

Upon consideration of the application, the governing statutes and rules², 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 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 (which include resellers) in Sec. 86-805 are referenced to in Sec. 75-604. For this reason, the Commission distinguishes between intraLATA and interLATA resale when deciding reseller applications.

Roger Sallee, President of AmeriTel, testified for the company at the hearing. Sallee testified, and the pleadings reflect, that the applicant seeks both interLATA and intraLATA authority. The filed application also seeks 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.

Sallee earned an accounting degree from the University of Southern Illinois and has a Masters in Business Administration from the University of Missouri-Kansas City. AmeriTel was created in 1991 as an "affiliate" corporation of Utilicorp United which is a Missouri holding company having interests in the electric and gas fields. AmeriTel is a privately held Missouri corporation. AmeriTel began operations by providing coin phones and non-coin phones primarily in the Kansas City area. Sallee stated AmeriTel is now probably the largest provider of telecommunications equipment in its niche market in Missouri and Kansas.

²Interexchange 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, Rules 003.12 and 003.16.

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AmeriTel's two largest shareholders are Rick Green and Robert Green, each of whom own 30 percent of the corporation and who are its chairman and executive vice president, respectively. Sallee owns ten percent. John C. Dunn owns ten percent and Randall T. Thompson owns 20 percent.

The applicant seeks to provide automated operator-assisted (collect call only) long distance service from points originating within the state of Nebraska to termination points within Nebraska, other states within the United States, or within foreign countries (the latter two are, of course, beyond the scope of this application). This service will be offered via pay phones to end users for direct transmission of telecommunications services using WATS or WATS-like service. The proposed service will be provided through AmeriTel's own terminal equipment initially to inmates of the Sarpy County, Nebraska jail, persons at the U.S. Department of Immigration facility in Omaha, Nebraska, and facilities at Boone County, Nebraska. AmeriTel may expand its service in Nebraska to include similar service to persons at other correctional institutions or detention facilities.

AmeriTel will not construct any new facilities to implement the authority sought here. It will utilize the services of a national billing agent, such as Zero Plus Dialing, Inc., to bill AmeriTel's customers through the local exchange carriers. Neither advanced payments nor deposits are required from any of its customers.

AmeriTel utilizes communications networks owned and operated by other telecommunications companies such as Sprint and LDDS to carry AmeriTel's calls. AmeriTel resells long distance telephone service it obtains from such companies, but the particular networks AmeriTel actually uses may change from time to time as AmeriTel works to obtain the optimum terms for such service.

AmeriTel's telecommunications operations within Nebraska will require very little regular maintenance. AmeriTel will provide any required technical expertise via its technical staff based in Kansas City, Missouri. The company currently has four qualified service technicians.

Other states where the applicant currently transacts business are Iowa, Kansas, Missouri, and South Dakota. The company provides service to approximately 102 customers (counties, cities and the like which have jail/detention facilities) in those states as this time. Applications are pending in Louisiana and Minnesota. No state commission has subjected AmeriTel to a formal complaint

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proceeding nor rejected its application. According to Sallee, AmeriTel's service generates about 770,000 minutes a month in long distance toll (approximately 78,000 calls).

Exhibits 4 and 5 contain the financial documentation which accompanied the application. The exhibits were prepared in-house and in conjunction with the Arthur Andersen accounting firm. The applicant subsequently provided an updated financial statement as a late-filed exhibit.

	December 31 1991	December 31 1992	March 14 1993
Balance Sheet			
Total Assets			
and Total Liab.			
& Capital	\$825,000	\$1.917 mil.	\$3.277 mil.
Income Statement			
Gross Revenue	\$212,000	\$1.190 mil.	\$3.781 mil.
Net Revenue	\$(21,465)	\$55,885	\$1.557 mil.
Net Income	\$(38,600)	\$55,885	\$775,433

We note from the testimony that this applicant's overall balance sheet progressively improves because of acquisition of other companies. Sallee also said the assets of Utilicorp are in the range of \$2.5 billion. If this application is granted, AmeriTel intends to target inmate and detention facilities throughout Nebraska.

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.

Applicant does not propose to construct facilities for use in intrastate service; therefore, no existing facilities will be duplicated if this application is granted for reseller service.³

This applicant was thoroughly examined by counsel. We are satisfied the applicant has the ability and financial acumen to satisfy our concerns about entry into this market. 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.

³See Section 75-604.

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O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-980 be, and it is hereby, granted and AmeriTel Pay Phones, Inc. of Kansas City, Missouri is hereby authorized to operate as a resale carrier of intrastate interexchange interLATA and intraLATA telecommunications services and to provide alternate operator services within the state of Nebraska including, but not limited to, the provision of such services to jail and detention facilities.

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 the 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.

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

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING

Daniel S. Yurillo
Duane D. Gay

//s//Rod Johnson
//s//Frank E. Landis, Jr.
//s//James F. Munnelly

Frank E. Landis, Jr.
Chairman

ATTEST:

James F. Munnelly
Executive Director