

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-809
of Coast International, Inc.,)
Overland Park, Kansas for authority)
to operate as a reseller of long) GRANTED
distance telecommunications)
services within the state of)
Nebraska.) Entered: December 11, 1990

OPINION AND FINDINGS

BY THE COMMISSION:

By its application filed August 2, 1990, Coast International, Inc., Overland Park, Kansas seeks authority to operate as a reseller of long distance telecommunication services within the state of Nebraska.

Notice of the filing of the application was published pursuant to the provisions of the Commission's Rules and Regulations. No protests to the application were filed.

Pursuant to notice required by law, public hearing was held on the application on October 2, 1990 at 1:30 p.m. in the Commission Hearing Room, Lincoln, Nebraska.

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. Applicant is a corporation organized and existing under the laws of the state of Nevada with its principal office located in Overland Park, Kansas. Applicant is in the business of offering telecommunication services.

2. James R. Tomkins, Vice President of Coast International, Inc., testified for applicant. The applicant is a privately held company incorporated in March of 1987. Applicant proposes to offer long distance service to its customers by reselling the long distance transmission and switching facilities of other certified and approved interexchange carriers. Generally, the company will use the service of US Sprint within the state of Nebraska. The company will not own any of its own facilities and will not provide its own operator services. It will, however, bill and collect from its customers on a monthly basis, will require no deposits and will provide its own customer service functions via a toll free 800 number. A 14 digit calling card will be offered to its customers to access the service.

3. The service will be marketed through the company's sales force, word of mouth and through the use of independent marketing representatives. The source of capital to start and continue

Application No. C-809

Page Two

operation consists of funds made available by the company's officers in consideration for common stock of the corporation.

4. Applicant testified about the charitable marketing plan that the company utilizes. The company approaches not-for-profit groups, for example, pro-life, religious, ministerial groups, children's groups, MADD groups, etc. to sign up their members to use the applicant's services. Applicant markets to these groups by offering fund raising opportunities that larger organizations utilize. Applicant's witness testified that, "As a private business person in the great country of ours, I think we are given the right under the Constitution to pick and choose and with whom we will select to do business with." Organizations which were not in "sync" with the moral credence of the company would be told, "No thank you." A list of the types of groups that the company did business with was submitted as a late filed exhibit.

5. At the public hearing, staff and Commissioner Frank Landis expressed concern over the granting of a certificate of authority to a company that picks and chooses whether to serve an entity based upon "moral" considerations. Pursuant to §75-126, Neb. Rev. Stat. (1943), no common carrier shall:

- (a) Charge, demand, collect, or receive from any person a greater or lesser compensation for any services rendered than it charges, demands, collects, or receives from any other person for doing a like or contemporaneous service;
- (b) Make or give any undue or unreasonable preference or advantage to any particular person;

Specifically, Commissioner Landis expressed concern that some "Nebraska citizens might not be able to avail themselves of applicant's service because of a fundamental belief that perhaps differs from applicant's corporate beliefs." At this point the witness agreed and understood that the carrier has a responsibility to provide the service if the customer approaches the carrier to provide that service and has the financial wherewithal to pay for it.

6. Applicant's witness further testified that certain fund raising relationships exist between the groups and the applicant and that refunds of between 5% and 8% of their collected revenues are remitted back to the organization.

7. The Commission is aware that, while a state may regulate public utilities with a view to enforce reasonable rates and charges, it is not the owner of the property of the public utility companies and is not clothed with the general power of management incident to ownership. Application of Skeedee Independent Tel. Co., 166 Neb 49, 87 N.W.2d 715 (1958). However, the Legislature

Application No. C-809

Page Three

has provided specific prohibitions against discriminatory rates and charges which must be complied with by a common carrier. A public utility is obligated to serve all its ratepayers fairly and without undue discrimination. In seeing that the utility meets such obligation, the Public Service Commission is not directing how funds of the utility are to be used. In re Application No. 30466, 194 Neb 55, 230 N.W.2d 190, (1975).

8. Pursuant to any grant of authority this Commission requires any applicant for a certificate of convenience and necessity, by its tariffs and its action to comply with the state law, Commission Rules and Regulations and Commission orders.

9. Applicant has demonstrated an ability to comply with the state law and applicant's witness acknowledged the Commission's concerns about any marketing practice which would violate state law.

10. 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-809 be and it is hereby granted and Coast International Inc., be and it is hereby authorized to provide interLATA interexchange telecommunications services within the State of Nebraska.

IT IS FURTHER ORDERED that Coast International's certificate of public convenience and necessity may be suspended or revoked, after hearing, for willful failure to comply with the provision of any lawful order, rule, regulation or with any term, condition or limitation in this certificate. This Commission directs Coast International Inc., to comply with the laws of this state in regard to non-discriminatory rate practices.

IT IS FURTHER ORDERED that this order be and it is hereby made the Commission's official Certificate of Public Convenience and Necessity to furnish the service authorized herein.

MADE AND ENTERED at Lincoln, Nebraska, this 11th. day of December 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:

Robert R. Munnelly
 Executive Director