

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application)	Application No. C-1033
of Iowa Network Services, Inc.,)	
West Des Moines, Iowa, seeking)	
authority to operate as an inter-)	GRANTED
exchange carrier and to provide)	
operator services in the State)	
of Nebraska.)	
) Entered: January 24, 1994	

APPEARANCES

For the Applicant

LaVerne E. Heithoff,
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For the Commission

Jeffrey P. Goltz, Esq.
Legal Counsel, NPSC
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PRELIMINARY MATTERS

By application filed October 8, 1993, Iowa Network Services, Inc. (INS) of West Des Moines, Iowa seeks to provide intrastate interLATA and intraLATA interexchange telecommunications services in Nebraska. The applicant also seeks authority to provide operator services to its subscribers. INS's principal office is noted above under the name of LaVerne Heithoff. Its registered agent is Richard Dinsmore, Suite 710, 1905 Harney Street, Omaha, Nebraska, 68102.

The Omaha DAILY RECORD published notice of the application October 19, 1993 in accordance with the Commission's rules of procedure. No one protested the application. Hearing on the application was held December 6, 1993 in the Commission Hearing

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Room, Lincoln, Nebraska with appearances as shown. Commissioner Landis chaired the hearing.

At the hearing, pre-marked exhibits ("Attachments") 1 through 10 were offered and accepted. These exhibits included a copy of the applicant's articles of incorporation and certificate to do business in Nebraska as a foreign corporation. Proposed tariffs for long distance and operator services were also made a part of the record.

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, 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).

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. Operator services are governed by Rule 003.16.

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 Nebraska Legislature in L.B. 835 (LAWS 1986) because interexchange services (which include resellers) in §86-805 are referenced to in §75-604. Therefore, the Commission distinguishes between intraLATA and interLATA resale when deciding reseller applications.

LaVerne Heithoff and Leo Graff testified on behalf of the applicant. Heithoff is the Director of Finance for INS. He is a licensed CPA and formerly was chief accountant for the Iowa State Commerce Commission and was a member of the consulting firm of Tukio, Whittiker, and Kent in Kansas City. He joined INS in September, 1993. Graff has worked in the telecommunications industry for 34 years, including stints at Northwestern Bell, AT&T, and US West Communications. He joined INS in July, 1993.

INS is an Iowa corporation incorporated in 1984. It has two operating subsidiaries. One of them, Iowa Network Properties owns the building which houses INS's switch in Des Moines. INS is owned by 128 rural Iowa telephone companies and was formed to construct and operate a long distance telephone network in Iowa. INS is managed by six board of directors elected by the member telephone companies. These rural companies formed a corporation to install "centralized equal access." As a result, rather than each rural telephone company having to convert its facilities to provide equal access to competitive long distance carriers, the equal access is provided to one centralized location.

After going through the required balloting and allocation process whereby individual customers are asked to choose what long distance carrier they want to carry their calls, the long distance traffic is routed to INS's centralized switch in Des Moines. The switch is programmed with information from each customer who previously selected a long distance carrier. When the call reaches the INS switch, it is routed to the pre-selected long distance carrier chosen by the customer.

One significant feature of the INS system is that customers are given a choice of carriers for both InterLATA and IntraLATA traffic. Long distance carriers have not sought out rural customers because they are most costly to serve and because the local loops are longer and population density is lower. INS changes those negative economics by aggregating the traffic at one central location. This aggregation causes long distance companies to view rural customers as cost effective because there is no need to build separate networks. INS has completed the construction of its own fiber optic network. It has 865 miles of fiber and ties together the local exchanges (275) of the 128 local telephone companies who make up INS. Today, INS provides access to AT&T, MCI, Sprint, Telcom USA, Iowa Network Long Distance, Allnet, TMC, Sears Financial Network, and Mid-America Long Distance.

Under questioning by Commission legal counsel, the record reflects the applicant's operations will conform to the Commission's alternate operator services rules found in Rule 003.16. The applicant provided a tariff for its alternate operator services. This is similar to tariffs filed previously with the Commission.

INS has applied for and received intrastate operating authority in the States of Iowa and Minnesota. INS has not petitioned

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any other state at this time. No commission has reviewed a formal complaint against INS.

INS's financial records reflect that the company had \$7.494 million in current assets as of October 31, 1993. Additionally, INS has total plant assets of \$40.618 million. The company earned net long distance revenues of \$14.636 million and a total net income of \$4.833 million during that period.

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.

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 as modified.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1033 be, and it is hereby, granted and Iowa Network Services, Inc. of West Des Moines, Iowa is hereby authorized *to operate as a resale carrier of intrastate interexchange interLATA and intraLATA telecommunications services within the State of Nebraska* and it is further authorized *to operate as an alternate operator services provider pursuant to this certificate in both the intrastate interLATA and intraLATA long distance market in 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

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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 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 day of 24th day of January, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

Commissioners Concurring:

Duane D. Gay

//s//Rod Johnson

//s//Frank E. Landis, Jr.

//s//James F. Munnelly

John R. Landis, Jr.
Chairman

ATTEST:

Walter R. King
Executive Director