

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1211
of Business Network Communications,))
Inc. of Cherry Hill, New Jersey))
seeking authority to operate as a) GRANTED
resale carrier of intrastate inter-))
LATA and intraLATA telecommunica-))
tions services within the state of))
Nebraska.) Entered: October 16, 1995

APPEARANCES:

For the Applicant

For the Communications Department

Mike Mammoccio
200 Barclay Center, Suite 201
Cherry Hill, New Jersey 08034

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

PRELIMINARY MATTERS

Business Network Communications, Inc. (hereinafter referred to as BNC) of Cherry Hill, New Jersey filed an application with the Commission on July 12, 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 13, 1995. BNC appeared before the Commission for a hearing, September 26, 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.

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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.

Mike Mammoccio, Controller of BNC, testified. Mr. Mammoccio stated, and the pleadings reflect, the applicant seeks both intraLATA and interLATA authority. The filed application does not seek authority to provide AOS.

BNC is a privately-owned corporation with its principal offices in Cherry Hill, New Jersey. Incorporating in 1992, BNC has operated as a marketing agent for other companies, such as Target Telecom, WilTel and Global TeleMedia. BNC seeks authority in Nebraska to operate using its own name, rather than marketing for other carriers.

The applicant filed in this state after it came to this Commission's attention that BNC had some direct customers in Nebraska. After receiving notice from the Commission that it needed a certificate to offer telecommunications services to the public, the company submitted an application. The original application, filed in August, 1994, was dismissed, as BNC stated it intended to operate solely as a marketing agent. After being contacted again by this Commission in 1995 for alleged violations of offering service to the public, the company filed the present application. This is the first state in which the company seeks certification.

The applicant intends to offer intrastate services throughout Nebraska. Specifically, the applicant proposes to provide direct dial services. The underlying carrier for the services will be AT&T, as well as Tel-Save, a reseller that also serves as a wholesale provider of long distance services.

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The company provides a toll-free 800 number for customer service during normal business hours. The company will utilize sales agents for marketing and will target small to medium-sized businesses.

Financial information was provided to the Commission in the application. The company maintains its records according to Generally Accepted Accounting Principles and the statements reflect that the company has steadily increased its net income during the previous three years of operation. The company does not require deposits or advance payments from subscribers.

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

In conclusion, Mr. Mammoccio testified that BNC looks forward to entering business as a reseller in Nebraska and to diversify the company's present concentration on marketing. Further, he stated the company will abide by all Commission rules, regulation and state statutes.

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-1211 be, and it is hereby, granted and Business Network Communications of Cherry Hill, New Jersey 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.

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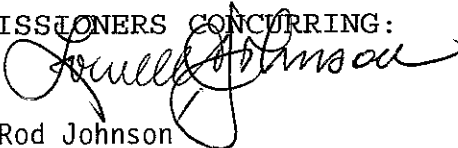
IT IS FURTHER ORDERED that applicant file an updated tariff prior to offering service pursuant to the certificate granted in this order.

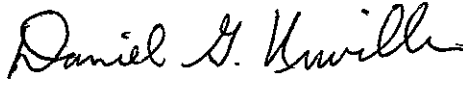
IT IS FINALLY ORDERED that this order be, and it is hereby made the Commission's official certificate of authority to furnish the service authorized herein as a common carrier.

MADE AND ENTERED at Lincoln, Nebraska this 16th day of October, 1995.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:


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


Chairman

ATTEST:


Executive Director