

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the	)	Application No. C-909
Application of <i>LiTel Communi-</i>	)	
<i>cations Corporation d/b/a</i>	)	
<i>LCI International</i> , Dublin, Ohio	)	GRANTED
which seeks authority to operate	)	AS MODIFIED
as a reseller of intrastate	)	
InterLATA and IntraLATA inter-	)	
exchange telecommunications	)	
services in Nebraska.	)	Entered: February 18, 1992

APPEARANCES:

Charles Thone, Esq.  
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301 South 13th Street  
Lincoln, NE 68508-2532  
(402) 476-1000

Jeffrey P. Goltz, Esq.  
Legal Counsel, NPSC  
Communications Department  
P.O. Box 94927  
Lincoln, NE 68509

By application filed November 15 1991, LiTel Communications Corporation, Dublin, Ohio seeks authority to provide intrastate interLATA and intraLATA interexchange telecommunications services in Nebraska. LiTel subsequently filed an amendment January 23, 1992 seeking to do business pursuant to a grant of authority from this Commission as *LiTel Telecommunications Corporation d/b/a LCI International*. For clarity, we will in this order refer to the applicant as LCI International ("LCI"). The address of the applicant's principal office is:

4650 Lakehurst Court  
Dublin, Ohio 43017  
(614) 791-8222

LCI's registered agent for service of process in Nebraska is:

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

Notice of the application was published in the Omaha *DAILY RECORD* November 18, 1991 in accordance with the Commission's rules of procedure. No protests to the application were received. Hearing on the application was held January 28, 1992 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<sup>1</sup>, the evidence adduced at the hearing, and being fully informed in the premises, the Commission is of the opinion and finds:

Shawn Endsley, CPA, testified for the applicant. Endsley has been the applicant's corporate controller since April, 1989. Endsley is in charge of the financial accounting and operational aspects of the applicant. Prior to joining the applicant's staff, Endsley worked 12 years for the accounting firm of Arthur Andersen & Company.

Endsley testified, and the pleadings reflect, the applicant is a Delaware corporation located in Dublin, Ohio. The applicant was incorporated December 10, 1983 as LiTel, Inc. Subsequently, the corporate name was amended to LiTel Telecommunications Corporation October 15, 1984. This entity (which after the amendment to C-909's application now seeks recognition as LCI) is a wholly-owned subsidiary of LiTel Communications, Inc. In a 1988 leveraged buy-out (LBO), LiTel Communications, Inc. was acquired by LCI Communications Holding Company.

At the hearing, the applicant offered a second amendment to the application, which for convenience at the hearing, was identified as Exhibit "N". The amendment alters conditions and terms of certain loan agreements and long term equipment leases involving LiTel Telecommunications Corporation. It appears the amendment is designed to satisfy lenders by restructuring a creditor agreement and placing new conditions on the applicant limiting its payment and borrowing practices.

Douglas Kinkoph testified for the applicant. Kinkoph is the applicant's Manager for Regulatory Affairs. He has held this position since 1986. Prior to joining the applicant, he worked as a telecommunications analyst for the Ohio Public Utilities Commission. He is responsible for the applicant's dealings with state and federal regulatory bodies. According to Kinkoph, the applicant will provide service throughout Nebraska. LCI will utilize fiber optic cable facilities and Digital Microwave facilities for service in Nebraska. Where necessary LCI will use the Sprint or MCI network to provide overall service. WillTel's fiber facilities will also be utilized.

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<sup>1</sup> Interexchange reseller applications are governed by Neb. Rev. Stat. §75-604 and 86-805 (1990 and 1987 Reissues, respectively) and Title 291 Neb. Admin. Regs. Ch. 5, Rule 003.12.

The audited financial report prepared by Arthur Andersen Company for the year ending December 31, 1990 shows the applicant (identified as LiTel Telecommunications Corporation) had assets and liabilities of \$76.462 million. The unaudited financial statement for the half year ending June 30, 1991 shows assets and liabilities of \$74.903 million. For the year ending December 31, 1991, LiTel Telecommunications Corporation had gross revenues of \$215.299 million and a net loss of \$20.505 million.<sup>2</sup> It appears the applicant is still contending with the effects of the 1988 LBO.

LiTel Telecommunications Corporation d/b/a LCI International currently has authority and operates as a facility based carrier in Ohio, Indiana, Illinois, Michigan, Kentucky, and Pennsylvania. The applicant is a certified reseller in Minnesota, Wisconsin, Iowa, Missouri, Louisiana, Florida, South Carolina, West Virginia, Maryland, Massachusetts and New York and is actively seeking to operate all across the United States. The applicant has no facilities in Nebraska and will not provide any for operations in this state.

Approximately 40,000 customers nationwide subscribe to the applicant's service. Historically, the applicant provided service to business subscribers but is now expanding into the residential market. Kinkoph estimated the applicant handles about 13.5 million minutes of calls per day.

Applications for authority by the applicant were denied in Mississippi and Alabama on public convenience and necessity grounds; new applications are expected to be approved in the near future, however. The applicant has not been subject to formal complaint proceedings in any other state.

Appendix A to the application contains a copy of the applicant's articles of incorporation and of the certificate of authority to transact business in Nebraska as a foreign corporation issued by the Nebraska Secretary of State September 13, 1991.

No other state regulatory agency has required the applicant to procure a performance bond. A provision for deposits was included with the tariff attached to the application. The applicant subsequently filed an amended tariff page removing this provision.

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<sup>2</sup>For the year ending December 31, 1989, LiTel Telecommunications Corporation's gross revenues were \$196.566 million and the company had a net loss of \$14.854 million.

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The applicant uses a flat rate structure for its two major services: "America Plus" and "American WATS."

### I. America Plus

#### Usage Rates:

	<u>Per Minute</u>		
	<u>Day</u>	<u>Evening</u>	<u>Night/Weekend</u>
BAND 0 (monthly rates)	\$.2020	.2020	.2020
BAND 0 (contract rates)	\$.1830	.1830	.1830

contract rates are applicable to customers who contract for the America Plus service for at least one year.

### II. America WATS

American WATS is an outbound service requiring the customer to originate calls via dedicated facilities between the customer's premises and LCI's terminal location and allowing the termination of calls via a combination of LCI-provided facilities and local business telephone lines or other exchange access facilities.

	<u>Per Minute</u>		
	<u>Day</u>	<u>Evening</u>	<u>Night/Weekend</u>
Month to Month	\$.1260	.1260	.1260
Term Rates	\$.1197	.1197	.1197

term rates are available to any customer who contracts for the American WATS service for at least one year.

The applicant's proposed tariff (with the addition of the amendment removing the deposit provision) is in accordance with the Commission's rules and regulations. The tariff appears reasonable in light of the proposed service.

The application should be granted, but modified to reflect the amendments filed subsequent to the application.

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-909 be, and it is hereby, granted as modified and *Litel Telecommunications Corporation d/b/a LCI International* be, and it is hereby, authorized to operate as a resale carrier of intrastate interexchange InterLATA and intraLATA telecommunications services within the State of Nebraska.

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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, 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 18th day of February, 1992.

NEBRASKA PUBLIC SERVICE COMMISSION

Commissioners Concurring:

*Daniel H. Kraville*  
*Duane D. Gay*

//s//Frank E. Landis, Jr.  
//s//James F. Munnelly  
//s//Eric Rasmussen

*Frank E. Landis, Jr.*  
Chairman

ATTEST:

*Pat R. King*  
Executive Director