

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In Re Application of) Application No. C-927
Dial-Net, Inc. Sioux Falls, South)
Dakota which seeks to amend its cer-) GRANTED AND
tificate of authority to additional-) CERTIFICATE IN C-706
ly provide IntraLATA interexchange) REVOKED
telecommunications services in)
Nebraska.) Entered: May 26, 1992

For the Applicant

Richard Coit, Esq.
General Counsel
Dial-Net, Inc.
101 S. Phillips Suite 107
P.O. Box 5059 Sioux Falls, S.D.
57117-5059 (605) 331-3030

PRELIMINARY MATTERS

This application was precipitated by the Communications Department's examination of past reseller applications, including Dial-Net, Inc.'s, ("Dial-Net"). Dial-Net's original grant of authority (Application No. C-706, February 10, 1987) allows it to provide "intrastate InterLATA communications services in the State of Nebraska." Under previous administration of the Department, a liberal interpretation was given when the question arose as to whether such language included the provision of *intraLATA* service. Since the Department now prefers to give a plain meaning to plain words, it requested Dial-Net make a new application to amend its certificate in order that the certificate of authority accurately reflect the interexchange reseller service provided.

On April 3, 1992, Dial-Net filed its application seeking to amend its original certificate and provide intrastate intraLATA as well as interLATA interexchange telecommunications services in Nebraska. Dial Net's principal office and the location where its books and records are kept is the same as the address noted above for its legal counsel. The applicant's registered agent is Donald V. Szymik, 105 North Wheeler, Grand Island, Nebraska, 68801.

Notice of the application was published in the Omaha *DAILY RECORD* April 6, 1992 in accordance with the Commission's rules of procedure. No protests to the application were received. The hearing will therefore be processed by modified procedure in accordance with the Commission's rules of proce-

1The application contains an affidavit by Dial-Net's Vice-President/Chief Financial Officer, Craig A. Anderson.

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

Upon consideration of the application, the governing statutes and rules² the evidence adduced from the application, 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 further recognized and addressed by the Nebraska Legislature in L.B. 835 since interexchange resellers in §86-805 are now referenced into §75-604.

Approval of this application will not substantially change the current environment because Dial-Net has operated in the past on the assumption its previous certificate gave it the authority to provide intraLATA resale service. An order granting the application merely makes clear that Dial-Net has such authority.

Based on the contents of the application and the past operations of the applicant under its original certificate, the application is fair and reasonable, is in the public interest, and should be granted.

¹Title 291 Neb. Admin. Regs. Ch. 1, Rule 018.03.

²Reseller applications are governed by Neb. Rev. Stats. §§75-604 and 85-805 (1990 and 1987 Reissues, respectively) and Title 291 Neb. Admin. Regs. Ch. 5, Rule 003.

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ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-927 be, and it is hereby, granted and Dial-Net, Inc., Sioux Falls, South Dakota 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 the contents of the order in Application No. C-706 are hereby incorporated by reference into this order and C-706 is hereby revoked. Dial-Net's authority to operate in Nebraska as an interexchange carrier is therefore governed by this order.

IT IS FURTHER ORDERED that applicant shall continue to 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 shall, if necessary, file an updated and corrected tariff reflecting the change in its authority 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 26th day of May, 1992.

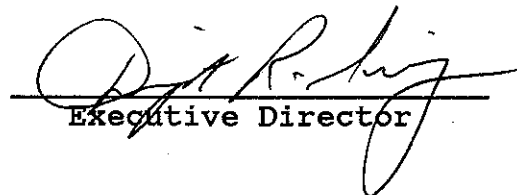
NEBRASKA PUBLIC SERVICE COMMISSION

Commissioners Concurring:

//s//Duane D. Gay
//s//Frank E. Landis
//s//James F. Munnelly
//s//Daniel G. Urwiller


Chairman

ATTEST:


Executive Director