

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application	)	Application No. C-4455
of Onvoy, Inc., Minneapolis,	)	
Minnesota, seeking authority for	)	
a Certificate of Public	)	
Convenience and Necessity to	)	GRANTED
Provide Local Exchange and	)	
Access Telecommunications	)	
Services in the State of	)	
Nebraska.	)	Entered: May 16, 2012

BY THE COMMISSION:

On March 26, 2012, an application was filed by Onvoy, Inc., (Applicant or Onvoy) of Minneapolis, Minnesota, seeking authority for a Certificate of Public Convenience and Necessity to provide local exchange and access 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 Minnesota corporation, with its headquarters in Minneapolis, Minnesota. Applicant is also a wholly-owned subsidiary of Zayo Group Holdings, Inc., which is a wholly-owned subsidiary of Communications Infrastructure Investments, LLC. Applicant has been authorized by the Secretary of State to operate in Nebraska as a foreign corporation. 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 within the last two years.

Applicant is currently authorized to provide intrastate telecommunications service in California, Colorado, Indiana, Iowa (interexchange only), Michigan, Minnesota, Montana, Nevada, North Dakota, Ohio, Oregon, South Dakota (interexchange only), Texas (interexchange only), Utah, Washington and Wisconsin.

Applicant was granted authority to operate in Nebraska as an interexchange telecommunications carrier on June 3, 2003.<sup>1</sup>

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<sup>1</sup> In the Matter of the Application of Onvoy, Inc. of Minneapolis, Minnesota, seeking a Certificate of Public Convenience and Necessity to provide interexchange telecommunications, Docket C-2939, Interexchange Authority Granted, June 3, 2003.

Applicant now seeks to expand its authority and proposes to offer all forms of facilities-based and resold local exchange and access telecommunications services to all persons or businesses desiring to purchase its service in the State of Nebraska. Applicant provides wholesale local exchange, competitive tandem switching, transit, long distance, intrastate PRI service, direct inward dialing and SS7 services to other local exchange carriers and interexchange carriers, as well as some retail enterprise customers. Facilities-based service will be provided via (1) commercial wholesale agreement with incumbent or other carriers, (2) Onvoy's own facilities, or (3) a combination thereof. Applicant will also offer directory assistance and operator services. Applicant will comply with all requirements regarding the provision of E-911 and Telephone Relay Service.

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 will service the public interest by increasing competition in the provision of telecommunications services in Nebraska. Applicant plans to provide high quality, cost effective telecommunications with an emphasis on customer service. Applicant further states that competition will promote efficiency in the delivery of services and in the development of new services.

Applicant has further provided notice to the Commission, pursuant to Neb. Rev. Stat. §§ 86-143 and 86-144, of its intent to detariff retail business provisions and make them available on its website in lieu of maintaining a copy on file with the Commission. Applicant does not currently intend to offer residential services, but will file a tariff with the Commission prior to initiating such service if the Applicant decides to do so in the future.

#### 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 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 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-4455 be, and it is hereby granted and Onvoy, Inc., is authorized to provide local exchange and access telecommunications services within the State of Nebraska.

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 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 Applicant post the rates, terms, and conditions of its telecommunications service on Onvoy's company web site and ensure that these postings are updated as needed.

IT IS FINALLY ORDERED that this order be, and it is hereby made the Commission's official certificate of authority to furnish the service authorized herein as a common carrier.

MADE AND ENTERED at Lincoln, Nebraska, this 16th day of May, 2012.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

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NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Tim Schram*  
*Gerald L. Vap*

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

Chairman

ATTEST:

Executive Director