

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1184
LDD, Inc. of Cape Girardeau, Mis-)
souri seeking authority to operate)
as a resale carrier of intrastate) GRANTED
interLATA and intraLATA telecom-)
munications services within the)
state of Nebraska.) Entered: September 19, 1995

APPEARANCES:

For the Applicant

For the Communications Department

Shirlene Krewson
24 South Minnesota Street
Cape Girardeau, Missouri 63702

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

PRELIMINARY MATTERS

LDD, Inc. of Cape Girardeau, Missouri filed an application with the Commission on May 1, 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, May 3, 1995. LDD appeared before the Commission for a video-conference hearing, August 28, 1995, with Commissioner R. Johnson chairing the proceeding, 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

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.

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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.

Shirlene Krewson testified on behalf of LDD, Inc. Ms. Krewson stated, and the pleadings reflect, the applicant seeks both intraLATA and interLATA authority. The filed application does not seek authority to provide AOS.

LDD has been in existence since 1983 and is privately owned by Edward Eagleton, President and Don, Jerry, John and James Zimmer. The company is in the process of becoming certified nationwide. Currently, the company is certificated in approximately twenty states. No state has denied LDD a certificate and no formal complaints have been filed against the company.

The applicant intends to offer intrastate services throughout Nebraska. Specifically, the applicant proposes to provide direct dialed 1+ service using the underlying services of WilTel. Callers will also be able to place outbound, as well as inbound 800 service. A travel card will also be available. Customers are billed directly by LDD. The company provides a toll-free 800 number for customers on each bill.

The requisite financial information was provided to the Commission in the application. The records reflect the company recorded a net loss for 1994; however, the company had several non-recurring expenses, such as billing equipment, building improvements and necessary software to implement the changes made in the North American Numbering Plan (NANP). The company expects to make a profit for the year ending 1995.

The proposed tariff, which is part of the application, is in accordance with the Commission's Rules and Regulations.

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In conclusion, Ms. Krewson testified that LDD will offer excellent customer service and competitive rates for its subscribers.

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-1184 be, and it is hereby, granted and LDD, Inc. of Cape Girardeau, Missouri 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, (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission and (d) 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 19th day of September, 1995.

COMMISSIONERS CONCURRING:

Frank Landis
//s//Frank Landis
//s//James E. Munnelly
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION

Daniel G. Urwiller
Chairman

ATTEST:

Robert B. Fogdler
Executive Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION
