

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of ) Application No. C-1112  
IDT America Corp., a subsidiary of )  
International Discount Telecommunica-) )  
tions Corp., of Hackensack, New Jer-) )  
sey seeks authority to operate as a ) GRANTED  
resale carrier of intrastate inter-) )  
LATA and intraLATA telecommunications) )  
services within the state of Nebraska) Entered: December 6, 1994

APPEARANCES:

For the Applicant

Jonathan Meyer  
General Manager  
294 State Street  
Hackensack, NJ 07601

For the Communications Department

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

IDT America Corporation (IDT) of Hackensack, New Jersey filed an application with the Commission on September 26, 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. Notice of the application appeared in the Omaha Daily Record, September 28, 1994. IDT appeared before the Commission for a video conference hearing. The proceeding was chaired by Commissioner Urwiller on November 29, 1994 in the Commission Library, 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<sup>1</sup>, 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.

Jonathan Meyer, General Manager of IDT testified. Mr. Meyer stated, 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.<sup>2</sup>

IDT was incorporated in 1994 in New Jersey. It is a wholly-owned subsidiary of International Discount Telecommunications, a company which was organized in New York on August 28, 1990. IDT's officers are Howard Jonas, President, Treasurer and Director; Joyce Mason, Secretary and Director and Deborah Jonas, Director.

The applicant intends to offer intrastate services throughout Nebraska over facilities leased from other carriers. Primarily, IDT will offer services to businesses. However, residential services will also be offered if it is requested.

IDT markets its product through three mediums. First, the company contracts with various associations in order to market to their memberships. The second type of marketing will be direct mail. Lastly, the applicant employ salesmen to contact businesses directly.

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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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Billings will be compiled by the underlying carriers, such as LDDS or Wiltel. In the future, once the company becomes certified nationwide, IDT will conduct its own billing. For questions regarding bills or for customer service, the company provides a toll-free 800 number for assistance Monday through Friday, during normal business hours.

The applicant has applied to conduct business in all states and has not been denied a certificate of authority. Further, no formal complaints have been filed against the company.

Financial information was provided to the Commission in the application. The statements reflect the company is in good standing. 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. Meyer testified that IDT's parent company is nearly five years old and has gained a great deal of experience and knowledge in the telecommunications industry. Furthermore, IDT customers receive a free Internet account, customer service for the account and competitive rates. Mr. Meyer stated IDT will improve the quality of telecommunications services in the state.

Based on the testimony, the exhibits, and the proposed tariff, the applicant provided the requisite information, possesses adequate financial resources, and is technically competent to provide services. 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-1112 be, and it is hereby, granted and IDT America Corporation, of Hackensack, New Jersey 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.

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IT IS FURTHER ORDERED that applicant file an updated tariff prior to offering service pursuant to the certificate granted in this order.

IT IS FURTHER ORDERED that applicant file updated financial statements compiled for the year ended July 31, 1994 upon their completion.

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 6th day of December, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Daniel G. Unwin*  
Chairman

//s//Duane D. Gay  
//s//Rod Johnson  
//s//Frank E. Landis  
//s//James F. Munnelly

ATTEST:

*John S. Fane*  
Deputy Director