

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1072
International Telemanagement Group,)
Inc., of Lima, Ohio who seeks a)
Certificate of Public Convenience) GRANTED
and Necessity to transact business)
as a reseller of interexchange)
telecommunications services in the)
state of Nebraska.) Entered September 19, 1994

APPEARANCES:

For the Applicant

Lois Bertke
Secretary of the Corporation
216 East Market Street
Lima, Ohio 45802

For the Communications Department

Deonne Niemack, Staff Counsel
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PRELIMINARY MATTERS

International Telemanagement Group, Inc., ("ITG"), of Lima, Ohio filed its application May 9, 1994. The company seeks authority to conduct business as an intrastate telecommunications common carrier offering resold interLATA long distance service. The applicant's business address is noted above, and Lauren Wismer, Esq. Suite 1900, FirstTier Bldg., Lincoln, Nebraska 68508 is the applicant's registered agent. Notice of the application appeared in the Omaha Daily Record, May 11, 1994. No one protested the application. ITG appeared before the Commission for a hearing, chaired by Commissioner Johnson, August 2, 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 hearing and being fully informed, the Commission is of the opinion and finds:

¹ 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.

Lois Bertke, Secretary of the Corporation, testified. Ms. Bertke has been with ITG since its inception and been involved in the telecommunications industry for approximately 6 years. Ms. Bertke testified, and the pleadings reflect, that the applicant seeks 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

ITG was incorporated in Ohio in 1993. The company is privately held, with the major stockholders being Kay and Stanley Nolte and Wayne Godbout.

ITG 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. ITG will provide 1+ calling and 800 WATS service.

The applicant presently targets its sales to other resale carriers. Through a late-filed exhibit offered by ITG's

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.

attorney, it was clarified that the applicant will be expanding its services to the general public in the future. Hence, the rationale for obtaining a certificate of public convenience and necessity. ITG is able to offer its services to resellers with little marketing. Most customers contact them for service.

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, Ms. Bertke stated ITG was authorized to conduct business in 19 states. Further, Ms. Bertke stated no state commission has rejected an ITG application, nor has the company been subject to a formal complaint proceeding. ITG bills its customers through CNP in Florida.

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 1993 to April 30, 1994. The information was prepared in-house, and reviewed by the CPA firm, Arthur Anderson. The statements reflect ITG has thus far encountered losses; however, due to initial start-up costs and equipment purchases these losses were anticipated. The company's net sales has grown each quarter. Ms. Bertke testified that the company should become profitable in 1995.

Since ITG is presently a wholesale outlet to other resellers, customers generally call the reseller who is directly offering service for assistance with complaints.

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. Bertke testified ITG 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.

³See Section 75-604.

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O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1072 be, and it is hereby, granted and International Telemanagement Group, Inc., of Lima, Ohio is hereby authorized to operate as a resale carrier of intrastate interexchange interLATA 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 19th day of September, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

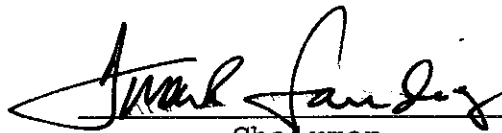
//s//Duane D. Gay

//s//Rod Johnson

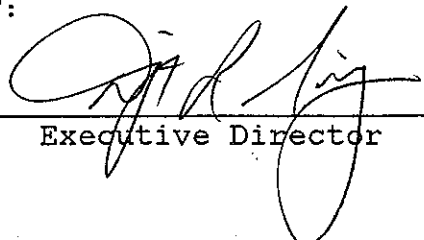
//s//Frank Landis, Jr.

//s//James F. Munnelly

//s//Daniel G. Urwiller


Chairman

ATTEST:


Executive Director