

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1210
of LDM System, Inc. of New City,)
New York seeking to authority to)
operate as a resale carrier of) GRANTED
intrastate interLATA and intraLATA)
telecommunications services within)
the state of Nebraska.) Entered: October 31, 1995

APPEARANCES:

For the Applicant

Tom McCrosson
254 South Main
New City, New York 10956

For the Communications Department

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

PRELIMINARY MATTERS

LDM Systems, Inc. of New City, New York, filed an application with the Commission on July 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, July 11, 1995. LDM appeared before the Commission for a video-conference hearing, chaired by Commissioner Urwiller, October 16, 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

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.

Tom McCrosson, Vice-President of LDM, testified. Mr. McCrosson stated, and the pleadings reflect, the applicant seeks both intraLATA and interLATA authority. LDM is a privately-owned company and incorporated under the laws of New York in 1990. Louis Steiner, the company's president, is the major stockholder.

The applicant has received authority to operate in roughly twenty-seven states and intends on becoming certified nationwide. No state has denied LDM a certificate of authority and no formal complaints have been filed against the company. The company offers 1+ and 800 services, as well as calling cards and debit cards. Billing will be provided by Claremont Long Distance, based in the State of New York.

The underlying carrier for LDM's services will be Sprint, AT&T or LCI International. The company provides a toll-free 800 number for customer service, twenty-four hours a day, seven days a week for assistance.

Sales agents will be used to promote services. A signed letter of authorization is required or third party verification will be conducted in order to prevent unauthorized switching. If third party verification is used, the conversation is recorded on tapes. Penalties are imposed on sales agents who do obtain proper authorization to switch a subscriber.

LDM will target for small businesses that spend approximately \$65 to \$3,000 in long distance toll per month as potential customers. LDM intends to introduce new technology to its customers and to provide ongoing consulting assistance.

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Financial information was provided to the Commission in the application. The statements reflect the company is adequately financed and is capable of offering service within the state.

The proposed tariff, which is part of the application, is in accordance with the Commission's Rules and Regulations. The tariff states that company will not collect advance payments or deposits.

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-1210 be, and it is hereby, granted and LDM Systems, Inc. of New City, New York, 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) a copy of any annual report to stockholders, (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission, (d) balance sheet and income statement for the previous year of operation and (e) 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 and corrected 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 31st day of
October, 1995.

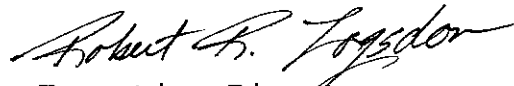
COMMISSIONERS CONCURRING:


//s//Rod Johnson
//s//Frank E. Landis
//s//James F. Munnelly
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION


Chairman

ATTEST:


Executive Director