

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1041
of Quest Telecommunications, Inc.)
dba QTI, Atlanta, Georgia which) GRANTED
seeks authority to operate as a)
Resale Common Carrier of Telecom-)
munications within the State of)
Nebraska.)
Entered: March 9, 1994

APPEARANCES

For the Applicant

Jeanie Ray, Director of
Legal and Regulatory Affairs
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For the Communications Dept.

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PRELIMINARY MATTERS

By application filed November 29, 1993 Quest Telecommunications, Inc. dba QTI ("QTI") of Atlanta, Georgia seeks authority to operate as a reseller of intrastate interLATA and intraLATA interexchange telecommunications services in Nebraska. QTI's principal office and the location where its books and records are kept is noted above and its registered agent is the Prentice-Hall Corporation System, Inc., 233 South 13th Street, Lincoln, Nebraska, 68508.

Notice of the application was published in the Omaha DAILY RECORD December 1, 1993 in accordance with the Commission's rules of procedure. No one protested the application. Hearing on the application was held February 22, 1994 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.

Jeanie Ray, the applicant's Director of Legal and Regulatory Affairs, appeared before the Commission. Ray has been in the applicant's employ since April, 1990. She is responsible for handling regulatory affairs on behalf of QTI. She has filed 29 applications such as the one before this Commission.

QTI is a Delaware corporation incorporated in 1990 and it is a privately held subsidiary corporation of Quest Group International, Inc. ("Quest Group"). Quest Group is a holding company for a number of operating subsidiaries which includes QTI. For example, Quest Correctional Communications operates inmate services in Louisiana and in Detroit, Michigan. Quest Communications Management operates payphones in Georgia. QTI seeks reseller authority here in Nebraska; specifically, QTI seeks to offer a debit calling card for long distance use.

Quest Group's principal corporate officers are Richard DeWitt (President, Director, Treasurer) and Jerry Duling (Executive Vice President, Director, Secretary). At the hear-

(Footnote Continued)

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

ing, 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.

Ray 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 a specific long distance service through the use of a prepaid debit card called the "Liberty Card." Liberty Card calls may be originated from any touchtone telephone in the continental United States. These cards are marketed in places such as college bookstores, convenience stores, and other such retail outlets. To place a Liberty Card call, the customer dials a toll-free telephone number for access and then dials the card's unique authorization code, followed by the called telephone number. QTI's equipment requests, stores, and verifies the customer's account information and called telephone number. When the account is validated, Applicant completes the call. When the call is concluded, charges for the call, including applicable taxes, are deducted from the customer's Liberty Card account. Via automated voice prompts, the customer is informed of the amount remaining on the card before each call and is also informed when only one minute of time remains on the card account.

Liberty Cards are sold in \$10, \$20, \$25, and \$50 denominations. There is a flat rate charge of 33¢ per minute plus applicable taxes. This compares to ATT's Teleticket card which has a 60¢ per minute charge. Calls can be made with the Liberty Card immediately upon purchase.

QTI currently has operating authority in Alabama, Arkansas, California, Florida, Georgia, Illinois, Indiana, Kansas, Louisiana, Maryland, Massachusetts, New Hampshire, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina. Applications are pending in Connecticut, Delaware, Kentucky, Maine, Minnesota, Mississippi, Nevada, Vermont, West Virginia,

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.

and Wisconsin. Ray estimated that 30,000 cards were in service at the time of the hearing. She testified that this type of calling card is prevalent in Europe and the company's principals decided to try to develop an American market for such cards.

No state commission has rejected a QTI 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.

The financial information provided by the applicant was marked as Exhibits E and F and has not been audited by an independent accounting firm. Ray testified that the contents of the exhibits were true and correct. Exhibit F shows the following: Financial information was provided for both QTI and Quest Group. For the year ending December 31, 1993, Quest Group³ had total revenues of approximately \$2.877 million. From a gross margin of \$1.965 million, Quest Group was left with a net income of \$49,000. The parent company's assets and liabilities and equities total \$924,000. Ray testified this financial information is included in the application to reflect that the parent corporation has sufficient capital to support QTI if necessary. Ray further testified that Quest Group does stand behind QTI with available capital financing if its needed.

As the financial information pertains to QTI, the record reflects that QTI experienced a significant revenue increase between 1992 and 1993. In 1992, QTI earned revenues of \$900,000. In 1993, this figure increased to \$2.373 million. The record also reflects that QTI experienced a net loss of \$105,000 in 1993. However, Ray testified that one-time costs for software development accounted for this loss and absent the start-up costs, QTI would have had a net positive income of \$182,000. As of the end of 1993, QTI had assets and liabilities and equities in its own right of \$474,000.

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.⁴

³ All numbers hereafter are also rounded and approximate.

⁴ See §75-604.

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This company has adequate capitalization and support from its parent company. Coupled with the demonstration that the company is competently operated and has 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-1041 be, and it is hereby, granted and Quest Telecommunications, Inc. dba QTI, Atlanta, Georgia 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 9th day of March, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

Commissioners Concurring:

Daniel H. Krutler
Duane D. Gay
 //s//Rod Johnson
 //s//Frank E. Landis, Jr.
 //s//James F. Munnelly

Frank E. Landis, Jr.
 Chairman

ATTEST:

Doreen R. King
 Executive Director