

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1123
ACC National Long Distance Corp. of)
Rochester, New York, which seeks)
authority for a Certificate of Public) GRANTED
Convenience and Necessity to provide)
intrastate interexchange)
telecommunications services within)
the state of Nebraska.) February 13, 1995

APPEARANCE:

For the Applicant:

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For the Communications Department:

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BY THE COMMISSION

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

By application filed October 28, 1994, ACC National Long Distance Corp. of Rochester, New York seeks authority to operate as a resale common carrier of telecommunication services in the state of Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska November 1, 1994, pursuant to the rules of the Commission. Hearing on the application was held on January 24, 1995 in the Commission Hearing Room with appearances as shown.

Applicant produced one witness, Richard Ottalagana, who testified: He is director of regulatory affairs for ACC Corp., parent corporation of applicant. He is responsible for the filing of ACC National Long Distance Corp. applications. ACC Corp. is a holding company that has been in existence since 1982 as a long distance reseller. Applicant is a wholly owned subsidiary of it. Applicant has managerial and technical expertise to provide the service requested. In Nebraska, applicant will use Allnet Communications as the underlying carrier. Applicant is certificated in 29 states and has 18 applications pending, including this one. Applicant proposes to sell direct dial interexchange service. It hopes to provide 800 services and travel services. The market niche it seeks to occupy is college and university traffic. It also operates in campus

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areas such as hospitals and government. It is the sole provider of long distance communication for the state of New York. Applicant performs its own billing. Billing is tailored to customer preferences. An 800 number for customer service is manned 24 hours a day, every day. Its net income in 1993 nearly was \$12,000,000. Applicant seeks both intraLATA and interLATA authority.

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.

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-1123 be and it is hereby granted and ACC National Long Distance Corp., Rochester, New York is hereby authorized to operate as a resale carrier of intrastate interexchange interLATA and intraLATA telecommunications services within the state of Nebraska.

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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, revenues, operating expenses, and taxes.

IT IS FURTHER ORDERED that applicant maintain on file its current tariff for its 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.

MADE AND ENTERED at Lincoln, Nebraska this 13th day of February, 1995.

NEBRASKA PUBLIC SERVICE COMMISSION

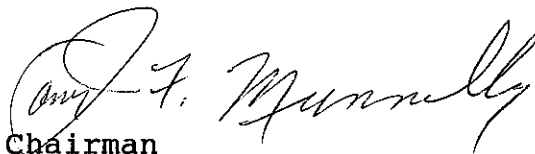
COMMISSIONERS CONCURRING:

//s//Lowell C. Johnson


//s//Frank E. Landis

//s//James F. Munnelly

Acting Chairman



ATTEST:



Executive Director