

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the application )	Application No. C-942
of Lubbock Radio Paging Service, )	
Inc. d/b/a Stenocall, of Lubbock, )	
Texas for authority to operate as )	GRANTED IN PART
an operator services provider and )	DENIED IN PART
reseller of interexchange tele- )	
communications service within )	
the State of Nebraska. )	Entered: November 5, 1992

APPEARANCES

For the Applicant

Robert Whipple, Pro Se  
Director, Regulatory Affairs  
1515 Avenue "J"  
Lubbock, Texas 79401  
(806) 762-0811

For the Communications Dept.

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

PRELIMINARY MATTERS

By application filed August 14, 1992, Lubbock Radio Paging Service, Inc. d/b/a Stenocall of Lubbock, Texas seeks authority to operate as a reseller of intrastate interLATA and intraLATA interexchange telecommunications services and to provide alternate operator services in Nebraska. Stenocall's principal office is noted above and its books and records are maintained at the same address. The applicant's registered agent is the CT Corporation, 206 South 13th Street, Lincoln, Nebraska, 68508.

Notice of the application was published in the Omaha *DAILY RECORD* August 17, 1992 in accordance with the Commission's rules of procedure. No protests to the application were received. Hearing on the application was held October 23, 1992 in the Commission Hearing Room, Lincoln, Nebraska with appearances as shown; Senior Counsel Hal Hasselbalch chaired the proceeding.

BY THE COMMISSION

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 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 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 by the Nebraska Legislature in L.B. 835 (LAWS 1986) because interexchange services (which include resellers) in §86-805 are referenced to in §75-604. For this reason, the Commission distinguishes between intraLATA and interLATA resale when deciding reseller applications.

Mr. Robert Whipple, the applicant's Director of Regulatory Affairs appeared at the hearing. Stenocall was incorporated in the state of Texas in 1974. It is a privately held corporation, the corporate officers of which are Robert D. McLeod (President) Ethel McLeod (Executive Vice-President and CEO), William Gafford, Don Mosher, Pat Geeslin, and Karen Eustace (Vice-Presidents). The McLeods are the only two shareholders of this privately held company. At the hearing, Stenocall's financial statement, the certificate to do business as a foreign corporation in Nebraska, and a copy of its articles of incorporation were made part of the record.

Whipple testified and the pleadings clearly reflect the application seeks both interLATA and intraLATA authority as well as alternate operator services authority. The filed application, upon which the DAILY RECORD notice is based, *does* seek a certificate to provide alternate operator services ("AOS"). We note this Commission has consistently held an application for reseller authority does not include

---

<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. Alternate operator services are governed by Rule 003.16.

AOS <sup>2</sup>unless specifically petitioned for in the application.

Under questioning by Commission legal counsel, the record reflects the applicant's operations will conform to the Commission's <sup>3</sup>alternate operator services rules found in Rule 003.16. The interexchange reseller portion of the authority sought here is apparently supposed to be considered by us as a derivative of or minor sidelight to the proposed alternate operator services. The applicant would be a non-facilities based reseller. The company currently serves 30 customers with operator services. Hospitals, universities, truck stops, and restaurants are the type of clients the applicant provides with operator services. There are no measurements of billings or minutes since the applicant is not currently serving reseller customers. No future facilities in Nebraska are contemplated nor will any employees be located within this state within the foreseeable future.

The applicant provided a tariff for its alternate operator services. The tariff is mile and distance sensitive and is similar to tariffs filed previously with the Commission. There is nothing in the tariff which shows rates for reseller service (obviously because the applicant has no plans for providing resale of long distance in Nebraska). Whipple testified the company was not going to move more of its business into long distance resale.

To be profitable as an alternate operator services provider, Stenocall charges its customers rates comparable to AT&T's interLATA operator service rates and the Bell Operating Company's (US West in Nebraska) intraLATA operator services rates. A subscriber to Stenocall's service finds it profitable to use Stenocall because of the commission it receives for engaging Stenocall.

No state commission has rejected a Stenocall application for reseller or alternate operator services authority, nor has a formal complaint been filed against it. As of the hearing date, the applicant was operating in the following states: Wyoming, California, Arizona, Colorado, Oklahoma, New Mexico, and Texas.

---

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

<sup>3</sup>Title 291 Neb. Admin. Regs. Ch. 5

The applicant has a billing and collection agreement with Integretel, a clearing house. Stenocall sends its call records to Integretel which, in turn, consolidates and sends them to the particular Bell Operating Company or AT&T, as the case may be, for billing and collection.

The financial information provided by the applicant was marked as Exhibit 4 and was compiled by a certified CPA, Brad Croom, who is the applicant's controller. Whipple, relying on Exhibit 4, testified that for the six month period ending June 30, 1992, Stenocall held total current assets of \$1.054 million. Total assets and shareholder's equity/liability amounted to \$2.871 million. This figure includes an investment in property and equipment of \$1.814 million. For the same period, Exhibit 4 shows Stenocall earned a gross profit of \$1.23 million and after deducting its costs, the company ended the period with a pre-tax net profit of \$159 thousand.

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 would be duplicated if the application for reseller authority is granted.<sup>4</sup>

Based on the testimony, the exhibits, and the proposed tariff, the application, as it pertains to alternate operator services authority, is fair and reasonable, is in the public interest, and should be granted. We grant the application as to alternate operator services. We deny the application for reseller services authority on the grounds the applicant does not intend to actually provide such services in this state at this time.

#### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-942 be, and it is hereby, granted in part and Lubbock Radio Paging Service, Inc. d/b/a Stenocall of Lubbock, Texas be, and it is hereby, authorized to operate as an alternate operator services provider pursu-

---

<sup>4</sup> See §75-604.

Application No. C-942

Page -5-

*ant to this certificate in both the intrastate interLATA and intraLATA long distance market in 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, if any, 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 5th day of November, 1992.

NEBRASKA PUBLIC SERVICE COMMISSION

Commissioners Concurring:

*Duane D. Gay*

//s//James F. Munnelly  
//s//Eric Rasmussen  
//s//Daniel G. Urwiller

*Daniel G. Urwiller*  
Vice Chairman

ATTEST:

*John R. [Signature]*  
Executive Director