

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of LinTel Systems,) Application No. C-968
Inc. dba Lincoln Telephone Long)
Distance of Lincoln, Nebraska which)
seeks amendment to its Certificate) GRANTED AND CERTIFICATE
of Public Convenience and Necessity) NO. C-625 REVOKED
to additionally provide intrastate)
intraLATA interexchange telecom-)
munications service in Nebraska.) Entered: February 23, 1993

APPEARANCES

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BY THE COMMISSION

This application was precipitated by the Communications Department's examination of applications made by past interexchange telecommunications providers, including LinTel System, Inc. dba Lincoln Telephone Long Distance (LTLD) of Lincoln, Nebraska. LTLD's original grant of authority (see, Application No. C-625, March 11, 1986) permits 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 issue arose as to whether such language included the provision of intraLATA service.¹ Since the Department now prefers to give a plain meaning to plain words, it requested LTLD to make an application to amend its certificate to accurately reflect the interexchange long distance service it provides.

On January 7, 1993, LTLD filed an application seeking to amend its original certificate and to provide intrastate intraLATA as well as interLATA interexchange telecommunications services in this State. LTLD's corporate name, principal place of business, and telephone number are:

LinTel Systems, Inc.
dba Lincoln Telephone Long Distance
2211 Winthrop Road P.O. Box 81672
Lincoln, Nebraska 68501-1672
Tel: (402) 486-7222

¹Although we note that in Application No. C-625, the Commission specifically spelled out that LTLD was limited to interLATA authority and was prohibited from servicing unauthorized intraLATA calls.

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The applicant's registered agent is Thomas C. Woods III, 500 South 16th Street, Lincoln, Nebraska, 68508.

Notice of the application was published in the Omaha Daily Record January 11, 1993 in accordance with the Commission's procedural rules. No one protested the application. The application contains the verified statement of James W. Strand, the applicant's President. This matter will therefore be processed by the Commission's modified procedure rule.²

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 rules³, and being fully advised, 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 Judgement (MFJ) 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 Legislature in L.B. 835 (LAWS 1986) because interexchange services in Sec. 86-805 are referenced to in Sec. 75-604. For this reason, the Commission distinguishes between intraLATA and interLATA interexchange services.

Approval of this application will not substantially change the current environment because LTLTD has operated in the past on the assumption its previous certificate gave it the authority to provide intraLATA interexchange long distance service. An order granting the application merely makes this clear.

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

²Title 291 Neb. Admin. Regs. Ch. 1, Rule 018.03

³Neb. Rev. Stats. 75-604 and 86-806 (1990 and 1987 Reissues, respectively) and Title 291 Neb. Admin. Regs. Ch. 5, Rule 003.

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O R D E R

IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-968 be, and it is hereby, granted and LinTel Systems, Inc. dba Lincoln Telephone Long Distance of Lincoln, Nebraska is authorized to operate as a long distance provider of intrastate interexchange interLATA and intraLATA telecommunications services within the state of Nebraska.

IT IS FURTHER ORDERED that the findings and the order in Application No. C-625 are hereby incorporated by reference and the certificate in C-625 is revoked. The applicant's authority to operate in Nebraska as an interexchange carrier is therefore governed by this order and the certificate issued therein.

IT IS FURTHER ORDERED that the 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, prior to offering service pursuant to the certificate, the Applicant shall file, if necessary, an updated and correct tariff reflecting the change in the authority granted in this order.

IT IS FINALLY ORDERED that this order be, and it is hereby, made the Commission's official certificate of authority to furnish the service authorized herein as a common carrier.

MADE AND ENTERED at Lincoln, Nebraska this 23rd day of February, 1993.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING

Quane D. Gay

//s//Rod Johnson

//s//James Munnelly

//s//Daniel G. Urwiller

Daniel G. Urwiller
Vice Chairman

ATTEST:

John R. Gay
Executive Director