunications field.

Arbros will also rely on the significant technical expertise and experience of its senior management to support the technical aspects of the services the company intends to provide. Mr. Condon testified that, in Nebraska, Arbros will carry local exchange traffic either by resale or by originating or terminating on Arbros switching equipment. Mr. Condon testified that the companies held by the parent company have about 200 customers along the northeast corridor of the United States.

Mr. Condon testified that he believed that the application is in the public interest because Arbros' provisioning of services will expand the number of competitively-priced options available to consumers.

On cross-examination, Mr. Condon testified that the application before the Commission did not represent a bona fide request for interconnection with a rural carrier in the state.

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, interexchange service and resold services to its end users:

- (a) The applicant, either through negotiation or adoption, must reach an interconnection agreement with Qwest, Citizens, 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-2421 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 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 FURTHER ORDERED that, to the extent 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. Title 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 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 applicant to provide facilities-based and resold local exchange telecommunications services and interexchange telecommunications services within the state of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 6th day of February, 2001.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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