

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1164
Pennsylvania Alternative Communica-)
tions, Inc., d/b/a Pace Long Distance) GRANTED
Service, seeking authority to provide)
intraLATA and interLATA resold tele-)
communication services in Nebraska.) Entered: May 16, 1995

APPEARANCES:

For the Applicant

For the Communications Department

David J. Malfara, Sr.
218 S. Maple Avenue
Greensburg, Pennsylvania 15601

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

PRELIMINARY MATTERS

Pennsylvania Alternative Communications, Inc., d/b/a Page Long Distance Service, (hereinafter referred to as Pace) of Greensburg, Pennsylvania, filed an application with the Commission on March 20, 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 22, 1995. Pace appeared before the Commission for a video-conference hearing, chaired by Commissioner Urwiller, May 2, 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 Final Judgement (the "MFJ") issued in the AT&T divestiture

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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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.

David Malfara, Sr., president and major stockholder of Pace, testified. Mr. Malfara stated, and the pleadings reflect, the applicant seeks interLATA and intraLATA authority. The filed application does not seek authority to provide AOS.

Pace is certified in approximately 40 states and intends to become certified nationwide. No state has denied Pace a certificate and no formal complaint has been filed against the company. Pace intends to offer intrastate services throughout Nebraska. Specifically, the applicant proposes to provide 1+ and 800 services using facilities leased from Allnet. Calling cards will also be offered.

The applicant will market its services through an independent sales agency program. All agents must go through a training program prior to working for Pace. Agents are paid on collected revenue; therefore, the new customer must be happy with the service and pay their bill before the agent will collect any commission. Letters of agency are required from new subscribers and Pace conducts intermittent checks on agents to prevent slamming activity.

Small businesses that spend approximately \$300 and \$3,000 in long distance will be targeted as potential customers. Customers will be billed directly through Pace.

For questions regarding customer service, the company provides a toll-free 800 number. Pace provides service 24 hours a day, seven days a week. Mr. Malfara stated customers should receive a response from the company within 24 hours.

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The requisite financial information was provided to the Commission in the application and the statements reflect the company is adequately financed.

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. Malfara testified that the customer attrition rate with Pace over the past 12 years, is less than 1% per year. Therefore, 99.2% of Pace customers stay with the company. Furthermore, the company also has a billed revenue collection rate of 99.6%. Customers seem to be satisfied with Pace and also with its prices.

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-1164 be, and it is hereby, granted and Pennsylvania Alternative Communications, Inc., d/b/a Pace Long Distance Service of Greensburg, Pennsylvania 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.

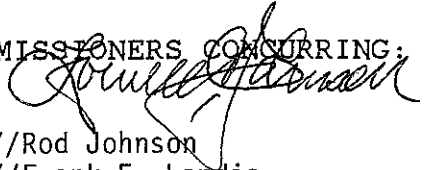
IT IS FINALLY ORDERED that this order be, and it is hereby made the Commission's official certificate of authority to furnish the service authorized herein as a common carrier.

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