

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application)	Application No. C-1031
of Teledial America, Inc., Grand)	
Rapids, Michigan which seeks)	GRANTED
authority to operate as a Resale)	
Common Carrier of Telecommuni-)	
cations within the State of Neb-)	
raska.)	
) Entered: February 22, 1994	

APPEARANCES

For the Applicant

For the Communications Dept.

John Veerport, Vice President
of Corporate Development
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PRELIMINARY MATTERS

By application filed October 1, 1993, Teledial America, Inc. ("TAI") of Grand Rapids, Michigan seeks authority to operate as a reseller of intrastate interLATA and intraLATA interexchange telecommunications services in Nebraska. TAI's principal office and the location where its books and records are kept is noted above and its registered agent is the CT Corporation, 206 South 13th Street, Suite 1500, Lincoln, Nebraska, 68508.

Notice of the application was published in the Omaha *DAILY RECORD* October 5, 1993 in accordance with the Commission's rules of procedure. No one protested the application. Hearing on the application was held December 13, 1993 in the Commission Hearing Room, Lincoln, Nebraska with appearances as shown; Commissioner Landis 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, the governing statutes and rules¹, the evidence adduced at the hearing,

¹ Interexchange reseller applications are governed by Neb. Rev. Stats. §§75-604
(Footnote Continued)

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 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, 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 Nebraska Legislature when it approved L.B. 835 (LAWS 1986) because interexchange services (which include resellers) governed in part by Neb. Rev. Stat. §86-805 (Reissue 1987) are referenced to in Neb. Rev. Stat. §75-604 (Reissue 1987). Therefore, the Commission distinguishes between intraLATA and interLATA resale when considering reseller applications.

Mr. John Veerport, the applicant's Vice President of Corporate Development, appeared before the Commission. Veerport's is responsible for product management and development, corporate planning, billing, information systems and regulatory affairs. He graduated from Rensselaer Polytechnic Institute with a B.S. in Management in 1982. He received a Master's of Business Administration in 1983 from the same institution. He started his telecommunications employment with Lexitel, a reseller which then became ALC Communications ("Allnet") through a merger.

TAI incorporated in Michigan in 1986 and it is a privately held subchapter S corporation. TAI's corporate officers are: Ron VanderPOL (Chairman), James Voleker (CEO), Randall Veltkamp (President, Chief Operations Officer, Secretary), Marvin J. Veltkamp (Vice President of Administration, Treasurer), Larry VanderVeen (Vice President of Operations), Andrew DeVries (Vice President of Sales), Kurt VandenBosch (Vice President of Finance), Paul Calhoun (Director), and

(Footnote Continued)

and 86-805 (1990 and 1987 Reissues, respectively) and Title 291 Neb. Admin. Regs. Ch. 5, Rule 003.12.

Veerpoort. Vanderpol owns 50.25% of the company's stock. Paul Calhoun holds the remainder as a passive investor.

At the hearing, the applicant's financial statements, the certificate to do business as a foreign corporation in Nebraska, and a copy of its articles of incorporation were made a part of the record.

Veerpoort 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 a certificate to provide alternate operator service ("AOS"). We note this Commission has consistently held an application for a reseller certificate does not include AOS unless specifically petitioned for in the application.²

The applicant is an interexchange resale carrier providing switched and dedicated switched interexchange telecommunications services to businesses and to residential subscribers on a limited basis (the company orientation is toward business subscribers). TAI's network services are leased from WilTel, Inc. ("WilTel"). Applicant will resell 24-hour direct-dialed intrastate long distance telephone services over WilTel's leased facilities. With the exception of 800 services, which will be routed by WilTel through TAI's switching equipment in Michigan or Indiana, TAI's intrastate Nebraska services will be carried and routed by the WilTel network and switching equipment. Calls will be rated and billed by TAI at its Nebraska tariff rates. All network facilities are the property of WilTel. TAI receives detailed information on magnetic medium from WilTel on which the traffic is placed. From this information, TAI obtains data for its billing services. TAI owns and operates equipment suitable for sales, billing, and customer service. The company currently employs 115 people. No future facilities in Nebraska are contemplated nor will any employees be located within this state. The applicant will resell inbound and outbound 1+ service, 800 service, dedicated service, and travel cards.

TAI's profitability results from the resale of fixed cost fiber optic cable facilities owned by TAI which are interconnected to WilTel's access facilities. In Nebraska, WilTel will provide TAI with a magnetic tape and TAI will then

²We observe 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.

re-bill its subscribers. Veerpoort estimated that TAI's rates are 5% to 25% below carriers like AT&T, Sprint, and MCI.

TAI is certificated to provide intrastate services in Illinois, Indiana, Michigan, Ohio, and Wisconsin. Applications are pending in California, Alabama, and New Mexico. Eventually, TAI plans to be certificated across the country. No state commission has rejected a TAI application for reseller authority, nor has a formal complaint been filed against it by any state commission for its reseller activities. The authority sought here in Nebraska is the same as obtained in those states. The applicant does not propose to provide service of a different type in this state.

Veerpoort testified that approximately 15,000 subscribers use TAI's service in states where it currently operates. These subscribers (99% of whom are business subscribers) generate 40 million minutes and about \$6.25 million in monthly usage.

The financial information provided by the applicant was marked as Exhibit 3 and was prepared by Kurt VandenBosch, Chief Financial Officer. Auditing was done (with the exception of the interim report for 1993) by BDO Seidman, a Grand Rapids accounting firm. Exhibits 3 shows the following:

As of July 31, 1993, TAI had total current assets of \$14.005 million and total assets of \$25.811 million, including nearly \$3 million worth of switching equipment. Included in its liabilities and shareholders' equity are \$6.716 million in accounts payable and a long term debt of \$1.783 million. Shareholders' equity totaled \$13.554 million. As of July 31, 1993, TAI generated \$38.835 million in sales. After deducting \$26.421 million in costs, TAI was left with \$12.414 million in gross profit. After further deducting sales expenses and administrative expenses, TAI netted \$3.498 million in the first seven months of 1993.

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

This is a well established company with a great deal of financial support due to its other services. Coupled with the demonstration that the company is competently operated and has

³ See §75-604.

Application No. C-1031

Page -5-

the requisite expertise, we believe the evidence warrants approval of the application.

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-1031 be, and it is hereby, granted and Telecommunications America, Inc., Grand Rapids, Michigan and it is hereby authorized to *operate as a resale carrier of intrastate interexchange interLATA and intraLATA telecommunications services in Nebraska.*

IT IS FURTHER ORDERED that 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 and corrected tariff prior to offering service pursuant to the certificate granted in this order.

IT IS FURTHER ORDERED that this order be, and it is hereby, made the Commission's official Certificate of Public Convenience and Necessity to furnish the service authorized herein.

MADE AND ENTERED at Lincoln, Nebraska this 22nd day of February, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

Commissioners Concurring:

Daniel G. Kravitz

//s//Rod Johnson
//s//Frank Landis, Jr.

John Landis
Chairman

ATTEST:

Dee R. King
Executive Director