

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1053
Tele-Trend, Communications, Inc.,)
Englewood, Colorado, which seeks to)
operate as a resale carrier of) GRANTED
telecommunications services in the)
State of Nebraska.) Entered: June 27, 1994

APPEARANCES:

For the Applicant

Gerald Fick
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For the Communications Department

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PRELIMINARY MATTERS

Tele-Trend Communications, Inc. ("TTC"), Englewood, Colorado filed its application February 22, 1994. The company seeks authority to conduct business as an intrastate telecommunications common carrier offering resold intraLATA and interLATA long distance service. The applicant's business address is noted above, and CT Corporation is the applicant's registered agent in Nebraska. Notice of the application appeared in the Omaha Daily Record, February 23, 1994. No one protested the application. TTC appeared before the Commission for a hearing, chaired by Commissioner Landis, April 14, 1994 in the Commission Hearing Room, Lincoln, Nebraska.

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

¹Interexchange resellers 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.

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

Gerald Fick, Vice-President of Operations and CEO for TTC, testified. He has been involved in the telecommunications industry for 25 years, including 18 years with Contel Corporation. Mr. Fick testified, and the pleadings reflect, that the applicant seeks both intraLATA and interLATA authority. The filed application does not seek authority to provide AOS. We observe the Commission has consistently held an application for reseller authority does not include AOS unless specifically petitioned for in the application.²

TTC was incorporated in Colorado in 1991. The company is privately held, the major stockholders of which are Jackson D. Rule, Jr. and Linley S. White. These individuals also constitute the applicant's directors. Mr. Rule is the President and CEO, while Mr. White is the Executive Vice-President, Secretary, Treasurer, and Chief Operating Officer.

TTC intends to offer intrastate services throughout Nebraska over facilities leased from other carriers. The company will utilize a bulk acquisition of capacity from either WilTel or AT&T. TTC will offer 1+ service and calling cards.

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 accurately reflect the authority sought in the application.

The applicant will target customers in the business community, who are spending anywhere from \$50 to \$12,000. Mr. Fick testified that TTC hopes to acquire 100 customers per year in the state of Nebraska. The applicant will conduct marketing through sales personnel who are paid on a commission basis, according to customer billing. The applicant does not engage in multi-level marketing.

Applicant does not propose to construct facilities for use in intrastate service in Nebraska; therefore, no existing facilities will be duplicated if this application is granted for reseller service.³

At the hearing, Mr. Fick testified that TTC is currently certificated in 23 states, and applications are pending in 15 others. Further, Mr. Fick stated that no state commission has rejected a TTC application, nor has the company been subject to a formal complaint proceeding.

TTC bills its customers through a subsidiary of AT&T, named ACUS, which is the AT&T College and University Systems billing company. They also bill through Profitec, a Connecticut billing company. TTC does not require advance payments or deposits.

Financial information was provided to the Commission in the application, as well as after the hearing in the form of late-filed exhibits. Specifically, year end statements for 1991, 1992, and 1993, and financial statements for the first three months of 1994 were provided. This information reflects that TTC has suffered losses through January 1994, due primarily to initial start-up costs. However, financial statements ending March 31, 1994, reveal a profit margin.

Customers are able to call a toll free number for assistance with complaints. This 800 number connects directly to the Englewood, Colorado business office.

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

In conclusion, Mr. Fick testified that Tele-Trend will be an extremely competitive reseller in the communications field. In turn, this will apply additional pressure on existing

³See Section 75-604.

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carriers to bring their rates closer to cost, resulting in lower rates for end users.

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-1053 be, and it is hereby, granted and Tele-Trend Communications, Inc. of Englewood, Colorado 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 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.

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 27th day of June, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING

//s//Rod Johnson

//s//James Munnelly

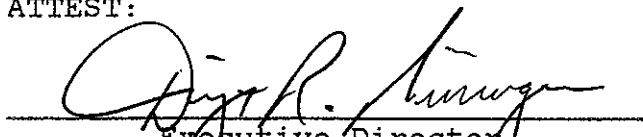
//s//Daniel G. Urwiller

COMMISSIONERS DISSENTING:

//s//Duane D. Gay


Vice Chairman

ATTEST:


Executive Director