

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

|                               |   |                            |
|-------------------------------|---|----------------------------|
| In the Matter of Vanco Direct | ) | Application No. C-3492     |
| USA, LLC, Oak Brook,          | ) |                            |
| Illinois, seeking authority   | ) |                            |
| to operate as a resale        | ) |                            |
| carrier of intrastate         | ) | GRANTED                    |
| interexchange and local       | ) |                            |
| exchange telecommunication    | ) |                            |
| services within the state of  | ) |                            |
| Nebraska.                     | ) | Entered: November 22, 2005 |

BY THE COMMISSION:

By its application filed October 11, 2005, Vanco Direct USA, LLC (Applicant), Oak Brook, Illinois, seeks authority to operate as a resale carrier of intrastate interexchange and local exchange carrier of telecommunication services within the state of Nebraska. Notice of the application was published in the Daily Record, Omaha, Nebraska, on October 17, 2005. No protests were filed, therefore this application is processed pursuant to the Commission's Rule of Modified Procedure.

O P I N I O N     A N D     F I N D I N G S

Applicant is a privately held limited liability company organized under the laws of the state of Delaware and is authorized to transact business in the state of Nebraska. The Applicant is authorized to provide telecommunications in the states of Kentucky, Montana, and New York with applications currently pending in the states of California, Georgia, Illinois, Maryland, Massachusetts, Nevada, North Carolina, Ohio, Oregon, Washington, and Wisconsin. Neither Applicant nor its domestic member shareholders have been the subject of any formal complaints or other investigatory proceedings.

Applicant proposes to offer resold private line data services, interexchange long distance and local exchange services suitable for voice and limited data applications in the state of Nebraska. The Applicant will provide services on a non-prepaid basis and will not collect deposits for service.

Applicant intends to provide its interexchange long distance services originating and terminating throughout the entire state of Nebraska. Applicant is establishing a resale agreement with, and will resell the local exchange services of Qwest.

Applicant is a switchless, non-facilities based reseller of telecommunications services. The services are provided over the networks of the underlying carriers. The company's underlying carrier will be Qwest. By the nature of resale, the Applicant's technical capability is equivalent to that of underlying carriers. In addition, the Applicant's personnel have sufficient technical capability to provide the requested services. Additionally, Applicant agrees to adhere to all state laws and all Commission policies, rules and orders.

Applicant states it possesses the necessary expertise and management team to serve its Nebraska customers. In Exhibit D, attached to its application, Applicant provided profiles of the Applicant's key management.

Applicant is a newly formed entity with no operating history. Applicant will rely on the funding of its affiliate Vanco UK Limited for its initial operations. The financial statements of Vanco UK Limited for its last here years of operation, and a Letter of Guarantee were provided with the application.

Applicant states a grant of this application will serve the public interest of Nebraskans because it will boost competition in the interexchange and local exchange markets, thereby resulting in increased quality of service and competitive pricing.

#### 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 Act.

Applicant has demonstrated that it meets the standards of financial, technical, and managerial competence and all other criteria necessary to provide interexchange services in the state of Nebraska and local exchange services in the proposed Qwest territory. No party in this proceeding refuted 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 services 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 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 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 local exchange service in any area in the state of Nebraska, Applicant must file tariffs in accordance with the provisions of Section 002.21 of the Neb. Admin. R. & Regs. Title 291, ch. 5.

As a provider of interexchange and local exchange services 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 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 No. C-3492 be, and hereby is, granted.

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(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 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. 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 within 30 days from the entry of this order 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 resold interexchange and resold local exchange telecommunications services in the state of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 22<sup>nd</sup> day of November, 2005.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director