

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1187
IXC Long Distance, Inc. of Austin,)
Texas seeking authority to obtain a)
certificate of public convenience and) GRANTED
necessity to operate as a reseller of)
interLATA and intraLATA interexchange)
services statewide in Nebraska.) Entered: August 21, 1995

APPEARANCES:

For the Applicant

Paul Schudel
Woods & Aitken
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Lincoln, Nebraska 68508

Mr. Lynn McNeill
IXC Long Distance, Inc.
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Austin, Texas 78746

For the Communications Department

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

PRELIMINARY MATTERS

IXC Long Distance, Inc., (hereinafter referred to as IXC) of Austin, Texas filed an application with the Commission on May 10, 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 12, 1995. IXC appeared before the Commission for a hearing, chaired by Commissioner Urwiller, July 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

¹Interexchange reseller applications 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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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. 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.

Mr. Lynn McNeill testified on behalf of IXC. Mr. McNeill stated, and the pleadings reflect, the applicant seeks interLATA and intraLATA authority. The filed application does not seek authority to provide AOS.

IXC is a wholly-owned subsidiary of IXC Communications, Inc., which is a privately-owned corporation. The applicant has filed applications in nearly every state and in no case, has the applicant been denied or had its license to operate revoked by a state commission.

The applicant intends to offer intrastate services throughout Nebraska. Specifically, the applicant proposes to provide 800 service, dedicated and switched access services, as well as travel cards. Services will be leased through the underlying carrier, Allnet.

For questions regarding customer service, the company provides a toll-free 800 number.

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

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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. McNeill testified that IXC will offer excellent service at very competitive rates.

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 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-1187 be, and it is hereby, granted and IXC Long Distance, Inc. of Austin, Texas is hereby authorized to operate as a **resale carrier of intrastate inter-exchange interLATA and intraLATA telecommunications services within the state of Nebraska.**

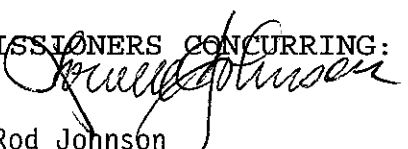
IT IS FURTHER ORDERED that the applicant shall file, in accordance with the applicable statutes, an annual report with this Commission consisting of (a) a copy of any report filed with the Federal Communications Commission, (b) the annual report to stockholders, and (c) for the State of Nebraska on a 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 21st day of August, 1995.

COMMISSIONERS CONCURRING:


//s//Rod Johnson
//s//James F. Munnelly
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION


Chairman

ATTEST:


Executive Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION
