

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the	)	Application No. C-3550
Application of Mainstay	)	
Technologies, LLC, Henderson,	)	
seeking authority to operate	)	
and offer local exchange and	)	GRANTED
interexchange	)	
telecommunications services in	)	
the state of Nebraska.	)	Entered: April 18, 2006

BY THE COMMISSION:

By its application filed February 7, 2006, Mainstay Technologies, LLC ("Mainstay" or "Applicant") of Henderson, seeks authority to operate as a provider of competitive local exchange and interexchange services within the state of Nebraska. Notice of the application was published in the Daily Record, Omaha, Nebraska, on February 15, 2006. 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 limited liability company organized under the laws of the state of Nebraska. Applicant is not authorized to provide telecommunications in any state, and does not have any other applications currently pending in any other state. Neither Applicant nor its domestic member shareholders have been the subject of any formal complaints or other investigatory proceedings.

Applicant seeks authority to offer facility and non-facility based local service to residences and businesses as well as switchless resold access and 1+ long-distance telecommunications services suitable for voice and data application as a common carrier in the state of Nebraska. Applicant does not propose to provide alternative operator services. Applicant does not intend to collect advance payments but it may require deposits as referenced in its tariff.

Applicant will provide its local exchange services throughout the state of Nebraska in areas served by an incumbent local exchange carrier including Qwest, Alltel, United Telephone Company of the West and Citizens. Applicant does not seek authority to provide local exchange

service in areas served by an incumbent local exchange carrier that is eligible for a small or rural carrier exemption pursuant to Section 251(f)(1) of the Federal Act. Applicant plans to construct and/or lease its own facilities.

In support of its financial fitness, Applicant relies on its sole member, Tri-Rural T.V., Inc ("Tri-Rural"). Applicant has filed a copy of Tri-Rural's confidential financial statements.

Henderson Cooperative Telephone Company (Henderson) will provide the technical and managerial leadership and support to Applicant. Henderson is the sole shareholder of Tri-Rural. Henderson Cooperative Telephone Company has been providing local telecommunications services in Nebraska since its formation as a rural telephone provider in 1964. Applicant's manager has over 16 years of experience in telephone operations, sales, marketing and human resources. Henderson Cooperative Telephone Company employees have over 30 years of combined experience.

Applicant states a grant of this application will serve the public interest because 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. Long-term benefits to the public would also include greater value to subscribers through lower-priced, better quality services; innovative high-speed data and telecommunications services; increased consumer choice in telecommunication 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 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 services in the state of Nebraska as requested in the application. 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-3550 be, and hereby is, granted.

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 (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 facilities-based and resold local exchange and interexchange telecommunications services in the state of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 18<sup>th</sup> day of April, 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director