

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of	)	Application No. C-913
TRANS NATIONAL COMMUNICATIONS,	)	
INC. dba MEMBERS' LONG DISTANCE	)	GRANTED
ADVANTAGE, Boston, Massachusetts	)	AND
which seeks authority to provide	)	PROTECTIVE ORDER ISSUED
intrastate interexchange tele-	)	REGARDING PROPRIETARY
communications resale services	)	INFORMATION
in Nebraska.	)	
	)	Entered: April 7, 1992

APPEARANCES

For the Applicant  
Chas. H. Helein, Esq.  
ARTER & HADDEN  
1801 "K" St., N.W., Suite 400K  
Washington, D.C. 20006-1301  
(202) 775-7100

For the Commission  
Jeffrey P. Goltz, Esq.  
Legal Counsel, NPSC  
300 The Atrium Building  
1200 "N" St. Box 94927  
Lincoln, NE 68509  
(402) 471-3101

Steven G. Seglin, Esq.  
CROSBY, GUENZEL, DAVIS, KESSNER  
& KUESTER  
134 South 13th St., Suite 400  
Lincoln, NE 68508  
(402) 434-7300

By application filed January 15, 1992, Trans National Communications, Inc. dba Members' Long Distance Advantage, Boston, Massachusetts ("TNCI") seeks authority to provide intrastate interLATA and intraLATA interexchange resale telecommunications services in Nebraska. TNCI's principal office is:

Trans National Communications, Inc.  
dba Members' Long Distance Advantage  
2 Charlesgate West  
Boston, MA 02215-3552  
(617) 262-9200

Applicant's registered agent is Corporation Service Company-Lawyers Incorporating Service Company, the address of which is 1227"J" Street, Lincoln, Nebraska, 68508.

Notice of the application was published in the Omaha *DAILY RECORD* January 16, 1992 in accordance with the Commission's rules of procedure. No protests to the application were received. Hearing on the application was held March 18, 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<sup>1</sup> of the application, the governing statutes and rules, the evidence adduced at the hearing, and being fully informed in the premises, the Commission is of the opinion and finds:

Mary Ann O'Hara testified on behalf of the applicant. She is TNCI's Divisional Controller and Assistant Vice-President; O'Hara is responsible for coordinating the company's financial matters and supervises its accounting functions. She is a graduate of Northeastern University with a B.S. in Business Administration and is a certified public accountant.

TNCI is a privately held Massachusetts company incorporated February 28, 1991. According to O'Hara, the public will recognize the applicant as "Members' Long Distance Advantage." For clarity's sake, we will refer in this order to the applicant as TNCI.

The applicant's articles of incorporation are contained in Exhibit 2. Exhibit 4 is a copy of the applicant's certificate to do business as a foreign corporation issued by the Nebraska Secretary of State February 3, 1992. O'Hara stipulated in her testimony that the broad range of authority sought in the application includes application for both interLATA and interLATA resale.

The filed application, upon which the published notice was based, does not petition for alternate operator service ("AOS"). O'Hara's testimony specified the applicant does not propose to provide AOS pursuant to a grant of authority. We note that this Commission has consistently taken the position that a general application for authority to operate as a reseller does not include authority to conduct AOS. AOS must be petitioned for<sup>2</sup> as part of the application before we will consider it. A grant of authority in this

---

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

<sup>2</sup> We observe that a late-filed amendment to add AOS to the application is an inadequate solution; the published notice of the application would not then accurately reflect the authority sought in the application.

application does not, therefore, authorize AOS. TNCI is, of course, free to make a future application for such authority.

In the application, TNCI asserts technical competence is not germane to the merits of the application since TNCI has no equipment, transmission or reception facilities. In lieu of technical qualifications of its own personnel, TNCI instead relies on the technical quality available from the underlying carrier. O'Hara testified that the applicant's Vice-President for Operations has worked in the telecommunications business for approximately eight years as a consultant. Another Vice-President has worked in the reseller business previous to joining TNCI. We would prefer a greater showing of technical competency on the applicant's part, but this failure, when taken with the application as a whole, is not fatal.

Currently, the applicant serves approximately 42,000 customer accounts across the country; O'Hara testified TNCI projects this figure to increase to 300,000 by the end of 1992. To this date, the applicant has concentrated on residential and affinity accounts; the 300,000 figure projected by O'Hara includes obtaining business accounts. Sprint is the underlying carrier used by TNCI at this time and the applicant offers a mix of Sprint's volume discount services such as Dial 1 WATS, Phone Line, Ultra-WATS, Ultra-800, and Phone Card.

To be profitable, the applicant charges its customers the Sprint tariff rates. The difference between the rate paid by the customers and the volume discounts TNCI gets from Sprint provides the margin of profit.

TNCI is a privately held corporation, the major stockholder of which is its Chairman of the Board/Secretary, Steven B. Belkin, who holds approximately 63,000 shares of stock. To date, the applicant has authorized 200,000 shares and issued 91,575 shares. TNCI is a sister company to a holding company called Trans National Group Services. TNCI receives all funding and cash support from the holding company which is primarily a marketing firm. As a further diversification of the holding company's activities, TNCI is a telephone reseller to the same marketing groups targeted by Trans National Group Services since the 1970's.

TNCI has no customers in Nebraska pending the application's approval. No state commission has rejected a TNCI application for reseller authority, nor has a formal complaint been filed against it. There will be no equipment nor employees located within the state.

