

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Metropolitan                    ) Application No. C-3428  
Telecommunications of Nebraska,                )  
Inc., New York, New York,                    )  
seeking authority to operate as                ) GRANTED  
a reseller and facilities                    )  
based/UNE common carrier of                 )  
local exchange and interexchange            )  
telecommunications service.                 ) Entered: July 6, 2005

BY THE COMMISSION:

On May 20, 2005, an application was filed by Metropolitan Telecommunications of Nebraska, Inc. (MetTel or Applicant), New York, New York, seeking a certificate of authority to operate as a reseller and facilities based/UNE common carrier of local exchange and interexchange carrier of telecommunications services within the state of Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on May 25, 2005. No protests were filed; therefore, this application is processed pursuant to the Commission's Rules of Modified Procedure.

E V I D E N C E

MetTel is a Delaware corporation headquartered in Dover, Delaware and is authorized by the Secretary of State to operate in Nebraska as a foreign corporation.

MetTel is authorized to provide local exchange and interexchange services in 28 states. Applicant is currently providing service in 17 states and Washington D.C. Initially, Applicant proposes to offer resold local exchange service through the use of unbundled network elements, utilizing the facilities incumbent local exchange carriers. Applicant does not propose to require advance payments or deposits.

Applicant requests statewide authorization to provide local exchange services throughout the State of Nebraska in the areas served by any LECs in Nebraska that are not eligible for a small or rural carrier exemption pursuant to Section 251(f)(1) of the Federal Act. Applicant does not seek to provide services to customers in those small or rural territories at this time. Applicant's local calling areas initially will coincide with the incumbent local exchange carrier's local calling areas. Applicant has no current plans to install facilities in the state of Nebraska. MetTel provided its financial statements in Exhibit 4 and a description of its technical experience and management team in Exhibit 3.

The Applicant agreed to adhere to all state laws and all Commission policies rules and orders. Further, the Applicant states that the approval of its Application will serve the public interest. The public interest will be served as the applicant's proposed intrastate services are developed to serve the local exchange needs of subscribers who cannot otherwise realize similar cost savings through major carriers. Also, while providing its subscribers with cost advantages realized by the resale of communication facilities, the applicant states that its service will utilize existing carrier communication facilities more efficiently and provide greater revenue for facilities based local exchange carriers. Additionally, the Applicant states that approval of the application will bring long-term benefits to the public by bringing greater value to subscribers through lower-priced, better quality services; innovative telecommunications services; increases in consumer choice in telecommunications services and alternative billing options; efficient use of existing telecommunications resources as well as increased diversification and reliability in the supply of telecommunications services; and additional access revenues to local exchange providers.

#### 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 Federal 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 interexchange and local exchange

service in the requested territory in Nebraska. No party in this proceeding refuted the applicant's competence.

These opinions and findings carry no precedential value other than establishing minimum standards and criteria to apply when considering applications to provide interexchange and local exchange service in the above-mentioned territories. 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, 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 tariff, purchase rates from that tariff, file its own tariff and receive Commission approval of its tariff.

This order does not terminate, waive nor 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 carrier 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 interexchange or 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 Section 002.21 of the Neb. Admin. R. & Regs. Title 291, chapter. 5.

As a provider of interexchange and 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 (ILECs) 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 C-3428 be, and hereby is, granted and Metropolitan Telecommunications of Nebraska, Inc., New York, New York, is authorized to operate as a local exchange and interexchange telecommunications service provider within the state of Nebraska in the requested service territories.

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 any other interexchange and 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 applicant provides access line service as referenced in the Telecommunications Relay System Act, Neb. Rev. Stat. §§ 86-301 through 86-315 (2004 Cum. Supp.) (Relay Act) and defined in Neb. Admin. R. & Reg. Title 291, Chapter 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 FURTHER ORDERED that Applicant shall file, in accordance with the applicable statutes, on or before April 30 of each year, an annual report with the 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, together with the appropriate filing fee.

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 the telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues, operating expenses, and taxes.

IT IS FURTHER ORDERED that before commencing service in Nebraska that the Applicant file a tariff and pay appropriate filing fees with the Commission as required by state statutes and the Commission's regulations.

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 interexchange and local exchange telecommunications services in the state of Nebraska in the requested service territories set forth herein.

MADE AND ENTERED at Lincoln, Nebraska, this 6th day of July, 2005.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director