

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1180
Valu-Line of Kansas, Inc., of Emporia)
Kansas seeking authority to obtain a)
Certificate of Public Convenience and) GRANTED
Necessity to operate as a reseller of)
interexchange telecommunications)
services within the state of)
Nebraska.) Entered: September 26, 1995

APPEARANCES:

For the Applicant

Rick Tidwell
P.O. Box 972
Emporia, Kansas 66801

For the Communications Department

Deonne Bruning, General Counsel
300 The Atrium, 1200 N Street
P.O. Box 94927
Lincoln, Nebraska 68508

PRELIMINARY MATTERS

Valu-Line of Kansas, Inc. (hereinafter referred to as Valu-Line) of Emporia, Kansas filed an application with the Commission on April 19, 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, April 21, 1995. Valu-Line appeared before the Commission for a hearing, September 12, 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:

¹Interexchange reseller application are governed by Neb. Rev. Stats. 75-604 and 86-805 (Cum. Supp. 1994 and 1994 Reissue, respectively) and Title 291 Neb. Admin. Regs. Ch. 5, Rule 003.12.

Application No. C-1180

PAGE TWO

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. 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.

Rick Tidwell, President for Valu-Line, testified. Mr. Tidwell stated, and the pleadings reflect, the applicant seeks intraLATA and interLATA authority. The filed application does not seek authority to provide AOS.

The applicant started doing business in 1982 as a franchise for Valu-Line, Inc. which was based in Austin, Texas. Valu-Line, Inc. went out of business and the franchise was discontinued; but the company maintained its name and started doing business on its own. Valu-Line is currently certified in Kansas and Missouri, and is preparing applications for the states of Oklahoma, Colorado and Iowa. Valu-Line will only seek certification in surrounding states. No state has denied Valu-Line a certificate and no formal complaints have been filed against the company.

Valu-Line intends to offer intrastate services to customers who live on the Kansas border. No active marketing will be conducted in Nebraska. The company seeks a certificate in Nebraska only to serve those residences and businesses that also have a presence in Kansas. The applicant will provide 1+, 800 services and calling cards. The underlying carrier will be LDDS.

The company provides a toll-free 800 number for customer service. Valu-Line owns and operates equipment suitable for sales, billing and customer service.

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 company will not collect advance payments or deposits.

Application No. C-1180

PAGE THREE

In conclusion, Mr. Tidwell testified that Valu-Line would offer customers one stop shopping, with competitive rates. He also stated customers will receive honest treatment and excellent customer service.

Based on the testimony, the exhibits, and the proposed tariff, the applicant has provided the requisite information, has demonstrated its financial resources, and has proven to be technically competent to provide service. 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-1180 be, and it is hereby, granted and Valu-Line of Kansas, Inc. of Emporia, Kansas is hereby authorized to operate as a resale carrier of intrastate interexchange intraLATA and interLATA telecommunications services within the state of Nebraska.

IT IS FURTHER ORDERED that the applicant shall file, in accordance with the applicable statutes on or before April 30th of each year, 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 26th day of September, 1995.

COMMISSIONERS CONCURRING:

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

NEBRASKA PUBLIC SERVICE COMMISSION

[Signature]
 Daniel G. Urwiller
 Chairman

ATTEST:

[Signature]
 Executive Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION
