

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of ) Application No. C-1071  
Telstar Communications, Inc., of )  
Evansville, Indiana, who seeks )  
authority to operate as a resale ) GRANTED  
carrier of telecommunications serv- )  
ices within the state of Nebraska. ) Entered: August 9, 1994

APPEARANCES:

For the Applicant

Ami Smith  
Regulatory Officer  
701 N. Weinbach Ave., Suite 610  
Evansville, IN 47711  
(812) 471-5870

Stephen Vandiver  
Controller  
701 N. Weinbach Ave., Suite 610  
Evansville, IN 47711  
(812) 471-5870

For the Communications Department

Deonne Niemack, Staff Counsel  
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(402) 471-3101

PRELIMINARY MATTERS

Telstar Communications, Inc., ("Telstar"), of Evansville, Indiana filed its application May 3, 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 System, 206 So. 13th Street, Suite 1500, Lincoln, Nebraska 68508 is the applicant's registered agent. Notice of the application appeared in the Omaha Daily Record, May 5, 1994. No one protested the application. Telstar 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<sup>1</sup>, the evidence adduced at the hearing

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<sup>1</sup>Interexchange resellers applications are governed by Neb.  
(Footnote Continued)

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.

Ami Smith, Regulatory Officer, and Steven Vandiver, Controller for Telstar, testified. Ms. Smith has been in the telecommunications industry for 4 years, while Mr. Vandiver has worked with Telstar since March, 1994. Ms. Smith 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>

Telstar was incorporated in Indiana in 1992. The company is privately held, with the major stockholders being Michael

(Footnote Continued)

Rev. Stats. 75-604 and 86-805 (1990 and 1987 Reissues, respectively) and Title 291 Neb. Admin. Regs. Ch. 5, Rule 003.12.

<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.

Hanus, President; Alan J. Powers, CEO and Secretary; and Mark W. Powers, Vice-President.

Telstar intends to offer intrastate services throughout Nebraska over facilities leased from other carriers. The company will utilize a bulk acquisition of capacity from US West Communications, GTE North, LCI International, MCI and Wiltel. Telstar will provide outbound long distance toll service, 1-Plus calling, 800 service and travel cards.

The applicant will target customers in the business community, however they will provide service to residential customers as well. Ms. Smith testified that Telstar will conduct marketing through its own sales force out of Omaha. Approximately, 30 to 50 employees will be hired to work in Omaha for marketing, customer service and management. Door-to-door contact will be used by the sales force, who will be paid on a salary and commission basis. Ms. Smith testified that the applicant does not engage in slamming or multi-level marketing.

While Telstar will open a personnel office in Nebraska, it 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, Ms. Smith stated Telstar was authorized to conduct business in 12 states, and an additional 2 applications are pending. Further, Ms. Smith stated no state commission has rejected a Telstar application, nor has the company been subject to a formal complaint proceeding.

Telstar bills its customers directly, and the company name will appear on the bill. Pursuant to its tariff, Telstar reserves the right to request advance payments or deposits from customers. Ms. Smith stated that Telstar 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. The financial material covered the period from the company's inception in 1992 to June 20, 1994. The information was prepared in-house by Mr. Vandiver and Alan Powers, CPA. The statements reflect Telstar

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

has thus far encountered losses; however, due to initial start-up costs and a rapid mode of expansion, these losses were anticipated. The company's net sales has grown each quarter, and are actually ahead of schedule. Mr. Vandiver testified that the company should become profitable in 1996.

Customers are able to call a toll free number for assistance with complaints. The 800 number connects directly to the Omaha 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, Ms. Smith testified Telstar would 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-1071 be, and it is hereby, granted and Telstar Communications, Inc. of Evansville, Indiana 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.

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MADE AND ENTERED at Lincoln, Nebraska this 9th day of August, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Daniel G. Unwiller*

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

*James Sander*  
Chairman

ATTEST:

*Dora R. King*  
Executive Director