

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

M. Gene Hand, Director,	)	Departmental Complaint No. 12
Communication Department,	)	Docket No. C-1181
Nebraska Public Service	)	
Commission, Lincoln,	)	
Nebraska, Complainant	)	
vs.	)	DISMISSED
	)	
Business Network Communications,	)	
Cherry Hill, New Jersey,	)	
Defendant.	)	Entered: July 31, 1995

BY THE COMMISSION

Comes now the Communications Department of the Nebraska Public Service Commission with evidence of a properly filed application from the above-named defendant requesting a Certificate of Public Convenience and Necessity be granted. The application has been docketed as C-1211 and is currently being processed. The present Departmental Complaint No. 12, also referenced to as Docket C-1181, was filed on April 20, 1995 by the Communications Department and alleges Business Network Communications was operating as a telecommunications common carrier in Nebraska without a Certificate of authority.

O P I N I O N   A N D   F I N D I N G S

Based on rules, regulations and state statutes, all intrastate telecommunication providers must obtain a Certificate of Public Convenience and Necessity prior to operating within Nebraska. Nebraska Revised Statutes, § 86-805 (Reissue 1994) and § 75-604 (Cum Sup 1994), state that the Commission may issue a certificate authorizing any telecommunication company to offer and provide interLATA and intraLATA interexchange services. These statutes go on to provide that no person, firm, partnership, limited liability company, corporation, cooperative or association shall offer any telecommunications services without first making an application for and receiving from the Commission a Certificate of Public Convenience and Necessity. Further, according to Nebraska Revised Statute § 86-807(c) and Commission Rule 003.08, all telecommunications companies must file a tariff with the Commission clearly providing current price lists and service standards.

The defendant has filed an application with the Commission seeking a Certificate of Public Convenience and Necessity; thereby, relieving the need of the Communications Department to

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pursue a cease and desist order. However, the Commission's rules and regulations are quite clear that a telecommunications company is not to offer service until a Certificate has been issued. Therefore, if the defendant is presently offering interexchange intrastate telecommunications services in Nebraska, such operations must cease immediately.

Furthermore, upon hearing of the application for a Certificate of Public Convenience and Necessity, the defendant will be expected to provide information pertaining to the allegations set forth herein, as well as information displaying that the defendant has satisfactorily complied with the cease order and does not have any ongoing operations within the state. Lastly, at hearing, the defendant will be asked to explain any contradictory statements made in oral testimony or in submitted written material regarding its former application, C-1105.

After consideration of the application and being fully advised in the premises, the Commission is of the opinion and finds Application C-1181 should be dismissed.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application C-1181 be, and it is hereby, dismissed.

IT IS FURTHER ORDERED that the defendant shall cease all intrastate interexchange intraLATA and interLATA services until granted a Certificate of Public Convenience and Necessity.

MADE AND ENTERED at Lincoln, Nebraska, this 31st day of June, 1995.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*[Signature]*  
//s//Rod Johnson  
//s//Frank E. Landis  
//s//James F. Munnelly

*[Signature]*  
Vice Chairman

ATTEST:

*[Signature]*  
Executive Director