

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Application of ) Application No. C-800  
National Communications Network, )  
Inc., Gilbert, Arizona, who seeks )  
a Certificate of Public Convenience) APPLICATION RECONSIDERED  
and Necessity to operate as a ) DENIED  
reseller of telecommunications )  
services within the State of )  
Nebraska. ) Entered: August 7, 1990

OPINION AND FINDINGS

BY THE COMMISSION:

By order entered May 30, 1990, the Commission denied the application of National Communications Network, Inc. (NCN), Gilbert, Arizona for authority to operate as a reseller of telecommunications services within the State of Nebraska.

On June 12, 1990, applicant filed a request for reconsideration and late-filed exhibits. On June 27, 1990, the Commission reconsidered its May 30th order and accepted applicant's late-filed exhibits.

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

1. Applicant is a privately-held corporation incorporated in the State of Arizona, with its principal place of business at 1440 North Fiesta Boulevard, Suite 100, Gilbert, Arizona.

2. Applicant seeks a Certificate of Public Convenience and Necessity to furnish intrastate telecommunications service as a common carrier both interLATA and intraLATA. Applicant seeks to offer these services primarily to residents and businesses. NCN will not construct any new facilities to implement the authority sought here. NCN does not, and will not own, lease or otherwise control a switch or any other telecommunications equipment. The proposed services will be furnished by MCI (or other major carriers).

3. Richard Johnson, an independent distributor with the company from Minneapolis, Minnesota, testified for applicant: He is also under contract with the company as a regional director. Part of his functions is to train trainers in his locality for NCN. The trainers in turn train distributors. He has been with the company for five months. NCN employees approximately 200 or 220 full and part time employees. The training provided to area directors is a multi-level marketing distributorship. There are individuals in

Nebraska who are distributors. Generally these distributors must fill out a distributor agreement and send a in a \$25.00 fully refundable deposit. The form states the deposit is not applicable to Louisiana and Nebraska residents or where prohibited by law. There is also a package that the company sells to distributors for \$230, called the DPS training package. The distributors are then given a commission on the subscribers that they sign up to NCN. NCN also has a franchise aspect of its business whereby certain defined areas of the country are sold as territories and these owners would get a commission off of subscribers in their territory. Nebraska is owned by Midlands Communication group. Midlands Communication has nothing to do with either the provision of technical service, the customer service, or the billing. Mr. Johnson testified that granting the application would be in the public interest in two main ways: (1) that a number of Nebraska residents could actually reduce their long distance telephone costs; and, (2) that Nebraska residents who sell the service would receive commissions and overrides from participating in the marketing plan.

4. The evidence indicates that NCN's primary source of income is the training of its multi-level distributors and franchising. The furnishing of communications service is only incidental to this purpose and the product could be anything. The literature about the company is intended to explain the profits to be made by becoming a distributor and the witness was well qualified to explain this aspect of the business. The record is lacking; however, in any evidence of applicant's technical qualifications to offer communications service.

5. Applicant has failed to show that it is qualified to offer the service proposed and the application should be denied.

ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-800 be and it is hereby denied.

MADE AND ENTERED at Lincoln, Nebraska this 7th day of August, 1990.

NEBRASKA PUBLIC SERVICE COMMISSION

*Daniel G. Urwiller*  
Chairman

COMMISSIONERS CONCURRING:

*Duane D. Gay*  
//s//Frank E. Landis, Jr.  
//s//James Munnelly  
//s//Eric Rasmussen  
//s//Daniel G. Urwiller

ATTEST:

*Debra R. King*  
Executive Director