

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1066
RCI Long Distance, Inc., Rochester)
New York, which seeks authority to)
operate as a resale carrier of) GRANTED
intrastate interLATA and intraLATA)
telecommunications services within)
the state of Nebraska.) Entered: July 19, 1994

APPEARANCES:

For the Applicant

Michael Allentoff
Assistant Regulatory Manager
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For the Communications Department

Deonne Niemack, Staff Counsel
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PRELIMINARY MATTERS

RCI Long Distance Inc., ("RCI"), of Rochester, New York filed its application April 21, 1994. The company seeks authority to conduct business as an intrastate telecommunications common carrier offering resold intraLATA and interLATA long distance service. Further, RCI requests authority to provide alternate operator services ("AOS"). The applicant's business address is noted above, and Prentice-Hall Corporation System, Inc., 233 South 13th Street, Lincoln, Nebraska 68508 is the applicant's registered agent in Nebraska. Notice of the application appeared in the Omaha Daily Record, April 22, 1994. No one protested the application. RCI appeared before the Commission for a hearing, chaired by Commissioner Landis, July 12, 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 rules¹, the evidence adduced at the

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.

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.

Michael Allentoff, Assistant Regulatory Manager and Senior Analyst at RCI, testified. He has been in the telecommunications industry for 10 years, including 5 years with RCI and 5 1/2 years with AT&T in New Jersey. Mr. Allentoff testified, and the pleadings reflect, that the applicant seeks both intraLATA and interLATA authority. The filed application also seeks 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

RCI was incorporated in Delaware in 1982. The company is a wholly owned subsidiary of Rochester Telephone, a New York based corporation. The applicant's directors are Dale M. Gregory, Louis L. Massaro and George A. Valenti. Mr. Gregory also serves as the President and CEO of the company, while Mr. Valenti acts as the Secretary and Treasurer. Lynn J. Hatrick and James G. Dole serve as Vice-Presidents.

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.

RCI 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 MCI. RCI will offer 1+ service, calling cards and intrastate operator-assisted services throughout Nebraska.

The applicant will target customers in the business community, however they will provide service to residential customers as well. Mr. Allentoff testified that RCI will conduct marketing through its own sales force out of their Midwestern office. Telemarketing may also be conducted from the Rochester office. Agents will not be used, and the applicant does not engage in slamming or multi-level marketing.

The 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. Allentoff distributed a map demonstrating RCI's national service area. RCI currently is authorized to conduct business in 33 states, and an additional 15 applications are pending. Further, Mr. Allentoff stated that no state commission has rejected an RCI application, nor has the company been subject to a formal complaint proceeding.

With the exception of 0-Plus calls, RCI bills its customers directly. Any 0-Plus calls will be billed through the local telephone company. RCI's name will appear on the bill. Pursuant to its tariff, RCI reserves the right to request advance payments or deposits from customers. Mr. Allentoff stated that RCI would follow the Commission's Telecommunications Rules regarding the posting of bond if deposits are required.

Financial information was provided to the Commission in the application, as well as at the hearing. Specifically, the Rochester Telephone Corporation's 1993 annual report was provided to the Commission. This outlined information not only on RCI, but also on its parent company. Combined financial statements for 1992 and 1993 were also provided. This information was prepared by Price Waterhouse in January 1994. The statements reflect RCI is in good financial standing, and will be able to competently provide service.

³See Section 75-604.

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Customers are able to call a toll free number for assistance with complaints. This 800 number connects directly to the Rochester, New York business office. Assistance will be available 24 hours a day.

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. Allentoff testified that RCI will be an extremely competitive reseller in the communications field. In turn, this will apply additional pressure on existing 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-1066 be, and it is hereby, granted and RCI Long Distance, Inc. of Rochester, New York is hereby authorized to operate as a resale carrier of intrastate interexchange interLATA and intraLATA telecommunications services within the state of Nebraska, including operator services.

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.

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MADE AND ENTERED at Lincoln, Nebraska this 19th day of July, 1994.

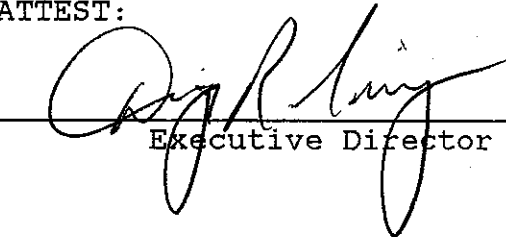
NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING

//s//Duane D. Gay
//s//Rod Johnson
//s//James F. Munnelly
//s//Daniel G. Urwiller


Vice Chairman

ATTEST:


Executive Director