

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of ) Application No. C-1134  
Target Telecom, Inc. of Wayne, )  
New Jersey, seeking authority to )  
obtain a Certificate of Public ) GRANTED  
Convenience and Necessity to )  
transact the business of a reseller )  
of interexchange telecommunications )  
in Nebraska. ) Entered: March 13, 1995

APPEARANCES:

For the Applicant:

Paul Schudel, Esq.  
206 S. 13th Street  
Suite 1500  
Lincoln, NE 68508

For the Communications Department:

Deonne Niemack, Staff Counsel  
300 The Atrium, 1200 N Street  
P.O. Box 94927  
Lincoln, NE 68509

PRELIMINARY MATTERS

By application filed December 12, 1994, Target Telecom, Inc., Wayne, New Jersey 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, December 14, 1994, pursuant to the rules of the Commission. Hearing on the application was held on February 21, 1995, in the Commission Hearing Room with Commissioner Urwiller chairing the proceeding.

BY THE COMMISSION

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

Upon<sup>1</sup> consideration of the application, the governing statutes, the evidence adduced at the hearing and being fully advised in the premises, 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., 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).

---

<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.

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.

Applicant produced one witness, Jonathan Kaufman, who testified: He is the president and founder of Target, a privately held company. He anticipates revenues for 1995 of \$45,000,000. Applicant proposes to offer interLATA and intraLATA intrastate, WATS type long distance services primarily to business customers within Nebraska. Applicant is a switchless reseller. Target would provide competitively priced long distance service utilizing telecommunication services of certificated carriers within the state. Target will utilize WilTel as its carrier. Exhibit A2 sets forth the experience possessed by Target officers. Exhibit A3 shows the states where Target has been certificated. Target has not been denied authority in any state in which it has applied, nor has it been revoked in any state. Complaints were filed against applicant in Florida, New York, New Jersey, and Connecticut for "slamming", unauthorized enrollment of an end user to its long distance services. Each complaint was resolved to the satisfaction of the customer. Applicant has also had complaints filed against it in Kentucky and Tennessee, which it has resolved or is in the process of resolving. Exhibit A4 is applicant's financial statement for 1994. Approval of Target's application would offer Nebraska consumers lower priced and better quality long distance telephone service. It is primarily interested in the commercial market, small to medium businesses. It markets through independent dealers. Applicant does not seek to offer alternate operator service.

The proposed tariff, which is part of the application, is in accordance with the Commission's Rules & Regulations. The tariff appears reasonable in light of the proposed service.

The evidence shows the application is complete and all required information has been furnished. However, after the application was submitted and the hearing was held, the Commission learned the company was presently operating in the state and has been since 1991. This information should have been provided in the application, or at a minimum, disclosed at the hearing. This concealment is not viewed upon with favor and efforts to become more accountable and forthright must be exerted in the future.

Application No. C-1134

Page 3

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1134 be and it is hereby, granted and Target Telecom, Inc. of Wayne, 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) 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 the applicant file annual reports in accordance with Neb. Rev. Stat. Sec. 75-116 for its operations in Nebraska during years 1991, 1992, 1993 and 1994.

IT IS FURTHER ORDERED that the applicant file settlement agreements demonstrating the complaints filed in Tennessee and Kentucky are officially resolved.

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

IT IS FINALLY ORDERED 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 March, 1995.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

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

*Daniel G. Urwiller*  
 Chairman

ATTEST:

*Robert B. Faggs*  
 Executive Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

---