

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application)	Application No. C-1081
of Network Long Distance Inc., of)	
Baton Rouge, Louisiana seeking)	
authority to operate as a resale)	GRANTED
carrier of intrastate interLATA)	
and intraLATA telecommunications)	
services within the state of)	
Nebraska.)	Entered: September 13, 1994

APPEARANCES:

For the Applicant

Sidney Rosenfeld
Vice-President
3844 Convention Street
Baton Route, LA 70806
(504) 343-3125

For the Communications Department

Deonne Niemack, Staff Counsel
300 The Atrium, 1200 N Street
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PRELIMINARY MATTERS

Network Long Distance Inc., ("NLD"), of Baton Rouge, Louisiana filed its application June 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 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, June 23, 1994. No one protested the application. NLD appeared before the Commission for a hearing, chaired by Commissioner Landis, August 24, 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

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.

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.

Sidney Rosenfeld, Vice President of NLD, testified. He has worked with the company since 1981. Mr. Rosenfeld 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

NLD was incorporated in Delaware in 1987. The company has been a publicly held corporation since February 24, 1994. Prior to that time, the company was privately owned. The applicant's officers are Mike Ross, President and Marc Becker, Secretary and Treasurer. Mr. Ross and Mr. Becker have been involved with the telecommunications industry since the late 1970's. They jointly founded the company, Network Long Distance, in November, 1979.

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.

NLD intends to offer intrastate services throughout Nebraska over facilities leased from other carriers. The company will utilize a bulk acquisition of capacity from various carriers, such as Allnet, Sprint, MCI or Wiltel. NLD will offer 1+ service, 800 service and calling cards. The applicant will primarily market its services to small and medium sized businesses, however they will provide services to residential customers as well.

Mr. Rosenfeld testified that NLD will conduct marketing through sales agents. The agents are paid on a commission basis, and contacts will be made in person and through phone calls. NLD does not utilize multi-level marketing. The applicant does not engage in slamming, and takes strong precautions to ensure agents do not sign customers without obtaining proper authorization.

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. Rosenfeld testified NLD is striving towards certification nationwide. NLD currently is authorized to conduct business in approximately 39 states, and other states are pending. Further, Mr. Rosenfeld stated that no state commission has rejected an NLD application, nor has the company been subject to a formal complaint proceeding.

NLD bills its customers directly, and the company's name will appear on the bill. Pursuant to its tariff, NLD reserves the right to request advance payments from customers. Mr. Rosenfeld stated NLD 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. Specifically, the applicant provided a copy of its latest Form 10-Q quarterly report and its annual Form 10-K report. This information was audited and compiled in-house. The statements show the company is in good financial standing, and has ample resources to offer telecommunications services in Nebraska.

³See Section 75-604.

Customers are able to call a toll free number for assistance with complaints. Assistance will be available from 8:00 a.m. to 5:00 p.m. Central Standard Time. Effective October 1, 1994, the service hours will expand to 7:00 a.m. to 7:00 p.m.. Eventually, the company plans to provide customer service assistance 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. Rosenfeld testified that NLD will be an extremely competitive reseller in the telecommunications 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-1081 be, and it is hereby, granted and Network Long Distance, Inc. of Baton Rouge, Louisiana 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 13th day of
September, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Daniel G. Kriville

//s//Duane D. Gay

//s//Rod Johnson

//s//Frank Landis, Jr.

//s//James F. Munnelly

Frank Landis, Jr.
Chairman

ATTEST:

Jim R. [Signature]
Executive Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION
