

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

M. Gene Hand, Director,)	Departmental Complaint No. 16
Communication Department,)	Docket No. C-1227
Nebraska Public Service)	
Commission, Lincoln,)	
Nebraska, Complainant)	
vs.)	DISMISSED
)	
Public Service Enterprise, of)	
Forty Fort, Pennsylvania,)	
Defendant.)	Entered: October 31, 1995

BY THE COMMISSION

Comes now the Communications Department of the Nebraska Public Service Commission with evidence that Public Service Enterprise of Forty Fort, Pennsylvania is not operating in Nebraska as an interexchange resale common carrier. The complaint, docketed as C-1227 and cross-referenced as Departmental Complaint Number 16, has been answered by the defendant through its attorney, Brad Mutschelknaus, of Wiley, Rein & Fielding in Washington, D.C. and GE Capital Communications Service Corp., through its consultant, Bobbi Ferguson.

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

A complaint was entered against the defendant, Public Service Enterprise, for allegedly offering telecommunications services to the public in Nebraska without a Certificate of Public Convenience and Necessity. The Communications Department learned of the alleged violation pursuant to a slamming complaint filed by a business in Bellevue, Nebraska.

The long distance bill rendered to the subscriber in Bellevue did not list who the resale provider was; but, stated that underlying service was provided by AT&T. Upon contacting AT&T, the Commission learned that service was provided through a contract held by Public Service Enterprise (also known as PSE). Accordingly, the Communications Department filed a complaint against the company for offering service in Nebraska without obtaining a Certificate of Public Convenience and Necessity.

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

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telecommunication company to offer and provide interLATA and intraLATA interexchange services.

PSE was served with a copy of the complaint and has filed an answer with the Commission explaining that it does provide telecommunications services to the public and therefore, a Certificate of Public Convenience and Necessity is not necessary.

The defendant responded that it has purchased access from AT&T; however it makes the service available on a wholesale basis to other carriers. Public Service Enterprise does not offer telecommunications services to the public.

Public Service Enterprise formed a joint venture with GE Capital Communications Services Corporation (GECCS) which entitles GECCS to purchase AT&T service in various quantities under the PSE contract. This agreement has enabled GECCS to benefit from the favorable rates that were obtained in the AT&T/PSE contract.

GECCS is a certified company in Nebraska and has been contacted regarding the alleged slamming complaint in Bellevue, Nebraska. GECCS has admitted to the staff that they are responsible for switching the long distance services of the Bellevue subscriber, not PSE. Efforts are being made to resolve the matter with GECCS.

After consideration of the application and being fully advised in the premises, the Commission is of the opinion and finds that Public Service Enterprise is not offering telecommunications services to the public within Nebraska and that Application C-1227/DC-16 should be dismissed.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application C-1227 / Departmental Complaint 16 be, and it is hereby, dismissed.

IT IS FURTHER ORDERED that the defendant, Public Service Enterprise, shall not offer intrastate interexchange intraLATA and interLATA services to the public until granted a Certificate of Public Convenience and Necessity.

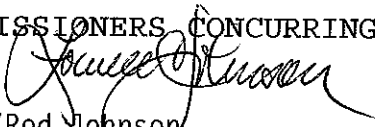
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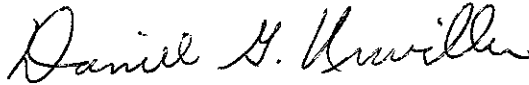
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MADE AND ENTERED at Lincoln, Nebraska, this 31st day of
October, 1995.


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
