

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) of Karl and Caren Jensen, R.R. 5) Box 172A, Omaha, Nebraska, for ) authority to receive telephone ) service from the Omaha exchange ) of the Northwestern Bell Tele- ) phone Company. )	Application No. C-121  GRANTED  Entered: April 21, 1981
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APPEARANCES: For the applicant  
J. Michael Moriarty, Attorney  
2629 North 81st Street  
Omaha, Nebraska

For the Protestant  
Blair Telephone Company  
John R. O'Hanlon, Attorney  
P.O. Box 428  
Blair, Nebraska

OPINION AND FINDINGS

BY THE COMMISSION:

By application filed February 13, 1981, Karl and Caren Jensen, Omaha, Nebraska seek authority to receive telephone service from the Omaha exchange of the Northwestern Bell Telephone Company.

A copy of the application was served upon the Northwestern Bell Telephone Company and Blair Telephone Company. A protest to the application was filed by Blair Telephone Company.

Pursuant to notice required by law, public hearing was held on the application on April 1, 1981, at 9:30 a.m. in the City Council Chambers, Blair, Nebraska, with appearances as set forth above.

Upon consideration of the application, the evidence adduced at the hearing and being fully advised, the Commission is of the opinion and finds that:

1. Applicants are husband and wife residing in the Northeast Quarter of Section 28, Range 13 East, Township 17 North Washington County, Nebraska.
2. The Northwestern Bell Telephone Company is a common carrier providing telephone service at the Omaha exchange.
3. The Blair Telephone Company is a common carrier providing telephone service at the Fort Calhoun exchange.
4. Applicant's testimony was presented by Mr. & Mrs. Jensen and by Mr. Jensen's father, Aage Jensen. Mrs. Jensen testified that she and her husband are building a home on property which they acquired from Mr. Jensen's father and which is located approximately one-fourth mile north of the home of Mr. Jensen's parents. Mr. Jensen's parents have received telephone service from the Omaha exchange of Northwestern Bell Telephone Company since 1947. Mrs. Jensen contacted Northwestern Bell who perwired their home last fall. Northwestern Bell later advised the Jensens that they could not provide them service since the location was within the Fort Calhoun exchange of Blair Telephone Company.

5. Applicants testified that although they are living at a rural Fort Calhoun location while their home is under construction, they both work in Omaha and all of their business and social contacts are in the Omaha exchange. The nearest Northwestern Bell subscriber is Mr. Aage Jensen and the nearest Fort Calhoun subscriber is about 1 mile away.

6. Protestant's witness testified concerning the type of service offered; that facilities were available and that it was willing to serve the applicants; that construction charges of approximately \$1,500 would apply to extend facilities to the applicants; and that REA financing has been obtained to serve all potential subscribers within its service area.

7. In deciding this Application, the applicable statute requires that we make several findings. Section 75-613 R.R.S. 1971 states that:

Upon completion of the hearing on such an application, if a hearing is required, the State Railway Commission may grant the application, in whole or in part, if the evidence establishes all of the following:

(1) That such applicant or applicants are not receiving and will not within a reasonable time receive, reasonably adequate exchange telephone service from the company furnishing such service in the exchange service area in which the applicant or applicants reside or operate;

(2) The revision of the exchange service area or areas required to grant the application will not create a duplication of facilities, is economically sound and will not impair the capability of the telephone company or companies affected to serve the remaining subscribers in any affected exchanges.

(3) The community of interest in the general territory is such that the public offering of each telephone company in its own exchange service area involved should include all the territory in its service area as revised by the commission's order, and

(4) The applicant or applicants are willing and will be required to pay such construction and other costs and rates as are fair and equitable and will reimburse the affected company for any necessary loss of investment in existing property as determined by the State Railway Commission.

We believe the evidence adduced at the hearing establishes the foregoing requirements and that this application should be granted.

8. Under the above quoted statute, the Commission is required to determine the adequacy of telephone service available to the Applicant. In View of our function as an administrative body we give the broadest interpretation possible to the term "adequate service." In so doing, we follow the mandate of Furstenburg v. Omaha & C. B. Street R. Co., 132 Neb. 562 (1937) wherein the Nebraska Supreme Court said:

The facilities of administrative law with the combination of administrative, legislative, and judicial powers such as the railway commission have been developed by the people of this state and in the country generally for the purpose of providing direct, swiftly-moving, effective, nonpolitical protection of the public. The primary object of the regulation of public utilities by the railway commission is not to establish a monopoly or to guarantee the security of investment of public service corporations, but, first and at all times, to serve the interests of the public. Nothing is more injurious to the public from every standpoint than a law which is not capable of working out tangible results . . . at 569.

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From a purely physical standpoint, the service of the Fort Calhoun exchange of the Blair Telephone Company is unquestionably adequate. However, from the Applicants' standpoint, Fort Calhoun exchange service is inadequate since their community of interest is Omaha.

9. There is no telephone line in the vicinity of the applicants, so that no duplication of facilities would be created by the granting of this application.

10. We cannot conclude that the granting of this application will significantly affect the income of Blair Telephone Company, the ability to service its debt nor is it likely that future rate increases will be required if this application is granted. The application is economically sound and will not impair the capability of the telephone companies affected to serve the remaining subscribers in the affected exchanges.

11. The community of interest in the general territory is such that the public offering of each telephone company in its own exchange service area involved will include all the territory in its service area as revised by this order.

12. There is no telephone line serving the applicant, and no facility of the protestant would be rendered valueless by the granting of the application. We, therefore, find that there is no loss of investment to the protestant. No construction charges would apply for Northwestern Bell service.

13. The application is fair and reasonable, is in the public interest and should be granted.

ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-121 be and it is hereby granted and Karl and Caren Jensen be and they are hereby authorized to receive telephone service from the Omaha exchange of the Northwestern Bell Telephone Company.

IT IS FURTHER ORDERED that the Northwestern Bell Telephone Company and Blair Telephone Company file appropriate revised service area maps with the Commission.

MADE AND ENTERED at Lincoln, Nebraska, this 21st day of April, 1981.

NEBRASKA PUBLIC SERVICE COMMISSION

*Duane D. Gay*  
Chairman

ATTEST:

COMMISSIONERS CONCURRING:

*Jack Roman*

*Terence L. Kuback*  
Secretary