

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of ) Application No. C-1068  
USX Consultants, Inc., Pittsburgh )  
Pennsylvania, who seeks a Certifi- )  
cate of Convenience and Necessity ) GRANTED  
to operate as a reseller of inter- )  
exchange telecommunications services )  
within the state of Nebraska. ) Entered: August 2, 1994

APPEARANCES:

For the Applicant

Edward Douthett  
Director of Sales & Marketing  
180 South Clinton Ave.  
Rochester, NY 14646  
(716) 777-8456

For the Communications Department

Deonne Niemack, Staff Counsel  
300 The Atrium, 1200 N Street  
P.O. Box 94927  
Lincoln, NE 68509  
(402) 471-3101

PRELIMINARY MATTERS

USX Consultants, Inc., ("USX"), of Pittsburgh, Pennsylvania filed its application April 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 Prentice-Hall Corporation System, Inc., 233 South 13th Street, Lincoln, Nebraska 68508 is the applicant's registered agent. Notice of the application appeared in the Omaha Daily Record, April 26, 1994. No one protested the application. USX appeared before the Commission for a hearing, chaired by Commissioner Johnson, July 19, 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:

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<sup>1</sup>Interexchange 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.

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.

Edward Douthett, Director of Sales and Marketing at USX, testified. He has been employed with USX for 34 years. Mr. Douthett 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.<sup>2</sup>

USX Consultants, Inc. was incorporated in Ohio in 1971, and is a wholly owned subsidiary of USX Engineers and Consultants, Inc., which is a wholly owned subsidiary of USX Corporation. The applicant's officers and directors are as follows: Roy G. Dorrance, President and Director; Regis J. Gaugler, Vice-President and Director; Norbert J. Connors and Joseph Martin, Vice-Presidents; C.C. Gideon, M.D. Locke, William Huettnner, and T.F. O'Connor, Directors.

USX intends to offer intrastate services throughout Nebraska over facilities leased from other carriers. The company will utilize a bulk acquisition of capacity from AT&T

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<sup>2</sup>We 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.

to provide outbound and inbound switched and dedicated services. Calling cards and international service will also be offered.

The applicant will target customers in the steel industry; however, they will provide service to residential customers if requested. Providing telecommunications services within the steel industry will allow the applicant to build working relationships with potential customers, and also give various steel companies the opportunity to receive extremely competitive telecommunications rates.

Mr. Douthett testified that USX will conduct marketing through its own sales force. Agents will not be used, and the employees will be paid on a salary basis.

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.<sup>3</sup>

At the hearing, Mr. Douthett stated USX is currently authorized to conduct business in 34 states. Further, Mr. Douthett stated that no state commission has rejected a USX application, nor has the company been subject to a formal complaint proceeding.

USX bills its customers directly, and their name will appear on the bill. Pursuant to its tariff, USX reserves the right to request deposits from customers. Mr. Douthett stated that USX would follow the Commission's Telecommunications Rules regarding the posting of bond if one was deemed necessary.

Financial information was provided to the Commission in the application, as well as at the hearing. Specifically, the 1993 U.S. Steel Group Annual Report was provided to the Commission. This outlined information not only on USX, but also on its parent company. The applicant starting doing business in 1993; thus, financial statements for 1993 and 1994 were provided. This information was prepared in-house, and was approved by William Huettnner, Controller. The statements reflect that USX is in good financial standing, and will competently provide service in Nebraska.

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<sup>3</sup>See Section 75-604.

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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. Douthett testified that USX will assist the small and medium sized companies involved in the metals industry which will allow the steel industry, as a whole, to remain competitive.

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-1068 be, and it is hereby, granted and USX Consultants, Inc. of Pittsburgh, Pennsylvania 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 2nd day of August, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING

//s//Duane D. Gay

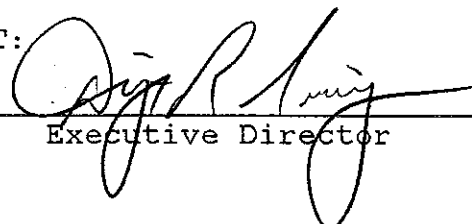
//s//Rod Johnson

//s//Frank E. Landis

//s//James F. Munnelly

  
Chairman

ATTEST:

  
Executive Director