

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1138
Continental Long Distance Company,)
Inc. of Omaha, Nebraska seeking)
authority to operate as a provider) GRANTED
of telecommunications services)
within the state of Nebraska.) Entered: July 6, 1995

APPEARANCES:

For the Applicant

George Rebensdorf
11404 West Dodge Road
Omaha, Nebraska 68154

For the Communications Department

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

PRELIMINARY MATTERS

Continental Long Distance Company, Inc., (Continental) of Omaha, Nebraska filed an application with the Commission on December 20, 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 office is 978 South 72nd Street, Omaha, Nebraska 68114. Notice of the application appeared in the Omaha Daily Record, December 21, 1994. Continental appeared before the Commission for a hearing, chaired by Commissioner Urwiller, January 24, 1995 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

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., 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.

Mr. George Rebensdorf, Attorney for Continental, testified. Mr. Rebensdorf stated, and the pleadings reflect, the applicant seeks interLATA and intraLATA authority. The filed application does not seek authority to provide AOS.

Continental is privately owned, with Sonia Khan being the sole stockholder. Continental has not been granted authority to operate in any other state and no other applications are pending at this time. The company intends to become certified in other states.

The officers and directors of Continental are Pam and Mike Khan. These individuals are also the sole stockholders of Continental Cellular and Paging. Continental Cellular and Paging has roughly 2,500 paging customers and 5,000 cellular customers. The applicant's plan is to offer customers a package of telecommunications products; cellular, paging and long distance services.

The applicant proposes to offer 1+ service to subscribers statewide. Calling cards might be added as a service in the future. The underlying carrier in Nebraska will be Telenational Communications. The applicant will market its services to existing paging and cellular customers through mail and media advertisements. Initial marketing efforts will be concentrated in the Omaha area.

For questions regarding customer service, the company provides a local number and a toll-free, 800 number, during normal business hours. At this time, Continental will prepare its own billing statements.

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Patry & Associates, Certified Public Accountants, audited the applicant's balance sheet. The audit was conducted in accordance with generally accepted auditing principles. Patry also compiled projected balance sheets as of December 31, 1995 and 1996 and the related statements of income and retained earnings of cash flows for the period May 27, 1995 through December 31, 1995 and year ended December 31, 1996.

The Commission has granted resale applications in the past that have shown minimal profit, as it is the opinion of the Commission that start-up companies need time to begin its operations in order to acquire a customer base. The projected income statements reflect the company expects to break even during its first year of operation. Therefore, the Commission approves this application; however the company's is not allowed to collect deposits or advance payments until its profitability is verily demonstrated.

Pursuant to the tariff, Section 2.7, Continental reserves the right to request advance payments. It is the Commission's opinion that since the applicant is in the preliminary stage of its operations, subscribers might not be able to recoup money advanced to Continental for advance payment purposes if the company does not prosper as expected. Therefore, the Commission is of the opinion that Continental shall not request deposits or advance payments from subscribers. If Continental believes deposits or advance payments are necessary, a request for such a change in authority must be made to the Commission. The Commission will review the financial condition of the company and may require the posting of a bond before approving such request.

The proposed tariff appears to be in accordance with the Commission's Rules and Regulations, provided that section 2.7 pertaining to advance payments be altered.

In conclusion, Mr. Rebensdorf testified that Continental would offer Omaha customers a competitive price for telecommunications services and enhance long distance competition. Further, he stated the applicant would satisfy a growing need of consumers to have their communications services provided by one company.

Based on the testimony, the exhibits, and the proposed tariff, the applicant has provided the requisite information, and is financially and technically competent to provide service. The application is fair and reasonable, is in the public interest, and should be granted.

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O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1138 be, and it is hereby, granted and Continental Long Distance Company, Inc., of Omaha, Nebraska 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 prior to April 30th of each year.

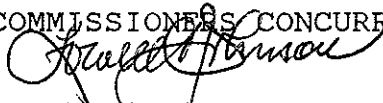
IT IS FURTHER ORDERED that applicant file an updated and corrected tariff prior to offering service pursuant to the certificate granted in this order.

IT IS FURTHER ORDERED that applicant shall not request deposits or advance payments from subscribers until granted permission from the Commission.

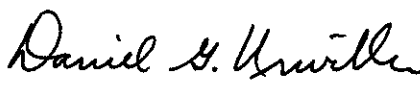
IT IS FINALLY ORDERED that this order be, and it is hereby made the Commission's official certificate of authority to furnish the service authorized herein as a common carrier.

MADE AND ENTERED at Lincoln, Nebraska this 6th day of July, 1995.

COMMISSIONERS CONCURRING:


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

NEBRASKA PUBLIC SERVICE COMMISSION


Chairman

ATTEST:


Executive Director