

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1050
of Information and Communications)
Technologies, Inc., St. Louis,)
Missouri, who seeks authority to) GRANTED
operate as a resale common carrier)
of telecommunication services)
within the state of Nebraska.) Entered: May 17, 1994

Appearances:

For the Applicant: Jim Conway
Director of Telecommunications
1416 Dodge St.
BBB - M/C 4700
Omaha, Nebraska 68179
402-271-2060

For the Commission: Jeff Goltz
Staff Attorney
Nebr. Public Service Commission
1200 N Street
Lincoln, Nebraska 68509
402-471-3101

PRELIMINARY MATTERS

By application filed February 3, 1994, Information and Communications Technologies, Inc. (ICT) of St. Louis, Missouri seeks authority to operate as a reseller of intrastate interLATA and intraLATA interexchange telecommunication services in Nebraska. ICT's principal office and the location where its books and records are kept is 7930 Clayton Road, St. Louis, Missouri, 63117. CT Corporation, 206 South 13th, Lincoln, Nebraska, 68508 is ICT's registered agent in Nebraska.

Notice of the application was published in the Omaha Daily Record on February 4, 1994 in accordance with the Commission's rules of procedure. No one protested the application. Hearing on the application was held on March 29, 1994 in the Commission Hearing Room, Lincoln, Nebraska with appearances as shown; Commissioner Landis chaired the proceeding.

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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 rules, 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 (the MFJ) 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), 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 in L.B. 835 (LAWS 1986) because interexchange services (which include resellers) in Sec. 86-805 (part of L.B. 835) are referenced to in Sec. 75-604. For this reason, the Commission distinguishes between intraLATA and interLATA resale when deciding reseller applications.

James Conway, Director of Telecommunications Services with Union Pacific Technologies, testified. Union Pacific Technologies is a wholly owned subsidiary of Union Pacific Corporation. It is one of seven subsidiaries the Union Pacific Corporation owns. As director, Mr. Conway runs the customer service organization, handles all billing, contracts with carriers, and handles internal telecommunications service requests. Mr. Conway has been with Union Pacific since July 1972 and has been under the employ of Union Pacific Technologies since October 1992.

Conway testified, and the pleadings reflect, that the applicant seeks both interLATA and intraLATA authority. The filed application does not seek authority to provide AOS. We observe the Commission has consistently held an application for reseller authority does not² include AOS unless specifically petitioned for in the application.

¹ Interexchange 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.

² We note that a late filed amendment to add AOS to the
(Footnote Continued)

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ICT was incorporated in Delaware in 1989 as Logistics Technologies, Inc. It became ICT in 1990. The company is privately held, and Union Pacific owns all the common stock. The stock of ICT is not publicly traded. The applicant's officers are L. M. Bryan, (President and CEO) G. J. Gagen, (Executive Vice-President) P. C. Seifert, (Vice-President) and J. M. Conway, (Director of Telecommunications Services). Except for Conway, all officers are located in St. Louis.

Union Pacific Technologies currently employs approximately 415 people. A staff of 28 to 30 will work in Omaha, Nebraska.

ICT intends to offer both interstate and international services to specific customers, but not to the general public.

At the time of the hearing, ICT is authorized to provide services, such as those sought in Nebraska, in Iowa and Illinois. Applications are pending in California, Kansas, Arkansas, South Dakota, Texas, and Missouri. No previous filings have been denied or rejected, nor have any formal complaints been filed against the applicant.

In order for ICT to profitably resell long distance service, it will contract with larger carriers. The applicant proposes to utilize Sprint at a flat rate, whereas AT&T will be time of day and distance sensitive.

ICT's financial information was prepared in-house by its accounting staff, including Cindy Maike and Joyce Wempe. Exhibit 5 is an encompassing financial statement of Union Pacific Technologies as a whole. This document was prepared within a three month period preceding the hearing. It showed that ICT's total sales for 1993 were \$61,896,000. After its operating expenses, the net income of the corporation was \$830,000. In Exhibit 3, ICT provided financial figures for years 1990, 1991, and 1992. For the most recent year, 1992, ICT reflects a total operating income of \$1,221,465. Conway testified that for the year 1992, the company had a positive net income of \$796,618.

ICT does not anticipate providing service for the general public. The applicant hopes to target customers that have a working relationship with Union Pacific Railroad. ICT is entering the long distance reseller business in order to provide telecommunication services to customers who are looking for volume based pricing.

(Footnote Continued)

application is an inadequate solution; the previously published notice of the application would not accurately reflect the authority sought in the application.

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ICT will not engage in multilevel marketing methods and it will directly handle customer complaints. Union Pacific bills its customers directly, through a separate bill, and ICT does not require advance payments or deposits.

Finally, Conway testified that ICT would be a benefit to the interexchange market place in that it will provide competitive rates for volume usage. The companies that work with Union Pacific will be able to take advantage of this service.

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

This company has adequate capitalization and support from its parent company, Union Pacific Technologies, Inc. Coupled with a 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 tariffs, the application is fair and reasonable, is in the public interest and should be granted.

ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1050 be, and it is hereby, granted and Information and Communications Technologies, Inc., St. Louis, Missouri be, and and it 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 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 the 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 tariff prior to offering service pursuant to the certificate granted in this order.

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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 17th day of May, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Diane D. Gay

//s//Rod Johnson

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

//s//James F. Munnely

John Landis
Chairman

ATTEST:

Angela R. King
Executive Director