

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the	)	Application No. C-899
Application of WilTel, Inc.	)	
of Tulsa, Oklahoma which seeks	)	
authority to (a) operate as a	)	
reseller of intrastate inter-	)	GRANTED AS
exchange telecommunications	)	MODIFIED
services, (b) authority to	)	
provide alternate operator	)	
services in Nebraska and (c)	)	
streamlined regulatory	)	
treatment.	)	Entered: December 10, 1991

APPEARANCES:

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By its application filed August 26, 1991, WilTel, Inc., (WilTel) of Tulsa, Oklahoma seeks authority to operate as a resale carrier of intrastate interexchange telecommunications services within the State of Nebraska, to provide alternate operator service and has requested "streamlined regulatory treatment". The address of WilTel's principal offices is:

WilTel, Inc.  
One Williams Center  
P.O. Box 21348  
Tulsa, Oklahoma 74121

WilTel's agent for service of process in Nebraska is:

CT Corporation System  
Suite 1500  
206 South 13th St.  
Lincoln, Nebraska 68508

Notice of the application was published in the Omaha *DAILY RECORD* August 28, 1991 in accordance with the Commission's rules of procedure. No protests to the application were received. Hearing on the application was held October 29, 1991 in the Commission Hearing Room, Lincoln, Nebraska with appearances as shown.

O P I N I O N   A N D   F I N D I N G S

BY THE COMMISSION:

Upon consideration of the application, the evidence adduced at the hearing and being fully informed in the premises, the Commission is of the opinion and finds:

Reseller applications are governed by Neb. Rev. Stats. §75-604 and 86-805 (Reissue 1990) and Neb. Admin. Regs. Title 291 Ch. 5, Rule 003.12.

1. Roberta Ferguson testified on behalf of the applicant. Ferguson is a regulatory analyst for Williams Telecommunications Group (Williams); the applicant is a wholly-owned subsidiary of Williams which, in turn, is a wholly-owned subsidiary of the Williams Companies. Williams was established in May, 1984. Through construction, as well as acquisition of other carriers, Williams is now the fourth largest fiber optic and fourth largest digital network in the United States. All of the long distance subsidiaries acquired are being consolidated into the WilTel entity.

2. Ferguson is responsible for WilTel's intrastate authority applications, publishing intrastate tariffs, and for fulfilling state regulatory filing requirements. She is also liaison with state utility commissions on behalf of the applicant.

3. Ferguson testified WilTel intends to offer interexchange services such as MTS, WATS, 800 operator services, directory assistance, and calling card services. Eventually, WilTel would introduce private line and virtual network services. Ferguson testified that WilTel also seeks as part of this application to provide alternate operator services (AOS). Although the applicant's petition is somewhat vague, we will presume that the applicant *has* petitioned for AOS based on the language at page four: "WilTel seeks authority to offer a full range of interexchange telecommunications services to the public. WilTel and its affiliates currently provide MTS, WATS... and operator services on an interstate basis in selected areas of the nation and on an intrastate basis in some states." WilTel appears to have applied for a certificate which includes AOS authority.

4. WilTel's primary interest appears to be in providing service in the interLATA market in competition with AT&T, MCI and US Sprint with a lesser emphasis on the intraLATA market in competition with local exchange carriers US West and Lincoln Telephone & Telegraph. WilTel intends to serve selected equal access exchanges throughout Nebraska. Service will be offered to subscribers using WilTel's own fiber optic and digital microwave facilities. If locations in Nebraska cannot be served with WilTel's own equipment, WilTel will use the

facilities of MCI, Sprint, or other interexchange carriers and local exchange companies.

5. As of the hearing date, WilTel was in the process of acquiring certain assets of Telesphere, Inc. and ITI. The Commission was informed of these acquisitions by letter the day of the hearing. WilTel is not acquiring the AOS or the 900 customer base of either company. Instead, WilTel is obtaining service contracts for their "1+" and carrier base; further, WilTel may conditionally obtain the network billing systems, etc., including purchasing ITI's switches and other network assets. If further application is needed to obtain approval from state commissions for these purchases, WilTel will make the required applications.

