

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1057
Global Wats One, Inc. of Knoxville,)
Tennessee seeking authority to oper-)
ate as a resale common carrier of) GRANTED
telecommunications services within)
the state of Nebraska.) Entered November 10, 1994

APPEARANCES:

For the Applicant

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For the Communications Department

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PRELIMINARY MATTERS

Global Wats One, (GWO) of Knoxville, Tennessee filed an application with the Commission on March 8, 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. Notice of the application appeared in the Omaha Daily Record, March 9, 1994. GWO appeared before the Commission for a hearing, chaired by Commissioner Johnson, August 30, 1994 in the Commission Hearing Room, Lincoln, Nebraska.

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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) 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.

Roderick McClain, Chief Executive Officer of Global Wats One, testified. Mr. McClain has been involved in business and marketing for several years. Mr. McClain testified, and the pleadings reflect, 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 include² AOS unless specifically petitioned for in the application.

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.

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.

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GWO was incorporated in 1991 in Florida. The company started as a privately-held company until September 1993, when it was acquired by Phoenix Advanced Technology Inc. GWO's officers are Roderick McClain, President and C.E.O.; A.R. Catinella, C.F.O.; Geoffrey McClain, Sr. Vice-President. The company's shareholders include Neil Berman, J. Robert Cade, Anthony Catinella and Roderick McClain.

GWO intends to offer intrastate services throughout Nebraska over facilities leased from other carriers. WillTel, U.S. Sprint and Allnet will be the primary carriers for the applicant. The applicant proposes to provide 1+ service and a calling card.

GWO will market its services through independent sales agents on a multi-level marketing basis. GWO's compensation program allows representatives to receive commissions through six levels of sales. Representatives purchase sales kits which include marketing materials to explain the products and programs. To become a GWO subscriber, a person does not have to be a sales agent.

Billing will be provided by U.S. Billing and Zero Plus Dialing. However, the applicant has the ability to do their own billing. Mr. McClain stated once commercial traffic is added as a standard service offering, in-house billing may occur. The billing charges will appear on a customer's local telephone bill. Currently, GWO acts as a marketer in Nebraska for Communications Gateway Network and billing is reflected accordingly. Upon the granting of this certificate, GWO will bill in its own name.

The applicant is applying to become certified nationwide and applications have already been approved in several states. No state commission has rejected a GWO application. Further, no formal complaints have been filed against the company with any state Commission.

Financial information was provided to the Commission in the application. GWO, being a company obtaining certification nationwide, should show an improved financial status in the future. Current statements reflect the company has made improvements, but additional revenue is needed. The backing of the parent company, Phoenix Advanced Technology, will certainly provide needed financial assistance.

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. Generally, deposits and advance payments are not required. However, the tariff provides if a customer's credit history is unsatisfactory, advance payments may be requested. Mr. McClain testified the company would comply with the Commission's rules

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regarding advance payments and post a bond if one was deemed necessary.

Global Wats One was subject to this Commission's inquiry in 1993 for operating without proper authority in Nebraska. The departmental complaint was satisfactorily resolved with GWO agreeing to limit its business activities to marketing. For over one year, GWO has been marketing the services of Communications Gateway Network. The application filed herein will hereby allow GWO to sell their own services and upgrade their business activities beyond the marketing level.

In conclusion, Mr. McClain testified that GWO will provide additional competition in the telecommunications field in Nebraska. Further, he stated GWO will comply with all Nebraska Statutes and Commission Rules and Regulations.

Based on the testimony, the exhibits, and the proposed tariff, it appears the applicant has provided the requisite information, possesses adequate financial resources, and is technically competent to provide services. 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-1057 be, and it is hereby, granted and Global Wats One, Inc. of Knoxville, Tennessee 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 for one year, the applicant shall provide in addition to the annual report, quarterly statements including (a) intrastate income statements, as well as combined income statements and balance sheets prepared in accordance with Generally Accepted Accounting Practices (G.A.A.P.), (b) reports of litigation, formal complaints or investigatory proceedings involving the applicant, any of its officers, directors, principals, or shareholders showing the state where such action was brought, the date commenced, the nature and substance of the proceeding, and its disposition or

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current status, and (c) on a nationwide basis, a listing of all states where certification has been approved, where certification is pending and where certification has been revoked or denied, if certification has been revoked or denied in any state, additional information outlining the nature of the decision must also be provided.

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 10th day of November, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Daniel G. Quiville

[Signature]
Chairman

//s//Duane D. Gay
//s//Rod Johnson
//s//Frank Landis, Jr.
//s//James F. Munnelly

ATTEST:

John Burvanes

Acting Executive Director