

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1222
of North American InTeleCom, Inc.,)
of San Antonio, Texas seeking au-)
thority to operate as a reseller) GRANTED
of telecommunications services, in-)
cluding operator assisted services,)
within the state of Nebraska.) Entered: October 16, 1995

APPEARANCES:

For the Applicant

Edward J. Taylor, Jr.
14100 San Pedro, Suite 400
San Antonio, Texas 78232

For the Communications Department

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

PRELIMINARY MATTERS

North American InTeleCom, Inc. (hereinafter referred to as NAI) of San Antonio, Texas filed an application with the Commission on August 8, 1995. The company seeks authority to conduct business as an intrastate telecommunications common carrier offering resold intraLATA and interLATA long distance service and operator services. The applicant's business address is noted above. Notice of the application appeared in the Omaha Daily Record, August 9, 1995. NAI appeared before the Commission for a video-conference hearing, chaired by Commissioner Rod Johnson, October 4, 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.

Edward J. Taylor, Jr., Vice-President of Operations, testified. Mr. Taylor stated, and the pleadings reflect, the applicant seeks both intraLATA and interLATA authority, as well as authority to provide AOS.

NAI is a wholly-owned subsidiary of Diamond Shamrock Refining and Marketing, Inc., a Fortune 500 company with \$2.8 billion annual sales.

The applicant has received authority to operate in roughly thirty states and intends on becoming certified nationwide. No state has denied NAI a certificate of authority. The company offers operator services, payphone services and serves inmate facilities. The company also sells a debit card and eventually intends on offering 1+ services. Billing will be provided by the local exchange carriers.

The underlying carrier for the services will be AT&T, MCI or Sprint. The company provides a toll-free 800 number for customer service, twenty-four hours a day. Inmates are able to receive customer service by notifying living unit supervisors and other points of contacts within the facility. Further, NAI customer service employees routinely call each facility where it offers service to ensure that its system is functioning properly.

Several litigation suits are pending with NAI as either the plaintiff or defendant. Mr. Taylor stated that these matters will not impact its operations or financial ability to provide service in Nebraska. We take this opportunity to add that NAI should be cautious to not overbill its customers, as

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alleged by the Florida Public Service Commission. Such conduct will not be tolerated in Nebraska.

Financial information was provided to the Commission in the application. The statements reflect the company is adequately financed by its parent 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 call monitoring may occur. If this option is chosen by a facility, a prerecorded message informs the caller that the call is being monitored; thereby, allowing the inmate to know prior to placing each call of the possibility of being recorded.

In conclusion, Mr. Taylor testified that NAI will abide by all Commission Rules and Regulations, as well as 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-1222 be, and it is hereby, granted and North American InTeleCom, Inc. of San Antonio, Texas is hereby authorized to operate as a **resale carrier of intrastate interexchange intraLATA and interLATA telecommunications services within the state of Nebraska, including operator services.**

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.

COMMISSIONERS CONCURRING:



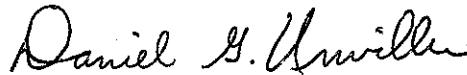
//s//Rod Johnson

//s//Frank E. Landis

//s//James F. Munnelly

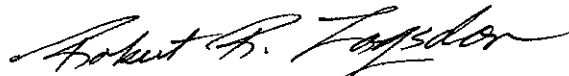
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION



Chairman

ATTEST:



Executive Director