

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of M. Gene Hand, Dir-) Application No. C-1095
 ector of the Communications Depart-) Dept. Complaint DC-010
 ment, Nebraska Public Service Com-))
 mission, who seeks an order to)
 cease and desist and to revoke the) GRANTED
 Certificate of Public Convenience)
 and Necessity issued to Tel-Save,)
 Inc., of New Hope, Pennsylvania.) Entered: November 1, 1994

PRELIMINARY MATTERS

By petition filed August 12, 1994, by M. Gene Hand, the Communications Department requests the Commission to enter an order revoking the operating authority granted to Tel-Save, Inc. of New Hope, Pennsylvania and to order the company from ceasing its operations in Nebraska. The defendant, Tel-Save, was provided with a copy of the petition and with official notice of the departmental complaint on August 17, 1994. A hearing was held in the Commission Hearing Room on October 11, 1994 with Commissioner Johnson chairing the proceeding. Tel-Save was provided with notice of the hearing on September 16, 1994. No parties appeared or testified on Tel-Save's behalf.

O P I N I O N A N D F I N D I N G S

The Defendant is a telecommunications company generally regulated by the Commission pursuant to Neb. Rev. Stats. Sec. 75-101 et seq. (1990 Reissue) and Sec. 86-801 to 86-811 (Reissue 1987 and Cum. Supp. 1992). This company is also governed by Title 291 NAC Ch. 5 of the Commission's Telecommunications Rules.

Pursuant to Commission Rules, all authorized telecommunication companies are to have a tariff on file with the Communications Department. Though Tel-Save was certified to do business pursuant to Application C-930, an effective tariff was not provided to the Commission until April 1994.

The Commission, through its Communications Department, requires that all telecommunications companies must file an annual report with the Commission on or before April 30th of each year. For the past two years, Tel-Save has failed to timely file its report. The defendant submitted its 1992 annual report on August 9, 1993 and its 1993 annual report on August 5, 1994. To obtain the 1993 report, the company was provided with several written requests. A departmental complaint was opened, C-1078, which proposed to revoke the operating authorities of all telecommunications companies who

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failed to provide the Commission with an annual report. Defendants to the complaint were given a copy of the petition and notice of the upcoming revocation hearing. Ultimately, the 1993 report was filed by Tel-Save one day prior to the hearing which was scheduled to revoke their certificate.

The Commission has also encountered poor customer service and delayed response time when working with the defendant. A customer in Nebraska was slammed by the telecommunications company, Direct Network Services (DNS). To resolve this complaint, the Commission attempted to work with Tel-Save, as DNS indicated Mr. James Logan of Tel-Save would take care of the matter. Evidently, DNS buys long distance services from Tel-Save. Mr. Logan explained to the Commission that DNS is actually Tel-Save.

Throughout the slamming complaint, the defendant was unresponsive to the complaint. Over five weeks, the Communications Department attempted to contact Tel-Save on at least eight occasions and most calls went unreturned. After a period of time, the slammed customer received a billing collection notice demanding payment for the telephone bill. Commission attempts to resolve the billing error with Tel-Save were ignored and to this date, the company has not yet responded as to whether or not the problem was corrected. With no signs of improvement being demonstrated to explain the situation, the Communications filed this departmental complaint on August 16, 1994 and proceeded to hearing on October 11, 1994.

Since filing the complaint, the defendant has made no attempts to resolve the slamming complaint. The only contact with the defendant came after the Communications Department inquired as to whether or not anyone from the company would be testifying at the revocation hearing. Mr. Logan explained that Tel-Save receives a large amount of mail and somehow the petition, as well as the hearing notice, though mailed on separate dates, were misplaced.

The conduct of Tel-Save since its certification in Nebraska has been inexcusable. From failing to timely provide an operating tariff to ignoring the Commission's rules pertaining to annual reports, Tel-Save's operations are below the requisite standards to operate as a certified telecommunications carrier in Nebraska. The company was notified in writing on separate occasions of this pending docket, and were certainly given the opportunity to respond and satisfy this complaint. The blatant lack of attention that has been demonstrated by the defendant regarding simple rules will not be tolerated.

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With the level of competition that is inherent in the long distance industry, the revocation of Tel-Save from the list of authorized interexchange carriers in Nebraska will not harm the public. Furthermore, if the company treats its customers with the same disregard and indifference that has been exhibited to this Commission, the public will be well served the nullification of this certificate.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the departmental complaint filed against Tel-Save, Inc. in Docket No. C-1095/Departmental Complaint No. 010 be, and it is hereby sustained.

IT IS FURTHER ORDERED that the certificate of public convenience and necessity previously issued to Tel-Save Inc., be and is hereby revoked. The company is ordered to cease and desist from operating in the state of Nebraska absent authority from this Commission.

MADE AND ENTERED at Lincoln, Nebraska this 1st day of November, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Daniel A. Churchill

Chairman

//s//Rod Johnson
//s//Frank E. Landis
//s//James F. Munnelly

ATTEST:

[Signature]
Executive Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION
