

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1070
GTE Telecommunications Services,)
Inc., of Tampa, Florida which seeks)
a Certificate of Public Convenience) GRANTED
and Necessity to operate as a re-)
seller of interLATA and intraLATA)
interexchange telecommunications)
services statewide in Nebraska.) Entered: August 2, 1994

APPEARANCES:

For the Applicant

George Lieb, President
201 N. Franklin Street
P.O. Box 2924
Tampa, FL 33602
(813) 273-3000

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

GTE Telecommunications Services, Inc., ("GTE TSI"), of Tampa, Florida filed its application May 2, 1994. The company seeks authority to conduct business as an intrastate telecommunications common carrier offering resold intraLATA and interLATA long distance service. GTE TSI does not request authority to provide alternate operator services ("AOS"). The applicant's business address is noted above, and CT Corporation System, 206 South 13th Street, Suite 1500, Lincoln, Nebraska 68508 is the applicant's registered agent in Nebraska. Notice of the application appeared in the Omaha Daily Record, May 4, 1994. No one protested the application. GTE TSI appeared before the Commission for a hearing, and was represented by Paul Schudel, of Woods and Aitken, Lincoln, Nebraska. The hearing was chaired by Commissioner Johnson on July 19, 1994, and was held 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.

George Lieb, President of GTE TSI and Vice-President and General Manager of GTE's Government / Telecommunications Services Unit, testified. He has been employed with GTE for the past 20 years. Mr. Lieb 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

GTE TSI was incorporated in Delaware in 1989. The company is a wholly owned subsidiary of GTE Corporation. The applicant's directors are George Lieb, Thomas Lysaught and John Murray. Mr. Murray also serves as the company's Vice-President and Secretary. The following individuals serve as officers: Conferlete Carney, Vice-President of Information Technology; Gordon Quick, Vice-President and General Manager of Intercarrier Services; Edward Aaronson, Vice-President and

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.

General Manager of the Intercarrier Service Bureau and Stephen Richards, Controller and Treasurer.

GTE TSI intends to offer intrastate services throughout Nebraska over facilities leased from other carriers. The applicant will utilize a bulk acquisition of capacity from companies such as AT&T, MCI and Sprint. GTE TSI will offer outbound switched access, outbound dedicated access services, switched access 800 service, dedicated access 800 service and dedicated access facilities.

The applicant will target the cellular carriers in Nebraska, many of whom are currently GTE customers of other services. Mr. Lieb testified that GTE TSI will conduct marketing through its own sales force. The sales agents will be paid on a salary and commission basis. The applicant does not engage in slamming or in 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. Lieb updated GTE TSI's current national service area. The applicant is authorized to conduct business in 9 states, and an additional 13 applications are pending. Further, Mr. Lieb stated that no state commission has rejected a GTE TSI application, nor has the company been subject to a formal complaint proceeding.

GTE TSI bills its customers directly, and the company name will appear on the bill. Pursuant to its tariff, GTE TSI reserves the right to bill one (1) month in advance fixed recurring charges. Advance payments and deposits will not be required.

Financial information was provided to the Commission in the application, as well as at the hearing. Specifically, the GTE 1993 annual report was provided to the Commission. This outlined information not only on GTE TSI, but also on its parent company. Financial statements for 1992, 1993 and through March 31, 1994 were also provided. The statements reflect that GTE TSI is in good financial standing, and will be able to competently provide service.

³See Section 75-604.

Application No. C-1070

Page 4

Customers are able to call a toll free number for assistance with complaints. 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. Lieb testified that GTE TSI 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-1070 be, and it is hereby, granted and GTE Telecommunications Services, Inc. of Tampa, Florida 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.

Application No. C-1070

Page 5

MADE AND ENTERED at Lincoln, Nebraska this 2nd day of August, 1994.

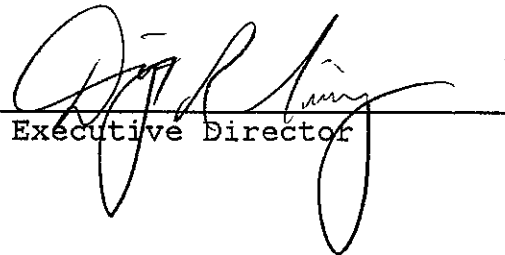
NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

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


Chairman

ATTEST:


Executive Director