

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1214
of Heartline Communications, Inc.)
of Houston, Texas seeking author-)
ity to operate as a resale com-) DISMISSED
mon carrier of telecommunications)
services within the state of)
Nebraska.) Entered: December 19, 1995

PRELIMINARY MATTERS

On July 19, 1995, the applicant, Heartline Communications, Inc. of Houston, Texas filed an application with the Commission for authority to transact business as a reseller of interexchange telecommunications in the State of Nebraska. Notice of the application was published in the Omaha Daily Record on July 20, 1995. No protests to the application were received. On October 4, 1995, a video-conference hearing was held on the matter in Lincoln, Nebraska with Commissioner Lowell Johnson presiding.

BY THE COMMISSION

O P I N I O N A N D F I N D I N G S

Based on rules, regulations and state statutes, all intrastate telecommunication providers must obtain a Certificate of Public Convenience and Necessity prior to operating within Nebraska. Nebraska Revised Statutes, 86-805 (Reissue 1994) and 75-604 (Cum. Supp. 1994), state that the Commission may issue a certificate authorizing any telecommunication company to offer and provide interLATA and intraLATA interexchange services. These statutes go on to provide that no person, firm, partnership, limited liability company, corporation, cooperative or association shall offer any telecommunications services without first making an application for and receiving from the Commission a Certificate of Public Convenience and Necessity.

Heartline Communications, Inc. (Heartline) filed an application with the Commission seeking a Certificate of Public Convenience and Necessity to operate within the state of Nebraska on July 19, 1995. A hearing was held on October 4, 1995 to determine the company's fitness to operate within the state.

At the hearing, a request was made by Commissioner Frank Landis for the company to remit a late-filed exhibit regarding the company's financial statements. The company was asked to provide information as to the significant decrease in

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Heartline's total assets from December, 1994 to June, 1995. The statements reflect the company had assets in excess of \$5.3 million as of December, 1994. However, the most recent financial statement, dated June, 1995, reflect assets totalling only \$152,893.

Subsequent telephone calls were made from the Commission staff to Heartline requesting the late-filed exhibit. On October 30, 1995, Mr. Ronald Darnell, Executive Vice-President of Heartline, wrote the Commission and stated that such information was not available to release, as the company is a privately owned, closely-held corporation.

On November 7, 1995, the Commission sent a letter to Heartline indicating that the answer offered by Mr. Darnell was not sufficient and that the late-filed exhibit must be submitted within two (2) weeks. It was further stated that the company could file the information on a confidential basis. At the expiration of the two week time period, November 21, 1995, nothing had been remitted.

On December 14, a letter from Ms. Gloria Cross, Director of Regulatory Affairs for Heartline and Mr. Robert Darnell was received. The letter states Heartline wishes to withdraw its application from consideration and requests the Commission dismiss the docket without prejudice, as it is unable to provide the information requested as a late-filed exhibit.

Based upon the above information, the Commission is hereby of the opinion that the application shall be withdrawn and accordingly dismissed.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application C-1214, filed by Heartline Communications, Inc. be, and it is hereby dismissed.

IT IS FURTHER ORDERED that the applicant shall not provide intrastate interexchange intraLATA and interLATA services in the state of Nebraska until granted a Certificate of Public Convenience and Necessity.

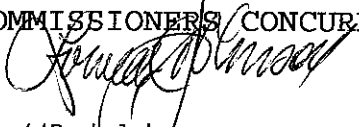
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MADE AND ENTERED at Lincoln, Nebraska, this 19th day of December, 1995.

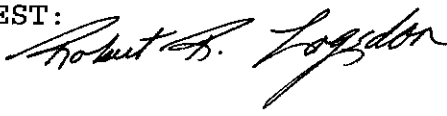
NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:


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


Chairman

ATTEST:


Executive Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION
