

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1117
Touchtone Network, Inc., Miami,)
Florida, which seeks to operate as)
a resale carrier of intrastate) GRANTED
interLATA and intraLATA telecom-)
munications services within the)
state of Nebraska.) January 31, 1995

APPEARANCES:

For the Communications Department:

Deonne Niemack, Staff Counsel

BY THE COMMISSION

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

Upon application filed October 12, 1994, Touchtone Network, Inc. of Miami, Florida seeks authority to operate as a resale carrier of intrastate, interLATA and intraLATA telecommunications services within the state of Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on October 14, 1994, pursuant to the rules of the Commission. Hearing on the application was held January 9, 1995, in the Commission Hearing Room, with appearances as shown.

Applicant called one witness, Kenneth Grossfeld, who testified: He has been president of Applicant since its inception in February, 1994. Applicant is a privately held corporation of which he and his wife own half and Yehudis Stein owns the other half. Its principal base of business is Miami. Applicant will not locate any facilities or employees in Nebraska. Applicant is authorized to conduct business in approximately 20 other states. It will offer 1 plus and 800 service. Calling cards will be provided. Its underlying carrier is LCI, based in Dublin, Ohio. Applicant's rates are at the lower end of the scale. It targets business customers, primarily small to medium sized. Its financial statement was filed with the application. It uses telemarketing agents. A script which they use is included as Exhibit 3. It offers service 24 hours a day through an 800 number. Applicant's billing is done through Centillion. The tariff filed with the application is still effective.

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.

Application No. C-1117

Page 2

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.

The evidence shows the application is complete. All required information has been furnished. The application should be granted.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1117 be and it is hereby, granted and Touchtone Network, Inc. of Miami, Florida is hereby authorized to operate as a resale carrier of intrastate interexchange inter-LATA 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) its 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 maintain on file its current tariff for service offered pursuant to the certificate granted in this order.

THIS ORDER SHALL BE, and it is hereby made, the Commission's official certificate of authority to furnish the service authorized herein as a common carrier.

Application No. C-1117

Page 3

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

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

[Signature]

//s//Rod Johnson
//s//Frank E. Landis
//s//James F. Munnelly
//s//Daniel G. Urwiller

[Signature]

Chairman

ATTEST:

[Signature]

Deputy Director