

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application     )     Application No.   C-4527  
of PBN, LLC, Pierce, seeking         )  
authority to provide facilities-     )  
based competitive local exchange     )     GRANTED  
telecommunications services           )  
within the State of Nebraska.        )  
  )     Entered: November 19, 2012

BY THE COMMISSION:

On October 2, 2012, an application was filed by PBN, LLC, Pierce, Nebraska, seeking authority to provide facilities-based competitive local exchange telecommunications services within the State of Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on October 8, 2012. 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 and existing under the laws of the State of Nebraska. Applicant's principal office is located in Pierce, Nebraska. Applicant's parent company and sole owner, Pierce Telecommunications, Inc., is a holding company for Applicant and its affiliates, one of which is Pierce Telephone Company, Inc. which has been engaged in the provision of telecommunications services in Nebraska since 1960. Applicant does not transact business in any other state. No application filed by Applicant in any state has been denied. Neither the Applicant nor the Applicant's sole owner has been involved in a formal complaint or other investigatory or enforcement proceeding.

Applicant proposes to provide competitive local exchange services including voice grade access to the public switched telephone network, flat-rated local exchange service, dual tone multi-frequency signaling, access to 911 emergency service, access to interexchange service, access to directory assistance, access to 711 Telecommunications Relay Service and toll blocking. Applicant does not anticipate requiring advance payments or deposits from its subscribers. However, Applicant reserves the right to require deposits in the future in the event that a subscriber has an unacceptable payment history or an unfavorable credit record.

Applicant requests authority to provide telecommunications services on a statewide basis. However, Applicant initially

intends to offer telecommunications services only in geographic areas served by CenturyLink QC and Citizens Telecommunications Company of Nebraska d/b/a Frontier Communications of Nebraska. At this time Applicant does not plan to provide telecommunications services in the served areas of incumbent local exchange carriers that qualify for the rural exemption pursuant to Section 251(f) of the Act. Nor does Applicant intend to provide local exchange services in the area served by its affiliate Pierce Telephone Company, Inc. Applicant does not intend that this Application be construed as a bona fide request for interconnection with any carrier.

In support of its managerial, technical and financial capabilities, Applicant will rely on the management and technological resources of its affiliates and consultants. Applicant will be financial supported by Pierce Telecommunications, Inc. Applicant provided its parent company's financial statements in support of Applicant's financial fitness. These financial statements were filed under confidential seal.

Applicant submits that the public interest will be served by the approval of the application. Applicant states that approval of its application will provide consumers with a greater choice of providers and affordable rates maintained by competition.

#### 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 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 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-4527, 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 competitive local exchange telecommunications services in the State of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 19th day of November, 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. Vay*

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

Chairman

*Rod Johnson*

ATTEST:

*Michael H. H. H.*

Executive Director