

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1135
Wats International Corporation, of)
Cherry Hill, New Jersey seeking au-)
thority to obtain a Certificate of) GRANTED
Public Convenience and Necessity to)
transact business as a reseller of)
interexchange telecommunications in)
the state of Nebraska.) Entered: March 21, 1995

APPEARANCES:

For the Applicant

Gary Gomer, President
12 Executive Campus, Ste. 360
Cherry Hill, NJ 08002

For the Communications Department

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

PRELIMINARY MATTERS

Wats International Corporation, (Wats) of Cherry Hill, New Jersey filed an application with the Commission on December 13, 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, December 15, 1994. Wats appeared before the Commission for a video conference hearing, chaired by Commissioner Urwiller, February 10, 1995 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 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

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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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.

Gary Gomer, President of Wats International, testified. Mr. Gomer has been with the company since its inception in 1990. Mr. Gomer testified, and the pleadings reflect, that the applicant seeks both intraLATA and interLATA authority. The filed application does not seek authority to provide AOS.

Wats was incorporated in New Jersey. Mr. Gomer is the President and Mr. Charles Hornstein serves as the company's Vice-President. Both constitute the major shareholders of the company.

Wats intends to offer intrastate services throughout Nebraska over facilities leased from other carriers such as AT&T, MCI, Allnet and WCT. Specifically, the applicant proposes to provide one plus (1+) service, 800 service, switched and dedicated service, debit cards and calling cards to residences and businesses.

The applicant will market its product through in-house telemarketing and dealer networks. The dealer networks are companies which have their own sales force and represent several products nationwide. Multi-level marketing is not used.

Customers are not required to make advance deposits or payments to obtain service. Billings are prepared by an outside firm, Profit Tech. Wat's name and 800 number will appear on customers' bills and any questions regarding bills or service will be handled by the applicant.

The applicant is applying to conduct business nationwide and has not been denied a certificate of authority. Further, no formal complaints have been filed against the company.

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Financial information was provided to the Commission in the application, as well as in a late-filed exhibit. The statements reflect the company has made substantial improvements over the last three years and is steadily increasing its sales and is raising its net income.

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. Gomer testified that Wats will provide additional competition in the telecommunications field in Nebraska. The addition of another interexchange common carrier will help lower costs for consumers and will also improve the quality of telecommunications services in the state.

Based on the testimony, the exhibits, and the proposed tariff, we find that the applicant has provided the requisite information, possesses adequate financial resources, and is technically competent to provide the services requested. 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-1135 be, and it is hereby, granted and Wats International Corporation, of Cherry Hill, 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.

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

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.

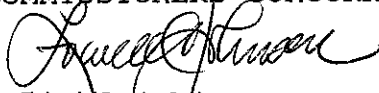
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MADE AND ENTERED at Lincoln, Nebraska this 21st day of March, 1995.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



//s// Rod Johnson

//s// Frank E. Landis

//s// James F. Munnelly

Vice Chairman

ATTEST:



Executive Director

