

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public) Application No. C-998
Service Commission on its own motion) PI - 7
to conduct an investigation into the)
effect of multi-level marketing on) DISMISSED
the fitness of interexchange car-)
riers.) Entered November 29, 1994

PRELIMINARY MATTERS

By petition filed August 30, 1993, the Nebraska Public Service Commission opened a docket to investigate the effect of multi-level marketing ("MLM") activities on the fitness of interexchange carriers ("IXC's") in Nebraska. The Order posed several questions regarding MLM and requested all interested parties to submit answers for the Commission's review.

O P I N I O N A N D F I N D I N G S

Upon consideration of the petition, the governing statutes and rules, and being fully informed, the Commission is of the opinion and finds:

Neb. Rev. Stat. 75-604, by its language, refers to local exchange service; however, 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 includes resellers) in Sec. 86-805 (part of LB 835) are referenced to in Sec. 75-604. Therefore, it is within the Commission's jurisdiction to determine whether the presence of MLM in the long distance industry is in the public's interest.

After reviewing the information submitted in this docket, the Commission finds that MLM telecommunications organizations may operate in Nebraska and do not pose a threat to telecommunications consumers. While the Commission does not endorse this type of marketing, it will not prevent an interexchange carrier from becoming certified solely because it engages in MLM.

The Commission retains the authority to take action against any long distance company who does not serve in the public's interest. Therefore, if an IXC's operating practices are substandard due to its multi-level marketing activities, the Commission will take appropriate steps to reprimand the company. Similarly, if any employee misrepresents its company's

Application No. C-998
PI-7

PAGE TWO

products, prices and/or policies, the Commission will initiate necessary enforcement proceedings.

In conclusion, the Commission hereby determines that the utilization of MLM does not in and of itself effect the fitness of an interexchange carrier to serve in the public's interest. Therefore, additional requirements will not be imposed on those companies who utilize this sales medium. However, if an IXC desires to incorporate MLM as a sales technique, details about the program, the commission structure and the requisite training must be provided to the Commission prior to implementation.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-998/PI-7 be, and it is hereby dismissed.

IT IS FURTHER ORDERED that interexchange carriers are permitted to conduct multi-level marketing in Nebraska, provided they submit all necessary information to the Commission outlining the multi-level marketing program that will be employed.

MADE AND ENTERED at Lincoln, Nebraska this 29th day of November, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Daniel G. Wurth
Duane D. Gay

James J. Sweeney
Chairman

ATTEST:

John R. James
Deputy Director

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