

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) APPLICATION NO. C-1002
Premier Billing Services, Inc., Spring-) field, Illinois, seeking a Certificate)
of Public Convenience and Necessity to) GRANTED
operate as a reseller of telecommunica-) tions services within Nebraska.) ENTERED: JULY 12, 1994

APPEARANCES

For the Applicant

Mark Harwood, President
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Springfield, IL 62707-9292
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For the Communications Dept:

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PRELIMINARY MATTERS

By application filed June 17, 1993, Premier Billing Services, Inc. (Premier), Springfield, Illinois, seeks authority to operate as a reseller of intrastate interLATA and intraLATA telecommunication services in Nebraska. Premier's principal office is listed above, and its books and records are maintained at 2375 West Monroe, Springfield, Illinois. Prentice-Hall, 233 South 13th Street, Lincoln, Nebraska 68508, is the applicant's registered agent in Nebraska.

Notice of the application was published in the Daily Record on June 18, 1993, in accordance with the Commission's Rules of Procedure. No one protested the application. Hearing on the application was held August 6, 1993, in the Commission Hearing Room, Lincoln, Nebraska, with appearances as shown. Hal Hasselbalch chaired the proceeding.

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, governing statutes and rules ¹, the evidence adduced at the hearing, and being fully informed, the Commission is of the opinion and finds:

¹Interexchange 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.

Nebraska was divided into three Local Access Transport Areas (LATAs) as a result of the terms of the Modification of Final Judgment issued in the AT&T divestiture case. United States v. American Telephone and 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 and 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 that statute. This was recognized by the Legislature when it approved LB 835 (LAWS 1986) because interexchange services (which include resellers) governed in part by Neb. Rev. Stat. §86-805 (Reissue 1987) are referenced to Neb. Rev. Stat. §75-604 (Reissue 1987). Therefore, the Commission distinguishes between intraLATA and interLATA resale when considering reseller applications.

Mark Harwood, president of Premier Billing, appeared before the Commission. Mr. Harwood has been involved in telecommunications since approximately 1980. He has worked with companies such as WYLO in Wyoming, TeleSave, and Profitcenter Communications Services. Premier was incorporated in Illinois in 1991. It is privately owned, with Mr. Harwood owning 92 percent of the stock.

Harwood testified (and the application reflects) that the company seeks both intraLATA and interLATA reseller authority. The filed application, upon which the Daily Record notice is based, does not seek authority to provide alternate operator service ("AOS"). We note this Commission has consistently held that an application for a reseller certificate does not include AOS unless specifically petitioned for in the application.²

The applicant intends to provide service through the underlying carrier, Sprint. Premier does not anticipate installing facilities in Nebraska; therefore, no existing facilities will be duplicated if this application is granted for reseller service.

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 then accurately reflect the authority sought in the application.

The applicant is currently authorized in 29 states, and applications are pending in 10 other states. In addition, Premier will operate in all deregulated states. No formal complaints, investigatory matters, or investigatory proceedings involving the applicant have been initiated.

Premier has submitted financial figures for the record. The company's total assets at the end of 1992 were \$45,933.96. We note that the information provided was prepared Income Tax Basis. It is our understanding that Premier will be fully converted to GAAP by December, 1994. This Commission follows the GAAP method; however, this requirement will be waived provided the GAAP figures are submitted as soon as available.

A financial statement was prepared by Bird and Company in Springfield, Illinois. This report was compiled within 30 days from the hearing date. The statement covers a three-month period ending March 31, 1993. As of the date of this statement, the company's assets totalled \$143,787.31.

Premier intends to target the business sector, particularly small businesses billing from \$50 to \$750. The applicant will offer services throughout Nebraska.

The method of marketing that Premier plans on utilizing is door-to-door. The applicant indicates it will not engage in pyramid marketing, however, will engage in a form of multi-level marketing. Premier states they have independent contractors who are paid for people below them. The contractor manages their entire base and are able to receive compensation five levels down. The independent contractor is TNA from Chicago.

Premier does not require advance deposits or advance payments, and they do their own billing. Customer service is provided on an 800 number.

The applicant's proposed tariff, which is part of its application, is in accordance with the Commission's Rules and Regulations. The tariff is time and distance sensitive. The tariff appears reasonable in light of the proposed service.

Finally, Harwood testified that Premier offers consumers competitive rates. They do offer discounts to people who pay their bills on time. The applicant hopes to acquire approximately 1,000 customers in Nebraska.

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.

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O R D E R

IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that Application C-1002 be, and it is hereby, granted and Premier Billing Services, Inc., Springfield, Illinois, 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 stock holders; 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 and corrected tariff prior to offering service pursuant to the certificate granted in this order.

IT IS FURTHER ORDERED that applicant file GAAP Basis Financial Statements for 1994.

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 12th day of July, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING

Daniel S. Hurd

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

James S. Sander
Chairman

ATTEST:

D. R. King
Executive Director