

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of	)	Application No. C-916
ConQuest Operator Services	)	
Corp., Dublin, Ohio which	)	
seeks authority to operate as a	)	
reseller of telecommunications	)	GRANTED
services within the State of	)	
Nebraska and to provide alter-	)	
nate operator services.	)	Entered: May 5, 1992

APPEARANCES

For the Applicant

Marianne Townsend, Pro Se  
 Director, Operator Assistance  
 and Regulatory Affairs  
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 (614) 764-2933

James Sobwick, Pro Se  
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For the Commission

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PRELIMINARY MATTERS

By application filed January 29, 1992, ConQuest Operator Services Corporation, Dublin, Ohio ("ConQuest") seeks authority to operate as a reseller of intrastate interLATA and intraLATA interexchange telecommunications services in Nebraska and to provide alternate operator services. ConQuest's principal office and the location where its books and records are kept is noted *supra* and its registered agent is the CT Corporation, 206 South 13th Street, Lincoln, Nebraska, 68508.

Notice of the application was published in the Omaha *DAILY RECORD* January 30, 1992 in accordance with the Commission's rules of procedure. No protests to the application were received. Hearing on the application was held April 7, 1992 in the Commission Hearing Room, Lincoln, Nebraska with appearances as shown, Commissioner Landis 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 rules<sup>1</sup>, the evidence adduced at the hearing, and being fully informed, the Commission is of the opinion and finds:

Nebraska was divided into three Local Access Transport Areas (LATAs) as a result of the terms of the Modified Final Judgment issued in the AT&T divestiture case. *United States v. American Telephone & Telegraph Co.*, 552 F.Supp. 131 (D.D.C. 1982), aff'd sub nom., *California v. United States*, 460 U.S. 1001 (1983) and *United States v. American Telephone & Telegraph Co.*, 569 F. Supp. 990 (D.D.C. 1983) aff'd sub nom., *California v. United States*, 460 U.S. 1001 (1983). While Neb. Rev. Stat. §75-604, by its language, refers to local exchange service, the Nebraska Supreme Court in *Northwestern Bell Telephone v. Consolidated Telephone Co.*, 180 Neb. 268, 142 N.W.2d 324 (1966) held that long distance service is also subject to the provisions of the statute. This was recognized and addressed by the Nebraska Legislature in L.B. 835 because reference to interexchange resellers in §86-805 is now referenced into §75-604.

Marianne Townsend and James Sobwick testified for the applicant. The witnesses' positions with ConQuest are described previously in this order. Before joining ConQuest in 1987, Townsend managed the engineering and special services groups for LiTel Telecommunications Corporation (a reseller). Prior to employment with LiTel, Townsend was a tariff manager with the Ohio Public Utilities Commission for seven years. Besides her current title and position with the applicant, Townsend is also ConQuest's corporate secretary and treasurer. Sobwick has an MBA and experience in operations, research, and computer systems. He was a co-founder of LiTel. He worked for United Telephone of Ohio for six years as a manager and concentrated on econometric modeling and network design before joining ConQuest.

ConQuest's founder and chairman, Ghany Patel was formerly with United Telephone and GTE. After 16 years at those companies, he co-founded LiTel Telecommunications. Patel owns 24 percent of the applicant, North Pittsburgh Services, Inc. ("NPSI"), an independent telephone company, has 34 per-

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<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.

cent, and Opportunities One (an investment banking firm) owns 29 percent (figures are approximates).

ConQuest incorporated May 2, 1988 in Ohio. The company is a privately-held corporation which is wholly-owned by ConQuest Telecommunications Services Corp. and is a sister company to ConQuest Long Distance Corp. (a long distance reseller) and ConQuest Communications Corp. (a telecommunications firm). Townsend stipulated in her testimony, and the application reflects, that the broad range of authority sought in the application includes application for both interLATA and intraLATA resale. ConQuest proposes to operate as a non-facilities based reseller of AT&T long-distance service in Nebraska. No facilities in Nebraska are contemplated nor will any employees be located within this state.

At the hearing, Townsend offered on behalf of ConQuest Exhibits 1 (a current financial statement), 2 (the certificate to do business as a foreign corporation in Nebraska dated January 27, 1992), and 3 (a ConQuest brochure). A copy of ConQuest's articles of incorporation was provided with the application.

