

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1249
of ATCALL, Inc. of Arlington,)
Virginia, seeking authority to)
operate as a resale carrier of) GRANTED
intrastate intraLATA and interLATA)
telecommunications services within)
the state of Nebraska.) Entered: February 5, 1996

APPEARANCES:

For the Applicant:

For the Communications Department:

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PRELIMINARY MATTERS

ATCALL, Inc. of Arlington, Virginia filed an application with the Commission on October 16, 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, on October 18, 1995. ATCALL appeared before the Commission for a video-conference hearing, chaired by Commissioner Urwiller, January 23, 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 rules¹, the evidence adduced at the January

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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23, 1996 hearing, and being fully informed, the Commission is of the opinion and finds:

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.

ATCALL, Inc. is a privately held company that incorporated in June, 1995, in Delaware. ATCALL is wholly owned by Indigo Light, Inc., which is wholly owned by Khaled Alhegelen. ATCALL seeks both intraLATA and interLATA authority.

The applicant has received authority to operate in twenty-four (24) states and plans to eventually be certified in all states. Currently, ATCALL has applications pending in several states. No state has denied ATCALL a certificate of authority and no formal complaints have been filed against the company.

The underlying carrier for the services will be IXC Long Distance. ATCALL 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 ATCALL's bill. ATCALL does all of its own billing.

At this time ATCALL markets 1+, 800 services and travel cards to both residential and business markets. The marketing technique used is a combination of in-house and independent sales agents. In addition, ATCALL has a policy that reduces slamming by requiring written LOA's.

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Financial information was provided to the Commission in the application. The statements reflect the company is steadily improving its financial net worth. In June, 1995, the applicant had monthly sales of \$970.00. In November, 1995, monthly sales generated \$47,000.00.

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

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-1249 be, and it is hereby, granted and ATCALL, Inc. of Arlington, Virginia, 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 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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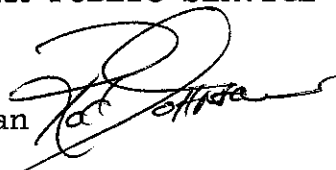
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MADE AND ENTERED at Lincoln, Nebraska this 5th day of
February, 1996.

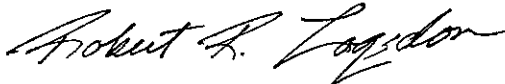
COMMISSIONERS CONCURRING:


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

NEBRASKA PUBLIC SERVICE COMMISSION

Chairman 

ATTEST:


Executive Director