

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-4454
of 365 Wireless, LLC, Atlanta,)
Georgia, seeking authority to)
operate as a local exchange and) GRANTED
interexchange carrier of)
telecommunications services)
within the State of Nebraska.) Entered: May 8, 2012

BY THE COMMISSION:

On March 22, 2012, an application was filed by 365 Wireless, LLC, (Applicant) of Atlanta, Georgia, seeking authority to operate as a local exchange and interexchange carrier of telecommunications services in the State of Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on March 28, 2012. No protests were filed; therefore, this application is processed pursuant to the Commission's Rule of Modified Procedure.

E V I D E N C E

Applicant is a privately held corporation, organized under the laws of the State of Georgia. Applicant has been authorized by the Secretary of State to operate in Nebraska as a foreign corporation. Applicant has authority to provide local exchange and interexchange telecommunications services in New York, Florida, Texas, Indiana, and Washington, and has filed applications to provide telecommunications services in Georgia, Illinois, Louisiana, Massachusetts, New Jersey, Virginia, Oregon, California, Nevada, and Wisconsin. Applicant intends to file for certification throughout the U.S. In no instance has any application been denied or rejected. In addition, no officer, director or shareholder having five percent or more of the Applicant's voting securities has been involved in a formal complaint or other investigatory or enforcement proceeding.

Applicant is a facilities-based and reseller of local exchange and interexchange telecommunications services. The resale portion of the service the Applicant proposes to provide over the networks of its underlying carriers. Applicant proposes to offer switched and dedicated local exchange and interexchange telecommunications services to all businesses desiring to purchase its service in the State of Nebraska. Applicant states it will provide its own billing services and customer service available through a toll-free number. The Applicant plans to rely on the directory assistance and operator assistance offerings of its underlying carriers. The Applicant

states it will not provide service to correctional/confinement facilities.

In support of its managerial, technical and financial capabilities, Applicant submitted a description of its senior officer's management and telecommunications experience. Applicant further supplemented its application with detailed financial statements.

Applicant states that a grant of the proposed application is in the public interest because Applicant's proposed services are designed to meet the telephone needs of subscribers and permit subscribers to realize cost savings in communications services, will use existing communications facilities more efficiently providing cost advantages, and will increase competition resulting in lower prices, increased quality of service, innovative telecommunications services, increased diversification and reliability in the supply of communications services, and expansion of the telecommunications industry in Nebraska providing increase employment opportunities for Nebraska citizens.

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 service in the State of Nebraska.

These opinions and findings carry no precedential value other than establishing minimum standards and criteria to apply when considering applications to provide local exchange and interexchange 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 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 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, Chapter 5.

Upon the offering of interexchange and/or 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 and interexchange carriers, 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-4454, be, and it is hereby, approved.

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, 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 the ARMIS Report filed with the Federal Communications Commission if applicable; (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 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 local exchange and interexchange telecommunications services in the State of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 8th day of May, 2012.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

Application No. C-4454

Page 5

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//s// Rod Johnson
//s// Frank Landis

Executive Director