

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1121
Southern Pacific Telecommunications)
Co. of Denver, Colorado seeking a)
Certificate of Public Convenience) GRANTED
and Necessity to operate as a pro-)
vider of telecommunications serv-)
ices in the state of Nebraska.) Entered: December 20, 1994

APPEARANCES:

For the Applicant

James F. Booth
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For the Communications Department

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PRELIMINARY MATTERS

Southern Pacific Telecommunications, (SP Telecom) of Denver, Colorado filed an application with the Commission on October 10, 1994. The company seeks authority to conduct business as an intrastate telecommunications common carrier offering resold intraLATA and interLATA long distance service. SP Telecom's business address is noted above. Notice of the application appeared in the Omaha Daily Record, October 21, 1994. SP Telecom appeared before the Commission for a hearing, chaired by Commissioner Urwiller, December 13, 1994 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 rules¹, 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 Final Judgement (the "MFJ") issued in the AT&T divestiture case. United States v. American Telephone & Telegraph Co.,

¹Interexchange 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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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.

James Booth, an attorney for SP Telecom, testified. He has been employed with the applicant since August 1994 and was previously employed with US West for eleven years. Mr. Booth testified, 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.²

SP Telecom is a privately-held company owned by The Anschutz Company and Advantis. The company was incorporated in Delaware and originally was involved in the railroad industry. Expansion efforts have led the company into the field of telecommunications. Specifically, SP Telecom operates a fiber-optic construction business and is applying to become certified as a retailer of telecommunication services on a nationwide scale.

The applicant does not intend to construct facilities in Nebraska at this time. Medium-sized businesses will be targeted as potential customers. SP Telecom will offer a variety of services including 1+, 1-800, travel cards and private line service.

Billing will be compiled in-house using the company's letterhead. Customers are able to call the company directly

²We 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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for assistance with billing complaints and for general customer service.

Mr. Booth testified the applicant is striving to expand its telecommunication operations nationwide. No formal complaints have been filed against the company or any of the officers, directors or shareholders. No state commission has denied an SP Telecom application.

Financial information was provided to the Commission in the application, as well as in the form of a late-filed exhibit. The statements demonstrate the company will be able to provide quality telecommunications services and has adequate capital to finance its expansion efforts.

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. Booth testified that SP Telecom will provide quality service to its customers, as it has broad experience in the telecommunications industry. Furthermore, services will be offered at a competitive rate and will enhance the status of telecommunications in Nebraska.

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-1121 be, and it is hereby, granted and Southern Pacific Telecommunications Co. of Denver, Colorado 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.

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

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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 20th day of December, 1994.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Daniel G. Gruviller

//s//Rod Johnson

//s//Frank E. Landis

//s//James F. Munnelly

Paul J. Janda
Chairman

ATTEST:

John B. Janda

Deputy Director