

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1213
Discount Services, Inc. of)
Minneapolis, Minnesota seeking auth-) DENIED
ority to operate as a resale carrier) of intrastate interLATA and intra-)
LATA telecommunications services)
within the state of Nebraska.) Entered: January 9, 1996

APPEARANCES:

For the Applicant:

Charles Koshenina
Discount Services, Inc
201 SE Main St. Suite 324
Minneapolis, MN 55414

For the Communications Department:

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

PRELIMINARY MATTERS

Discount Services, Inc. (hereinafter referred to as Discount) of Minneapolis, Minnesota filed an application with the Commission on July 17, 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 20, 1995. Discount appeared before the Commission for a video-conference hearing, chaired by Commissioner Urwiller, November 8, 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 November 8, 1995 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.

Application No. C-1213

PAGE TWO

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.

Charles Koshenina, Corporate Secretary of Discount Services, testified. Mr. Koshenina stated, and the pleadings reflect, the applicant seeks both intraLATA and interLATA authority. Discount is a privately-held corporation with Charles Koshenina and Jeffrey Pink owning all outstanding stock.

Discount has been offering 800 service to its customers. Its underlying carrier is AT&T. Discount has been operating in Nebraska without a certificate of authority and currently has approximately 25 to 30 Nebraska customers. Discount does not propose to provide alternative operator services, nor require advanced payments or deposits. Discount has completely stopped marketing its services, and at this time, has no future plans to start marketing its product. In the past, Discount marketed its services by direct mailings and the use of the fax machine.

The billing for Discount is done by AT&T. The bill does not contain any mention of Discount's customer service 800 number, but gives the customer service telephone number for AT&T. If a customer calls for assistance, AT&T provides the caller with another number for Discount's customer service department. Furthermore, the bill does not ever mention Discount's name. It is quite possible that Discount's customers might believe that AT&T is the controlling telecommunications company. Therefore, the only possible way that the customer knows that they are receiving Discount's services is if they remember that they once authorized Discount to provide their services.

Application No. C-1213

PAGE THREE

The applicant has received authority to operate in two states. Discount does not, at this time, have any intention to file applications with any other state. Although no current formal complaints are pending against the company, Discount did have a complaint in Florida where a customer thought that they were being over charged.

Technical competency must be demonstrated to the Commission for a certificate to be granted, pursuant to State statute 86-806(2). Statements made at the hearing show that the company does not competently bill their respective customer. Mr. Koshenina was asked at hearing what technical competency he and his company had to operate as a telecommunications carrier and he replied, under oath, "I have no competency." Transcript pg. 11 line 19. There is no indication of the name Discount Services on the customer's bill and no customer service number for Discount Services appears on the bill. Pursuant to Title 291, Chapter 5, Rule 003.12B4, an application for authority will be denied if the applicant does not possess adequate technical competency. After a thorough review of the company's procedures, it does not appear that Discount can provide quality telecommunication services in Nebraska with technical competency or operate in the public interest.

Based on the testimony, the exhibits, and the proposed tariff, the applicant does not possess adequate technical competency and is not in the public's best interest. Therefore, the application should be denied.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1213 be, and it is hereby, denied.

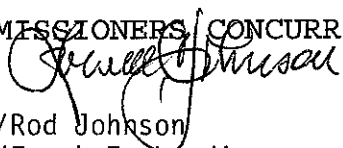
IT IS FURTHER ORDERED that Discount Services, Inc. notify all of its Nebraska customers of this order and explain that they should select a new telecommunications carrier within the next thirty (30) days.

Application No. C-1213

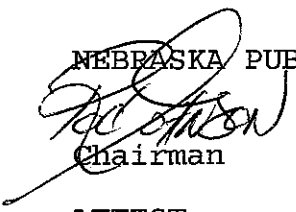
PAGE FOUR

MADE AND ENTERED at Lincoln, Nebraska this 9th day of
January, 1996.

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