

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1105
 Business Network Communications, Inc.)
 of Cherry Hill, New Jersey requesting) MOTION GRANTED
 authority to operate as a resale) APPLICATION DISMISSED
 common carrier of intrastate inter-))
 LATA and intraLATA telecommunications)
 services within the state of Nebraska) Entered: January 31, 1995

BY THE COMMISSION

Comes now the Communications Department of the Nebraska Public Service Commission requesting approval of a motion to dismiss Application No. C-1105, an application filed by Business Network Communications, Inc. of Cherry Hill, New Jersey on September 7, 1994. The submitted application requests authority to provide intrastate interexchange intraLATA and interLATA services throughout Nebraska. Notice of the application was published in the Omaha Daily Record on September 8, 1994. A hearing was held on October 25, 1994 in the Commission Hearing Room, Lincoln, Nebraska with Commissioner Landis chairing the proceeding.

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

Business Network Communications, Inc. (BNC) submitted its application for authority in response to the filing of a departmental complaint against the company. The Communications Department filed a complaint against BNC on June 3, 1994 for operating as a resale carrier in Nebraska without proper certification. A petition was served on the company providing notice of the complaint on June 7, 1994. On August 9, 1994, a hearing was scheduled to determine whether or not BNC was unlawfully operating in Nebraska.

On August 8, 1994, one day prior to the hearing, Michael Mammoccio, Controller of BNC, indicated the company was willing to become properly certified. The Commission received a check from BNC for fifty dollars (\$50) for its application filing fee. The application was not immediately received, but was to be submitted in the near future.

The hearing was held as scheduled on August 9, 1994 with no-one appearing on behalf of BNC. Despite the receipt of the filing fee, it was determined the company was not properly certificated. Further, no answers were filed with the Commission denying the allegations of the complaint; therefore, the complaint was sustained. Accordingly, an order was entered on August 16, 1994 for Business Network Communications to cease and desist all its business operations in Nebraska.

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On September 7, 1994, BNC submitted its application to the Commission and a hearing was held October 24, 1994. At the hearing, several late-filed exhibits were requested. The company returned most of the requisite information; however, a proposed tariff and financial statements prepared according to generally accepted accounting principals were not received.

The company stated it could not provide a proposed tariff, as it only markets telecommunications services for other resale carriers. BNC does not purchase minutes from an underlying carrier to resell to the public. The company solely operates as an agent for other companies such as Global Wats One, Inc., Tel-Save and TTI. The company is paid on a commission basis from the above-mentioned companies.

As BNC only acts as a marketer and as the company has agreed to not hold itself out as a reseller, the application should be dismissed.

After consideration of the motion and being fully advised in the premises, the Commission is of the opinion and finds the motion should be granted and Application C-1105 should be dismissed without prejudice.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the motion to dismiss be, and it is hereby granted.

IT IS FURTHER ORDERED that Application C-1105 be, and it is hereby dismissed.

IT IS FURTHER ORDERED that the Cease and Desist Order entered August 16, 1994 against Business Network Communications, Inc. of Cherry Hill, New Jersey is hereby vacated.

IT IS FINALLY ORDERED that Business Network Communications, Inc. is not to represent itself as a resale carrier of telecommunications services and the company must clearly identify such on all its literature and advertising materials.

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MADE AND ENTERED at Lincoln, Nebraska, this 31th day of January, 1995.

COMMISSIONERS CONCURRING:

Frank E. Landis

//s//Rod Johnson

//s//Frank E. Landis

//s//James F. Munnelly

//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION

Daniel G. Urwiller

Chairman

ATTEST:

John Burdett

Deputy Director