

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application ) Application No. C-1247  
of Federal TransTel, Inc. of )  
Birmingham, Alabama seeking author- )  
ity to operate as a resale carrier ) GRANTED  
of intrastate interLATA and intra- )  
LATA telecommunications services )  
within the state of Nebraska. ) Entered: January 16, 1996

APPEARANCES:

For the Applicant:

Patrick Herold  
2 Chase Corporate Drive  
Suite 170  
Birmingham, AL 35244

For the Communications Department:

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

PRELIMINARY MATTERS

Federal TransTel, Inc. (hereinafter referred to as FTT) of Birmingham, Alabama filed an application with the Commission on October 16, 1996. 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, October 17, 1995. FTT appeared before the Commission for a video-conference hearing, chaired by Commissioner Johnson, January 8, 1996 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 rules<sup>1</sup>, the evidence adduced at the January 8, 1996 hearing, and being fully informed, the Commission is of the opinion and finds:

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<sup>1</sup>Interexchange 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.

Patrick Herold, President of FTT, testified. Mr Herold stated, and the pleadings reflect, the applicant seeks both intraLATA and interLATA authority.

FTT is a privately held company that incorporated in March, 1993 in Georgia. FTT seeks both intraLATA and interLATA authority. Mr. Herold testified that the corporation is financially sound and is currently experiencing rapid growth. Mr. Herold is responsible for the day to day management of the corporation. Furthermore, he is the sole holder of all outstanding stock.

The applicant has received authority to operate in thirty-six (36) states and plans to eventually be certified in all states. No state has denied FTT a certificate of authority and no formal complaints have been filed against the company.

The underlying carrier for the services will be Sprint. FTT provides a toll-free 800 number for customer service, twenty-four hours a day, seven days a week. The customer service toll-free 800 number is displayed on FTT's bill. FTT does its own billing.

At this time, FTT markets dedicated inbound/outbound 800 and switched services to businesses. FTT eventually plans to expand its operations into the residential market. FTT has one salesperson and large calling centers that are responsible for marketing FTT's services. Also, FTT has a policy that prohibits slamming.

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Financial information was provided to the Commission in the application. The statements reflect the company is adequately financed and is capable of offering service within the state.

The proposed tariff, which is part of the application, must be changed to reflect that interest will be paid on deposits. Section 2.9.3(C) of the proposed tariff violates Commission Rule 002.19A2. Therefore, the final issued tariff must be revised to be in accordance with the Commission's Rules and Regulations.

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-1247 be, and it is hereby, granted and Federal TransTel, Inc. of Birmingham, Alabama 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) 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 and corrected 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.

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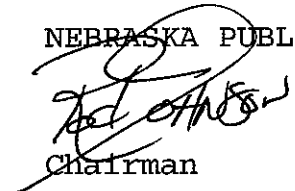
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MADE AND ENTERED at Lincoln, Nebraska this 16th day of January, 1996.

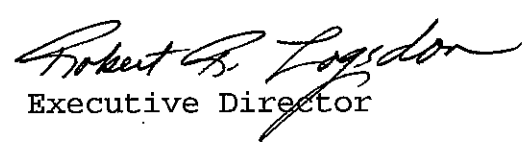
COMMISSIONERS CONCURRING:

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

NEBRASKA PUBLIC SERVICE COMMISSION

  
Chairman

ATTEST:

  
Executive Director