

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1258
Total Communications Services, Inc.)
d/b/a Simply Total Communications of)
Cedar Rapids, Iowa seeking authority)
to operate as a resale carrier of) GRANTED
intrastate interLATA and intraLATA)
telecommunications services within)
the state of Nebraska.) Entered: January 30, 1996

APPEARANCES:

For the Applicant:

Tim Fitzpatrick
320 Third Street S.E.
Cedar Rapids, Iowa 52401-1804

For the Communications Department:

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

PRELIMINARY MATTERS

Total Communications Services, Inc. d/b/a Simply Total Communications (hereinafter referred to as Simply Total) of Cedar Rapids, Iowa filed an application with the Commission on October 30, 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 November 1, 1995. Simply Total appeared before the Commission for a hearing, chaired by Commissioner Johnson, January 16, 1996 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 January 16, 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.

Total Communications Services, Inc. is a privately held company that incorporated in June, 1994 in Iowa. The company will do business as Simply Total, as there is already a company operating in Nebraska as Total Communications. Simply Total seeks both intraLATA and interLATA authority; but, is not seeking authority to provide alternate operator services.

The applicant has received authority to operate in three states and plans to eventually become certified nationwide. Currently, Simply Total has applications pending in five states. No state has denied Simply Total a certificate of authority and no formal complaints have been filed against the company.

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

At this time, Simply Total will market 1+, 800 services and travel cards in Nebraska. Simply Total targets both the residential and business market, including the hotel/motel market. The company plans to continue its marketing technique of direct contact and face-to-face meetings with consumers. Mr. Fitzpatrick stated the company plans to hire employees in Nebraska within the next 12 month for positions in sales and customer service departments.

Financial information was provided to the Commission in the application. The statements reflect the company has faced

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initial losses, primarily due to the costs associated with doing business as a local service provider in Iowa. However, Mr. Fitzpatrick stated the company is exceeding its projections and hopes to become profitable by the end of 1996.

The proposed tariff, which is part of the application, is in accordance with the Commission's Rules and Regulations. The tariff states that company may collect advance payments or deposits if deemed necessary. The company is making steady and strong improvements financially; therefore, the Commission does not oppose this precondition.

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-1258 be, and it is hereby, granted and Total Communications Services, Inc. d/b/a Simply Total Communications of Cedar Rapids, Iowa 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.

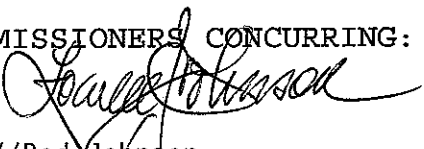
IT IS FINALLY ORDERED that this order be, and it is hereby made the Commission's official certificate of authority to furnish the service authorized herein as a common carrier.

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MADE AND ENTERED at Lincoln, Nebraska this 30th day of
January, 1996.

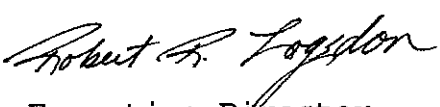
COMMISSIONERS CONCURRING:


//s//Rod Johnson
//s//Frank E. Landis
//s//James F. Munnelly

NEBRASKA PUBLIC SERVICE COMMISSION


Chairman

ATTEST:


Executive Director