

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of)	Application No. C-915
NORSTAN NETWORK SERVICES, INC.,)	
Minneapolis, Minnesota which)	GRANTED
seeks authority to operate as a)	AND
reseller of telecommunications)	PROTECTIVE ORDER ISSUED
services within the State of)	REGARDING PROPRIETARY
Nebraska.)	INFORMATION
)	
)	Entered: April 21, 1992

APPEARANCES

For the Applicant

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For the Commission

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By application filed January 24, 1992, Norstan Network Services, Inc., Minneapolis, Minnesota ("NNSI") seeks authority to operate as a reseller of intrastate interLATA and intraLATA interexchange telecommunications services in Nebraska. NNSI's principal office is:

Norstan Network Services, Incorporated
6900 Wedgewood Road
Minneapolis, MN 55369
(612) 420-1100

Applicant's registered agent is:

Prentice-Hall Corporation System, Inc.
1141 "H" Street
Lincoln, NE 68508.

Notice of the application was published in the Omaha *DAILY RECORD* January 27, 1992 in accordance with the Commission's rules of procedure. No protests to the application were received. Hearing on the application was held March 31, 1992 in the Commission Hearing Room, Lincoln, Nebraska with appearances as shown, Commissioner Rasmussen chairing.

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 governing statutes and rules¹, the evidence adduced at the hearing, and being fully informed in the premises, the Commission is of the opinion and finds:

Paavo Pyykkonen testified on behalf of the applicant. He is Norstan, Inc.'s Director of Systems Marketing & Network Services. Pyykkonen manages the development of the network services offering for Norstan, Inc.

NNSI was incorporated October 16, 1991 and is a wholly-owned, publicly held, subsidiary of Norstan, Inc. The latter corporation concentrates on providing customer premises equipment (CPE). Norstan, Inc. designs, sells, leases, services, and supports those systems through local offices in 13 states, including Nebraska. Norstan, Inc. established NNSI as a non-facilities based reseller of long-distance services to complement Norstan Inc.'s business operations. Pyykkonen stipulated in his testimony that the broad range of authority sought in the application includes application for both interLATA and intraLATA resale. NNSI proposes to operate as a non-facilities based reseller of Sprint's long-distance service in Nebraska.

At the hearing, counsel offered NNSI's application as Exhibit 3. The applicant's articles of incorporation are contained in Exhibit 3, Tab A. Exhibit 3, Tab G is a copy of the applicant's certificate to do business as a foreign corporation issued by the Nebraska Secretary of State November 20, 1991.

The filed application, upon which the published notice was based, does not seek a certificate to provide alternate operator service ("AOS"). Pyykkonen testified NNSI does not seek AOS as part of this application. We note this Commission has consistently held an application for reseller authority does not include AOS unless specifically petitioned for in the application.² A grant of authority in this applica-

¹ 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.

² We observe that a late-filed amendment to add AOS to the application is an
(Footnote Continued)

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

NNSI is a non-facilities based reseller. However, Norstan, Inc., as a CPE marketer, has between 700 and 800 service technicians. Pyykkonen testified that problems with equipment will be handled by Norstan Inc.'s technicians while service problems with the underlying carrier will be addressed through the underlying carrier.

Currently, Norstan, Inc., through its Omaha business office, serves approximately 80 commercial business and government customers in Nebraska, including the City of Omaha. The parent corporation has operated in Nebraska for over 12 years. NNSI intends to provide reseller service to Norstan Inc.'s customers. NNSI has no interest in residential customers or affinity accounts. Sprint is the underlying carrier used by NNSI at this time and the applicant offers Sprint's switched dial 1+ and dedicated access service, inbound 800 service on both a switched and access basis, FONCARD service, Directory Assistance, private line service, and operator services.

Pyykkonen testified that Sprint and Norstan, Inc. have a bulk service agreement which permits NNSI to resell to customers of Norstan, Inc. NNSI obtains bulk discounts from Sprint. At the hearing, the applicant's counsel moved that the Commission enter a protective order sealing this information because of its confidential proprietary nature. Title 291 Neb. Admin. Regs. Ch. 5, Rule 003.01A establishes the Commission⁴ can provide safeguards for proprietary information. The Communications Department legal counsel did not object to a protective order. Therefore, we grant the applicant's motion and seal Exhibit 3 Tab D, the bulk agreement between Norstan, Inc. and Sprint.

(Footnote Continued)

inadequate solution; the published notice of the application would not then accurately reflect the authority sought in the application.

³ Note that the operator services listed here are not alternate operator services. They are actually the operator services provided by Sprint and passed through to the reseller's customers as part of Sprint's resold services.

⁴ Rule 003.01A states: "The Commission shall maintain safeguards for the protection of proprietary information, included but not limited to, protective orders and limited distribution of the proprietary information."

To be profitable, the applicant charges its customers rates comparable to the AT&T, MCI, and Sprint tariff rates for intrastate Nebraska calling. The difference between the rate paid by the customers and the volume discounts NNSI receives from Sprint provides the margin of profit. The applicant bills customers under its own name. NNSI receives call detail records on magnetic tape from Sprint and then produces the bill for mailing to the customer.

NNSI has no customers in Nebraska pending the application's approval. No state commission has rejected an NNSI application for reseller authority, nor has a formal complaint been filed against it. At this time, the applicant is applying for a certificate to operate in each of the following states: Arizona, New Mexico, Kentucky, Indiana, Ohio, Minnesota, Wisconsin, Iowa, Texas, North Dakota, South Dakota, and Florida. As a business strategy, NNSI will not operate as a reseller in these states until it receives operating authority everywhere in the United States it intends to provide resale service.

Norstan, Inc. stands behind the applicant and can provide financial resources as needed. NNSI provided financial information, including balance sheets and profit and loss statements, in Exhibit 3, Tab E. This is a compilation of financial data for Norstan, Inc. as the applicant's parent corporation and was compiled by Arthur Andersen Company, CPAs.

Generally, the balance sheet shows Norstan Inc.'s assets and liabilities as of December 31, 1991 to be \$81.865 million. Profits and losses records amounted to \$134.591 million for the same period and a net operating income after expenses of \$3.861 million.

The tariff provisions for calling are distance sensitive. The pass through operator service charges depend upon the type of operator service resold. A detailed breakdown of charges for each of the services described previously is included in the tariff.

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-915 be, and it is hereby,

Application No. C-915

Page -5-

granted and Norstan Network Services, Inc., Minneapolis, Minnesota 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*. The bulk service agreement (Exhibit 3, Tab D) is hereby sealed as proprietary information pursuant to a protective order as incorporated herein.

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 21st day of April, 1992.

NEBRASKA PUBLIC SERVICE COMMISSION

Commissioners Concurring:

Daniel G. Kroll
Deane D. Gay

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

Frank E. Landis, Jr.
Chairman

ATTEST:

John R. King
Executive Director