

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-971
Inmate Phone Systems, Inc. of Los)
Angeles, California seeking author-)
ity to operate as a resale carrier) GRANTED
of intrastate interLATA and intra-)
LATA telecommunications services)
within the state of Nebraska.) Entered: October 25, 1994

APPEARANCES:

For the Applicant

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For the Communications Department

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Stephen Edwards
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PRELIMINARY MATTERS

Inmate Phone Systems Corporation ("Inmate"), of Los Angeles, California filed its application January 25, 1993. The company seeks authority to conduct business as an intrastate telecommunications common carrier offering resold intraLATA and interLATA long distance service. The applicant's business address is noted above. Notice of the application appeared in the Omaha Daily Record, January 27, 1993. No one protested the application. Inmate appeared before the Commission for a hearing, chaired by Commissioner Landis, August 24, 1994 in the Commission Hearing Room, Lincoln, Nebraska.

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 rules¹, the evidence adduced at the

¹Interexchange resellers applications are governed by Neb. Rev. Stats. 75-604 and 86-805 (1990 and 1987 Reissues,
(Footnote Continued)

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 Modification of Final Judgement (the "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 LB 835 (LAWS 1986) because interexchange services (which include resellers) in Sec. 86-805 (part of LB 835) are referenced to in Sec. 75-604. For this reason, the Commission distinguishes between intraLATA and interLATA resale when deciding reseller applications.

Stephen Edwards, President and Chief Financial Officer of Inmate, testified. He is an attorney, and has been in the telecommunications industry for approximately 10 years. Mr. Edwards testified, and the pleadings reflect, that the applicant seeks both intraLATA and interLATA authority. The filed application does not seek authority to provide AOS. We observe the Commission has consistently held an application for reseller authority does not include AOS unless specifically petitioned for in the application.²

Inmate was incorporated in 1992. The company is privately owned, and its officers and directors are Mr. Edwards, Anthony Fischler, Executive Vice-President and Farzad Mobin, Vice-President and Secretary.

(Footnote Continued)
respectively) and Title 291 Neb. Admin. Regs. Ch. 5, Rule 003.12.

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

Inmate intends to offer intrastate services throughout Nebraska over facilities leased from other carriers. The applicant will exclusively provide telecommunications services within the correctional marketplace. Thus, they will target customers in various city, county and state facilities. The users of the service would be individuals in custody, not the general public. The applicant will provide collect only automated services to facilities. The billing will accordingly be assessed to the party who accepts the call. Inmate retrieves billing records from its computer modem each evening. The results are compiled, sorted by local exchange carrier and then sent to Zero Plus Billing, Inc (ZPDI). ZPDI then prepares the billing statements.

At the hearing, Mr. Edwards stated the applicant is certified to do business in 13 states and are operating in over 50 facilities. Further, Mr. Edwards testified that no state commission has rejected an Inmate application.

The company was subject to a Commission inquiry in early 1993, after receiving a billing complaint from a consumer in Dannebrog, Nebraska. A minor was accepting numerous collect calls from a correctional facility in Clay County. The facility contracted with Inmate for its telecommunications services despite the fact it was not properly certified. The charges assessed to the consumer for the collect calls were extremely high, approximately \$1.00 per minute. After the Commission became involved, Inmate agreed to reduce the charges to the standard AT&T billing rate which lowered the bill by roughly two-thirds.

Financial information was provided to the Commission in the application, as well as at the hearing. Statements since the company's inception in 1992 to the present were provided. This information was prepared in-house by the company's controller. The statements reflect Inmate is in good financial standing, and will be able to competently provide service.

Customers are able to call a toll free number for assistance with billing inquiries. ZPDI's name and number appear on the LEC bill. If there are problems, ZPDI will switch to Inmate customer service so that all three parties are on the line together until disconnection.

The proposed tariff, which is part of the application, is in accordance with the Commission's Rules and Regulations. The tariff appears reasonable in light of the proposed service. We take this opportunity to note that the submitted tariff rates have been reduced significantly from the charges assessed in 1993. According to Mr. Edwards' testimony, the company will

bill collect calls at the normal LEC rate plus an additional twenty percent (20%).

In conclusion, Mr. Edwards testified that Inmate offers a unique service to correctional facilities. Due to the company's ability to restrict calls to certain individuals (witnesses, lawyers, and judges for example), they offer a high level of security. Further, he explained their service frees guards and wardens from having to spend their time accompanying inmates to public calling facilities. Lastly, due to the high cost and large number of uncollectibles, many local exchange companies are reluctant to enter into the correctional marketplace. He explained that Inmate wants to provide service in this niche in the market, and will provide modern equipment and enhanced security.

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-971 be, and it is hereby, granted and Inmate Phone Systems, Inc. of Los Angeles, California 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 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 tariff prior to offering service pursuant to the certificate 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.

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MADE AND ENTERED at Lincoln, Nebraska this 25th day of
October, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING

Daniel G. Unwiller

Walt Jander
Chairman

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

ATTEST:

John R. King
Executive Director