

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the ) Application No. C-948  
Application of Call Home America,) )  
Inc. of Austin, Texas which seeks) GRANTED and  
authority to resell intrastate ) PROTECTIVE ORDER ISSUED  
interexchange telecommunications )  
services in Nebraska. ) Entered: January 5, 1993

APPEARANCES

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PRELIMINARY MATTERS

By application filed September 21, 1992, Call Home America, Inc. ("CHA") seeks authority to provide intrastate interLATA and intraLATA interexchange telecommunications services in Nebraska. The address of CHA's principal offices is noted above and its registered agent is:

Prentice-Hall Corporation System, Inc.  
1900 First Tier Bank Building  
233 South 13th Street  
Lincoln, Nebraska 68508

The Omaha *DAILY RECORD* published notice of the application September 23, 1992 in accordance with the Commission's rules of procedure. No one protested the application. Hearing on the application was held December 8, 1992 in the Commission Hearing Room, Lincoln, Nebraska with appearances as shown. Commissioner Landis chaired the hearing.

At the hearing, pre-marked exhibits A, B, C, D, and E were offered and accepted. These exhibits included a copy of the applicant's articles of incorporation, certificate to do business in Nebraska as a foreign corporation, and a proposed tariff. The filed application, upon which published notice was based, does not seek a certificate to provide alternate operator service ("AOS"). We note this Commission has consistently held an application for reseller authority does not include

AOS<sup>1</sup> unless specifically petitioned for in the application.

BY THE COMMISSION

### OPINION AND FINDINGS

Upon consideration of the application, the governing statutes and rules<sup>2</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 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 in deciding reseller applications.

William Freed testified on behalf of the applicant. Freed is CHA's Chief Executive Officer. He holds a business administration degree in marketing from the University of Texas and founded an alternative telecommunications company called Travis Telecom in 1984 to serve university students in Austin. Subsequently, he was involved with three other long distance

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<sup>1</sup>We observe that a late-filed amendment to add AOS to the authority sought in the original application is an inadequate solution; the published notice of the application would then not accurately reflect the authority sought by the applicant.

<sup>2</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.

resale companies before CHA. The company's corporate officers are Jeffrey T. Schlesinger (President), Steven Dutton (Secretary), and Elaine Nesbitt (Treasurer). Schlesinger and Dutton are the company's stockholders.

CHA was incorporated in Texas August 1, 1989. It holds no corporate relationship with any other business entity at this time and is privately held. CHA is an "S" corporation. No state commission has rejected an application by CHA for reseller authority, nor has a formal complaint ever been filed against CHA by another state utility or public service commission.

So far, CHA provides interstate long distance resale in the continental 48 states and is certificated as an intrastate long distance reseller in Texas, Louisiana, Oklahoma, South Dakota, Florida, New York, New Jersey, Illinois, Michigan, Pennsylvania, Washington, and California. Applications are pending in Ohio, Missouri, Alabama, Massachusetts, Arizona, Indian, Georgia, Wisconsin, and Maryland. CHA also operates in twelve states which do not regulate resellers.

The applicant intends to provide service throughout Nebraska regardless of equal access area<sup>3</sup>. There is no plan to locate equipment or personnel within the state. CHA purchases Allnet Communications and Telecom USA (a subsidiary of MCI)<sup>4</sup> and resells inbound 1-800 telephone service principally to residential subscribers. As an example, a parent of a college student subscribing to CHA obtains a 1-800 number which the student then uses to call toll free to the parent's home. Instead of paying toll charges, the parties would be billed for the 1-800 service. This is the only kind of resale service offered by the applicant. 1-800 resale occurs in a non-dedicated environment. The person who places the call is dialing a 1-800 telephone number which is accessible throughout the country. The 1-800 number dialed is routed through the network so the person receiving the call receives it in the same fashion he or she would receive any other call.

Freed testified the rates charged by CHA will be competitive with the underlying carriers as well as the traditional long distance carriers. For example, MCI's comparable 1-800 product charges a \$5.00 per month service charge plus a flat

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<sup>3</sup> This is due to the type of reseller service offered and will be discussed later in the order.

<sup>4</sup> Both of these carriers are certificated in Nebraska.

\$.25 per one minute increment. CHA has a \$3.75 fixed monthly charge with rates of \$.24 from 8.00 a.m. to 6:59 p.m. CHA bills in six second or one tenth of a minute increments following the first completed minute of calling.

No other state regulatory agency has required the applicant to procure a performance bond. The applicant does not require advance payments or deposits. In fact, CHA structures its billing through the use of credit cards. Therefore, it is assured of receiving payment.

In its application, CHA moved that the Commission enter a protective order sealing the financial exhibit because of its proprietary nature. Title 291 Neb. Admin. Regs. Ch. 5, Rule 003.01A establishes the Commission may provide safeguards for proprietary information.<sup>5</sup> The applicant's financial documentation was prepared by an independent CPA firm, W. Claude McMordie of Austin, Texas on May 19, 1992. The balance sheet for the company shows total assets for the period ending December 31, 1991 of \$559,369 mostly in the form of cash on hand. Conversely, the company has a current debt liability in the form of accounts receivable of \$499,133.

The exhibit also shows that CHA had revenues for the same period of \$3.806 million and after expenses (including salaries) a net income of \$23,198. CHA also provided a profit and loss statement covering the period January 1, 1992 through June 30, 1992. The revenues for this period totaled \$3.714 million and a net income of \$159,679. For the same period, CHA had \$715,134 in total assets and current liabilities of \$494,124.

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 as modified.

#### O R D E R

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<sup>5</sup> 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."

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IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-948 be, and it is hereby, granted and Call Home America, Inc. of Austin, Texas is hereby authorized to operate as a resale carrier of intrastate interexchange interLATA and intraLATA telecommunications services within the State of Nebraska. The financial information identified as Exhibit C is sealed pursuant to a protective order 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 the Applicant file an updated 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 January, 1993.

NEBRASKA PUBLIC SERVICE COMMISSION

Commissioners Concurring:

*Daniel G. Urville*

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

//s//James F. Munnally

//s//Eric Rasmussen

*Frank E. Landis, Jr.*  
Chairman

ATTEST:

*John R. Long*  
Executive Director