

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of ) Application No. C-1111  
Murdock, Remmers and Associates of )  
Cedar Rapids, Iowa seeking a Certifi-)   
cate of Public Convenience and Neces-) DENIED  
sity to provide operator services in )  
the state of Nebraska. ) Entered December 20, 1994

APPEARANCES:

For the Applicant

David Schultz  
Controller and Secretary  
1112 29th Ave., S.W.  
Cedar Rapids, IA 52404

For the Communications Department

Deonne Niemack, Staff Counsel  
300 The Atrium, 1200 N Street  
P.O. Box 94927  
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PRELIMINARY MATTERS

Murdock Remmers and Associates, (MRA) of Cedar Rapids, Iowa filed an application with the Commission on September 20, 1994. The company seeks authority to conduct business as an intrastate telecommunications common carrier offering resold intraLATA and interLATA long distance service, including operator services. The applicant's business address is noted above. Notice of the application appeared in the Omaha Daily Record, September 21, 1994. MRA appeared before the Commission for a hearing on November 1, 1994. The proceeding was chaired by Commissioner Landis 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, the evidence adduced at the 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

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<sup>1</sup>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.

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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.

David Schultz, the Controller for MRA, testified. Mr. Schultz stated, and the pleadings reflect, that the applicant seeks both intraLATA and interLATA authority. The filed application also seeks 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>

MRA was incorporated in 1989 in Iowa. It is a privately held company with the major stockholders being Guy Murdock, Berthel Fisher & Company Leasing, Inc. and Curt Jarvis.

The company intends to offer automated operator services and possibly live operator services. WillTel is the underlying carrier for MRA's interstate and intrastate traffic. Primarily, MRA will offer services to hotels, motels, hospitals and educational institutions.

Financial information was provided to the Commission in the application, as well as in a late-filed exhibit. The statements reflect the company is not adequately financed. Notes prepared by Ernst and Young indicate MRA has a significant working capital deficiency, has encountered substantial losses from operations in 1993 and expects to incur a net loss for 1994. MRA expressed to the Commission that the company's present financial position should not be a detriment

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<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.

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to its provision of operator services, as no deposits are required from end users. However, pursuant to Title 291, Chapter 5, Rule 003.12B3, an application for authority will be denied if the applicant does not possess adequate financial resources to provide service. After a thorough review of the company's financial statements, it does not appear the company is financially able to provide quality telecommunication services in Nebraska.

Based on the testimony, the exhibits, and the proposed tariff, the applicant does not possess adequate financial resources to provide telecommunication services. Therefore, the application should be denied.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1111 be, and it is hereby, denied.

MADE AND ENTERED at Lincoln, Nebraska this 20th day of December, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Daniel G. Uviller*

*James F. Munnelly*  
Chairman

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

ATTEST:

*John B. Vetter*

Deputy Director