

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of ) Application No. C-1161  
United Wats, Inc. of Mission, Kansas )  
seeking authority to operate as a ) GRANTED  
resale carrier of intrastate tele- )  
communications services within the )  
state of Nebraska. ) Entered: May 16, 1995

APPEARANCES:

For the Applicant

For the Communications Department

Tim Barton  
7000 Squibb Road  
Shawnee Mission, Kansas 66202

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

PRELIMINARY MATTERS

United Wats, Inc. (hereinafter referred to as United) of Mission, Kansas filed an application with the Commission on March 3, 1995. 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, March 7, 1995. United Wats, Inc. appeared before the Commission for a video-conference hearing, chaired by Commissioner Urwiller, April 4, 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 rules<sup>1</sup>, 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., 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.

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<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.

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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.

Tim Barton, President of United, testified. Mr. Barton has been with the company since its inception in 1992. Mr. Barton began working in the telecommunications industry in 1990. Mr. Barton testified, and the pleadings reflect, that the applicant seeks interLATA and intraLATA authority. The filed application does not seek authority to provide AOS.

United is a privately owned company with the major stockholders being Mr. Barton, David Bergman, Kevin Jackson, Michael Mirslaw and John Barton. From August, 1992 to October, 1994, United was a sales agency for long distance carriers such as AT&T and MCI. In October, 1994, United began offering resold long distance services. Specifically, the applicant proposes to provide 1+ and 800 services using facilities leased from Sprint. Calling cards will also be offered.

The applicant intends to target small businesses as customers on a statewide basis. Marketing will be conducted by internal telemarketing representatives. Further, marketing efforts will be made to trade associations in order to solicit members.

Customers will be billed through DCA, Digital Communications of America. For billing inquiries, an 800 number will be provided that allows customers to access DCA. For questions regarding customer service, the company provides a toll-free 800 number, staffed 24 hours a day, seven days a week.

The applicant is seeking to become certified nationwide and is currently certified in approximately 22 states. United has not been denied a certificate in any state, nor have any formal complaints been instituted against the applicant.

Financial information was provided to the Commission in the application, as well as in a late-filed exhibit. The statements reflect the company is adequately financed and will be able to provide services.

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The proposed tariff, which was also an exhibit, is in accordance with the Commission's Rules and Regulations. The tariff appears reasonable in light of the proposed service.

In conclusion, Mr. Barton testified that United will offer customers significant savings over the main carriers and provide excellent customer service.

Based on the testimony, the exhibits, and the proposed tariff, the applicant has 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-1161 be, and it is hereby, granted and United Wats, Inc. of Mission, Kansas is hereby authorized to operate as a resale carrier of intrastate inter-exchange 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.

MADE AND ENTERED at Lincoln, Nebraska this 16th day of May, 1995.

COMMISSIONERS CONCURRING:

*[Signature: Rod Johnson]*  
 //s//Rod Johnson  
 //s//Frank E. Landis  
 //s//James F. Munnelly  
 //s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION

*[Signature: Daniel G. Urwiller]*  
 Chairman

ATTEST:

*[Signature: Robert B. Snyder]*  
 Executive Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

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