

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1218
American Express Telecom, Inc. of)
Salt Lake City, Utah seeking au-)
thority to operate as a resale com-) GRANTED
mon carrier of telecommunications)
services within the state of Ne-)
braska.) Entered: September 26, 1995

APPEARANCES:

For the Applicant

Jerry Thomas
4315 South 2700 West
Salt Lake City, Utah 84184

For the Communications Department

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

PRELIMINARY MATTERS

American Express Telcom (hereinafter referred to as American Express) of Salt Lake City, Utah filed an application with the Commission on July 31, 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, August 2, 1995. American Express appeared before the Commission for a video-conference hearing, September 18, 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:

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.

Jerry Thomas, Director of Telecom Technology, testified. Mr. Thomas stated, and the pleadings reflect, the applicant seeks both intraLATA and interLATA authority. The filed application does not seek authority to provide AOS.

American Express is a wholly-owned subsidiary of American Express Company. The applicant incorporated in June, 1995, and is in the process of becoming certified nationwide. No state has denied American Express a certificate and no formal complaints have been filed against the company.

The applicant intends to offer intrastate services throughout Nebraska. Specifically, the applicant proposes to provide a prepaid calling card. The underlying carrier for the services will be MCI.

The company provides a toll-free 800 number for customer service. Assistance is available twenty-four hours a day.

The requisite financial information was provided to the Commission in the application. The applicant provided a copy of its parent's, American Express Company's, 1994 Annual Report. The report indicates that the parent has adequate capital to finance the applicant.

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

In conclusion, Mr. Thomas testified that American Express has not yet begun operating in any state, as it is waiting until certificates are issued nationwide. However, he stated

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that American Express Telecom is hiring additional technical employees and the parent is financially committed to this venture.

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-1218 be, and it is hereby, granted and American Express Telecom of Salt Lake City, Utah 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) the annual report to stockholders, (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission and (d) 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 26th day of September, 1995.

COMMISSIONERS CONCURRING:

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

NEBRASKA PUBLIC SERVICE COMMISSION

[Signature]
 Chairman

ATTEST:

[Signature]
 Executive Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION
