

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1256
of Key Communication Management,)
Inc., d/b/a Discount Plus, of Col-)
umbus, Ohio seeking authority to)
obtain a Certificate of Public Con-) GRANTED
venience and Necessity to transact)
business as a reseller of inter-)
exchange services in Nebraska.) Entered: January 23, 1996

APPEARANCES:

For the Applicant

Frank Turgeon
CEO / President
330 W. Spring St., Suite 101
Columbus, Ohio 43215

For the Communications Department

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

PRELIMINARY MATTERS

Key Communication Management, Inc., d/b/a Discount Plus, (hereinafter referred to as Key) of Columbus, Ohio filed an application with the Commission on October 26, 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, October 30, 1995. Key appeared before the Commission for a video conference hearing, chaired by Commissioner Rod Johnson, January 9, 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 9, 1996 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.

Frank Turgeon, CEO and President of Key Communication Management, testified. Mr. Turgeon 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 applicant originally incorporated in the state of Nevada as Munchkins, Inc., a business doing telecommunications consulting. In May, 1991, Munchkins was purchased by Mr. Turgeon and was renamed Key Communication Management, Inc. Since that time, Key has been involved in the telecommunications industry as a reseller of interexchange services.

Key employees roughly forty people and operates in thirty-six states. To date, no state has denied Key a certificate of authority. The company intends on becoming certified nationwide and has several applications pending with other state regulatory bodies. Key will offer switched and dedicated access services to both residential and business customers. The company does not offer debit cards.

The underlying carrier for the services will be Sprint and WilTel. Key provides a toll-free 800 number for customer service, during normal business hours. The number is printed on customer invoices.

Financial information was provided to the Commission in the application. The statements reflect that the company is currently operating at a loss; however, Mr. Turgeon stated the company plans to be profitable by year-end 1996. The company

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has been experiencing steady growth since it commenced operation. In order to protect consumers from a company that is not yet financially sound, the Commission denies Key Communication Management the authority to accept deposits and advance payments from subscribers. If Key chooses to collect deposits from customers, it must show improved financial statements or post a bond to the Commission.

The proposed tariff, which is part of the application, is in accordance with the Commission's Rules and Regulations. However, the provision regarding deposits and advance payments should be modified to reflect that above mandate.

Mr. Turgeon stated the company has received some complaints from regulatory commissions regarding billing concerns; but, all have been satisfactorily resolved. Further, he stated the Ohio Attorney General's office received three complaints from consumers regarding slamming. These also are in the process of being satisfactorily resolved and Key has implemented internal changes to prevent similar problems in the future. Should this Commission receive slamming complaints from consumers in Nebraska, Key will be promptly sanctioned and face complaint proceedings.

In conclusion, Mr. Turgeon testified that Key is able to provide quality services to customers at competitive rates. Further, he stated that the company intends to have obtained certification from all fifty states and be operating nationwide by the end of 1996 .

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-1256 be, and it is hereby, granted and Key Communication Management, Inc., d/b/a Discount Plus, of Columbus, Ohio 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-

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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 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.

MADE AND ENTERED at Lincoln, Nebraska this 23rd day of January, 1996.

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