The filed application, upon which the DAILY RECORD notice is based, *does* seek a certificate to provide alternate operator service ("AOS"). Townsend testified about ConQuest's AOS service in detail. We note this Commission has consistently held an application for reseller authority does not include AOS unless specifically petitioned for in the application.<sup>2</sup>

ConQuest provides AOS and reseller services to motels, hotels, hospitals, universities, prisons, pay stations, businesses and residential customers. The company is primarily in the AOS business. The company's operator center is located in Butler, Pennsylvania and employs 75 operators. 30 more employees and the administrative officers work at the company's headquarters in Dublin, Ohio. ConQuest is especially interested in Nebraska operations because a Nebraska-based reseller, "TMC",<sup>3</sup> is its client in Ohio and wants ConQuest to provide AOS in Nebraska.

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<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.

<sup>3</sup>TeleMarketing Investments, Ltd. dba Telemarketing Communications of Omaha (see Application C-687).

AT&T is the underlying carrier used by ConQuest at this time and the applicant offers AT&T's switched dial 1+ and inbound 800 service. To be profitable as a reseller, ConQuest charges its customers rates comparable to the AT&T tariff rates for intrastate Nebraska calling. The difference between the rate paid by the customers and the volume discounts ConQuest receives from AT&T provides the margin of profit.

The applicant bills reseller customers under its own name using an independent billing agent ("Comco" of Tennessee). For AOS, however, the manner in which the call is placed, for example by using a local telephone credit card, determines where the billed call appears. A call made using the example just described will appear on the local telephone exchange's bill and identify the call as being placed through ConQuest. The applicant sends its call detail records on magnetic tape to a third party billing agent ("Zero Plus Dialing, Inc.") which in turns routes billing information to the local telephone companies.

No state commission has rejected a ConQuest application for reseller authority or AOS, 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: Kentucky, Indiana, Ohio, Wisconsin, Illinois, Texas, Florida, West Virginia, New Jersey, New York, Maryland, Georgia, Massachusetts, and South Carolina. Certification in Alabama is pending.

Sobwick testified that ConQuest generated \$1.7 million in revenues in 1989 and lost \$1.5 million, \$4.4 million in 1990 and lost half a million dollars, and \$7.7 million in 1991 with a profit of half a million dollars. ConQuest achieved net income profitability in August, 1990. Projections are that ConQuest will generate revenues in excess of \$15 million in 1992 with a profit of \$1 million.

NPSI and Opportunity One as shareholders stand behind the applicant and can provide financial resources as needed. NPSI, according to Sobwick, has revenues in excess of \$40 million and Opportunity One manages a mutual fund valued in excess of \$350 million. ConQuest uses a DMS 250 switch by Northern Telecom worth \$2 million. The quality of this switch is one of the reasons ConQuest sees no need for installing its own facilities.

Townsend provided financial information, including balance sheets and profit and loss statements, in Exhibit 1. This is a compilation of financial data for ConQuest Telecommunications Services Corp. as the applicant's parent corporation and was derived from figures developed by Ernst & Young, CPAs.

Generally, the balance sheet in Exhibit 1 shows assets and liabilities as of January 31, 1992 to be \$2.186 million. For the month of January, 1992 the parent corporation earned \$799 thousand in gross revenues with a gross operating revenue of \$617 thousand.

The tariff provisions for calling are usage/distance sensitive based on day, evening, night/weekend time frames. 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.

The facilities of the applicant now in place are providing interstate service. Applicant does not propose to construct facilities for use in intrastate service; therefore, no existing facilities will be duplicated if this application is granted for reseller 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-916 be, and it is hereby, granted and ConQuest Operator Services Corporation, Dublin, Ohio be, and it is hereby, authorized to *operate as a resale carrier of intrastate interexchange interLATA and intraLATA telecommunications services and to provide alternate operator 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.

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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 5th day of May, 1992.

NEBRASKA PUBLIC SERVICE COMMISSION

Commissioners Concurring:

*Daniel J. Mueller*  
*Deane D. Gay*

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

//s//James F. Munnelly

//s//Eric Rasmussen

NEBRASKA PUBLIC SERVICE COMMISSION

*James F. Munnelly*  
Chairman

ATTEST:

*W. R. Rasmussen*  
Executive Director