TNCI provided copies of its balance sheet and profit and loss statement. Both in the application and at the hearing, TNCI moved that the Commission enter a protective order sealing this information because of its confidential proprietary nature. The Commission has incorporated into its procedural rules by reference the Nebraska Supreme Court's Rules of Civil Discovery.<sup>3</sup> Pursuant to Discovery Rule 26(c), we grant the applicant's motion and seal by protective order Exhibits 6 and 7, applicant's balance sheet and profit and loss statement, respectively.<sup>4</sup>

Generally, the balance sheet shows total assets and liabilities as of December 31, 1991 to be \$2.623 million. The statement of profits and losses records that the applicant earned revenues of \$942,502 for the same period, but had an operating loss after expenses of \$2.002 million. O'Hara testified that for accounting purposes, TNCI and its assets and liabilities stand apart from its holding company. Trans National Group Services had a balance sheet at the end of 1990 of \$120 million in assets, \$130 million in sales, and \$25 million in cash. The holding company stands behind the applicant for purposes of capital investment. According to O'Hara, the applicant's account model shows it should turn a profit in 24 months or less from start up.

**Tariff Provisions Contained in Applicant's Proposed Tariff-**

*Rate Periods: Day, Evening, and Night/Weekend rate periods apply to 1+ Dial-Up Service and Calling Card Service. The rates apply for all days of the week including holidays.*

*A. The Day rate period is 8:00 a.m. to, but not including, 5:00 p.m. Monday through Friday.*

*B. The Evening rate period is 5:00 p.m. to, but not including, 11:00 p.m. Monday through Friday.*

*C. The Night/Weekend rate period is 11:00 p.m. to, but not including, 8:00 a.m. Monday through Sunday, all day Saturday, and from 8:00 a.m. to, but not including, 5:00 p.m. Sunday.*

---

<sup>3</sup> See Neb. Admin. Regs. Title 291, Ch. 1, Rule 016.11.

<sup>4</sup> Discovery Rule 26(c) provides in pertinent part: "Upon motion by a party. . . from whom discovery is sought, . . . [the Commission] . . . may make any order which justice requires to protect a party . . . including one or more of the following: (7) that . . . confidential . . . commercial information not be disclosed or be disclosed only in a designated way[.]"

*D. For New Year's Day, Independence Day, Labor Day, Thanksgiving, and Christmas Day, the Evening rate applies unless a lower rate would normally apply.*

*Usage charges are determined by the time of day rate periods and minutes of use within each rate period. The rate period is determined by the time and day of call origination at the customer's location. Calls initiated during one time period and ending during a different time period will be billed for the usage during each time period at the rates applicable to that time period.*

PROPOSED RATES

Option 1:

1+ Dial-Up Service Rates

No charge is made for an uncompleted call.

1+ Dial-Up Rates are determined on a per-minute or fraction thereof basis, by time of day, day of week, and mileage basis as specified in the following rate table.

Mileage	<u>FIRST MINUTE</u>			<u>EACH ADDITIONAL MINUTE</u>		
	Day	Eve.	N/W	Day	Eve.	N/W
0-20	\$.3325	\$.23275	\$.16625	\$.2090	\$.14630	\$.10450
21-35	.3610	.25270	.18050	.2375	.16625	.11875
36-55	.3990	.27930	.19950	.2755	.19285	.13775
56-100	.4275	.29925	.21375	.3040	.21280	.15200
101-148	.4655	.32585	.23275	.3420	.23940	.17100
149-292	.4940	.34580	.24700	.3705	.29535	.18525
293+	.5130	.35910	.25650	.3895	.27265	.19475

Option 2:

Calling Card Service

No charge is made for uncompleted calls.

Calling Card Rates are determined on a per-minute or fraction thereof basis, by time of day, day of week, and mileage basis as specified in the following rate table, plus the applicable surcharge.

Mileage	<u>FIRST MINUTE</u>			<u>EACH ADDITIONAL MINUTE</u>		
	Day	Eve.	N/W	Day	Eve.	N/W
0-20	\$.3150	\$.2205	\$.1575	\$.1980	\$.1386	\$.0990
21-35	.3420	.2394	.1710	.2250	.1575	.1125
36-55	.3780	.2646	.1890	.2610	.1827	.1305
56-100	.4050	.2835	.2025	.2880	.2016	.1440
101-148	.4410	.3087	.2205	.3240	.2268	.1620
149-292	.4680	.3276	.2340	.3510	.2457	.1755
293+	.4860	.3402	.2430	.3690	.2583	.1845

Surcharge per automated calling card: \$0.60.

Application No. C-913

Page -6-

Option 3:

Operator Assistance Charges

For calls handled by an operator which cannot be completed due to causes other than failure to render appropriate assistance, a surcharge of \$0.60 applies.

Directory Assistance per call \$0.60.

Station to Station per call \$1.35.

Person to Person per call \$3.05.

The applicant's proposed tariff which is part of its application is in accordance with the Commission's rules and regulations. The tariff appears reasonable in light of the proposed service.

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.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-913 be, and it is hereby, granted and Trans National Communications, Inc. dba Members' Long Distance Advantage, Boston, Massachusetts 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.*

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 applicant file an updated and corrected 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 7th day of April, 1992.

Application No. C-913

Page -7-

NEBRASKA PUBLIC SERVICE COMMISSION

Commissioners Concurring:

*Daniel G. Griller*

*Duane D. Goss*

//s//Frank E. Landis, Jr.

//s//James F. Munnelly

//s//Eric Rasmussen

*Paul J. Jandry*  
Chairman

ATTEST:

*D. R. King*  
Executive Director