

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1223
of The Phonco, Inc., d/b/a Network)
Services Telecommunications of)
Trevose, Pennsylvania for authority) GRANTED
to operate as a resale carrier of)
intrastate interLATA and intraLATA)
telecommunications services within)
the state of Nebraska.) Entered: December 5, 1995

APPEARANCES:

For the Applicant

Gregory Luff
One Neshaminy Interplex
Suite 105
Trevose, Pennsylvania 19053

For the Communications Department

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

PRELIMINARY MATTERS

The Phonco, Inc. d/b/a Network Services Telecommunications (hereinafter referred to as The Phonco) of Trevose, Pennsylvania 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. The applicant's business address is noted above. Notice of the application appeared in the Omaha Daily Record, August 10, 1995. The Phonco appeared before the Commission for a hearing, chaired by Commissioner R. Johnson, November 21, 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 November 21, 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-1223

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.

Gregory Luff, President of The Phonco, testified. Mr. Luff stated, and the pleadings reflect, the applicant seeks both intraLATA and interLATA authority. The application does not seek authority to provide Alternate Operator Services (AOS).

The Phonco is a privately held company with all of the issued stock owned by Mr. Luff and David Gross. The company incorporated in November, 1994 in the state of Pennsylvania. Mr. Luff stated at the hearing that the company has eight employees and will offer 1+, 800 services and calling cards.

Mr. Luff and Mr. Gross have been in the telecommunications industry for several years. Previously, both worked for Tel-Save, Inc. Mr. Luff served as an Operations Manager, while Mr. Gross worked in customer service and in local exchange carrier relations, as well as in the sales division.

The Phonco will operate as a non-facilities based reseller using the underlying carrier, AT&T. Tel-Save, Inc. will provide the AT&T service and act as a wholesale provider to the applicant.

The applicant has received authority to operate in roughly ten states and intends on becoming certified nationwide. No state has denied The Phonco a certificate of authority and no formal complaints have been filed against the company.

The Phonco provides a toll-free 800 number for customer service, during normal business hours. Billing will be provided by AT&T ACUS Bill Manager, through Phonco's agreement

Application No. C-1223

PAGE THREE

with Tel-Save. A toll-free number is provided for billing inquiries.

The applicant has an independent third party company review all its letters of authorization (LOA's). This policy has minimized the possibility of slamming and also the chance of incorrectly changing a subscriber's service.

Financial information was provided to the Commission in the application. The statements reflect that the company has compiled its records on the income-tax basis of accounting, which is a basis of accounting that differs from Generally Accepted Accounting Principles (GAAP). The Commission's Rules and Regulations require financial statements be prepared according to GAAP. Mr. Luff testified that statements from hence forward will be prepared according to GAAP and that year end statements for 1995 will be given to the Commission that will reflect the change in accounting practices.

The proposed tariff, which is part of the application, is in accordance with the Commission's Rules and Regulations. The tariff indicates the company will not collect deposits or advance payments.

In conclusion, Mr. Luff testified that The Phonco will be able to provide quality services to customers at competitive rates. Further, he stated that customers will receive excellent, personal service from the company.

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-1223 be, and it is hereby, granted and The Phonco, Inc. d/b/a Network Services Telecommunications of Trevoze, Pennsylvania 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 Communica-

Application No. C-1223

PAGE FOUR

tions 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.

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

IT IS FURTHER ORDERED that applicant file with the Commission its 1995 year-end financial statements, prepared in accordance with Generally Accepted Accounting Principals (GAAP), on or before April 30, 1996.

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 5th day of December, 1995.

COMMISSIONERS CONCURRING:

//s//Lowell Johnson

//s//Rod Johnson

//s//Frank E. Landis

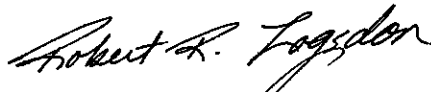
//s//James F. Munnelly

NEBRASKA PUBLIC SERVICE COMMISSION



Vice Chairman

ATTEST:



Executive Director