6. WilTel currently holds authority to operate in 18 states with pending applications in others. WilTel does not currently operate in Nebraska. Exhibit 1 contains a copy of its articles of incorporation and a copy of the certificate of authority to transact business in Nebraska as a foreign corporation issued by the Nebraska Secretary of State July 29, 1991.

7. No formal or informal complaints have been filed against WilTel by other state regulatory bodies. None of WilTel's applications for authority have been denied. No other state regulatory agency has required WilTel to procure a performance bond.

8. WilTel proposes to charge on a per minute basis for its telecommunications switch services and customers are subsequently billed on a monthly basis. The service will be available to both residential and businesses.

9. According to the applicant's petition and Exhibit 1, WilTel had total operating revenues in 1990 of \$376,220,000, in 1989 of \$299,659,000, and in 1988 of \$174,593,000. As of December 31, 1990, Williams (of which WilTel is a subsidiary) had assets and liabilities of \$2,045,000,000.

10. In its application, WilTel proposes the Commission grant its request for "streamlined regulatory treatment" based on two prior Commission orders (GTE Sprint Communications Corp., Application No. C-497, 69 P.U.R.4th 345 (August 5, 1985), rehearing denied, 69 P.U.R.4th 540 (September 10, 1985), and MCI Telecommunications Corp., Application No. C-660, 79 P.U.R.4th 282 (December 6, 1991) and Commission Rule 003.01B (Title 291, Ch. 5). The latter rule provides:

*"The Commission may exempt an interexchange carrier or interexchange service from any provisions of this chapter when the interexchange service is subject to*

*competition. The Commission shall continue to exercise oversight authority over all interexchange carriers and services, and may reimpose or strengthen to the extent necessary, regulation over such services or carriers when the Commission determines such regulation is warranted."*

The application should be granted, but modified to reflect the request for an exemption is denied. The Commission is not required to grant such an exemption, the rule being a discretionary grant of authority to the Commission. We have not previously granted exemptions pursuant to Rule 003.01B and do not find sufficient grounds to exempt WilTel from the established regulatory requirements at this time as an interexchange carrier or, for that matter, to exempt interexchange service as a whole. We note that Rule 003.01B was adopted after passage of LB 835 (Laws 1986). We also note that the decisions relied upon by the applicant were both decided prior to the effective date of LB 835 and are therefore of small relevance in today's regulatory environment in Nebraska. As a result of this modified order, WilTel will receive the same regulatory treatment all other resellers and providers of telephone services receive .

11. WilTel has filed a proposed tariff as part of its application in accordance with the Commission's rules and regulations. The tariff appears reasonable in light of the proposed service.

12. Based on the testimony, the exhibits, and the proposed tariff, the application is fair and reasonable, is in the public interest, and should be granted as modified.

#### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-899 be, and it is hereby, granted as modified and WilTel, Inc. of Tulsa, Oklahoma be, and it is hereby, authorized to operate as a resale carrier of intrastate interexchange telecommunications services within the State of Nebraska and to provide alternate operator service, but the request for "streamlined regulatory treatment" is denied.

IT IS FURTHER ORDERED that Applicant shall file, in accordance with the applicable statutes, an annual report with this Commission consisting of (a) a copy of any report filed with the Federal Communications Commission, (b) the annual report to stockholders, and (c) for the state of Nebraska on a combined interstate-intrastate basis, the investment in telephone plant and equipment located within the state,

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accumulated depreciation thereon, operating revenues, operating expenses, and taxes.

IT IS FURTHER ORDERED that the Applicant file an updated tariff prior to offering service pursuant to the certificate granted in this order.

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 10th day of December, 1991.

NEBRASKA PUBLIC SERVICE COMMISSION

Commissioners Concurring:

*Duane D. Gay*  
//s//James F. Munnelly  
//s//Eric Rasmussen  
//s//Daniel Urwiller

*Daniel J. Urwiller*  
Vice Chairman

ATTEST:

*D. J. R. King*  
Executive Director