

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1279
Athena International, L.L.C., of)
New Orleans, Louisiana seeking)
authority to operate as a resale) GRANTED
carrier of intrastate interLATA and)
intraLATA telecommunications)
services within the state of)
Nebraska.) Entered: March 7, 1996

APPEARANCES:

For the Applicant:

Mike J. Landers
701 Poydras
675 One Shell Square
New Orleans, Louisiana 70139

For the Communications Department:

R. Andrew Massey
300 The Atrium, 1200 N St.
P.O. Box 94927
Lincoln, NE 68508

PRELIMINARY MATTERS

Athena International, L.L.C., (hereinafter referred to as Athena) of New Orleans, Louisiana filed an application with the Commission on January 5, 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, on January 8, 1996. Athena appeared before the Commission for a video-conference hearing, chaired by Commissioner Johnson, February 13, 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 February 13, 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.

Athena International, L.L.C., is a privately held company which was incorporated in 1994 in Louisiana. Athena seeks both intraLATA and interLATA authority. Mr. Landers is one of the four managers of Athena. After receiving his bachelors degree, Mr. Landers went on to acquire a masters degree in Business Administration. Mr. Landers has been active in the telecommunications industry since 1988.

The applicant has received authority to operate in approximately twenty (20) states and it plans to eventually be certified in all fifty (50) states. No state has denied Athena a certificate of authority and no formal complaints have been filed against the company.

The underlying carrier for the services will be MCI. Athena uses a billing service located out of Tulsa, Oklahoma for some of its customers. Athena's name and customer service information is located on all of Athena's bills. In addition, Athena has a toll-free 800 number for customer service, which operates everyday for at least a period of eight hours.

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At this time Athena markets 1+, 800 services and travel cards. Athena targets both the small to medium sized residential businesses. The company currently is using commissioned sale agents. Athena has incorporated a screening process to insure that all of its sales agents operate in good faith. The financial information shows that Athena has suffered the normal non-profit period that is typical of a new company. However, the company has projected that they will show a profit in the first quarter of 1996. In addition, Athena does have a policy that prohibits slamming.

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, is in accordance with the Commission's Rules and Regulations. The tariff states that the company may collect advance payments or deposits if deemed necessary.

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-1279 be, and it is hereby, granted and Athena International, L.L.C., of New Orleans, Louisiana 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.

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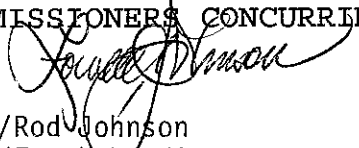
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IT IS FURTHER ORDERED that applicant file an updated tariff prior to offering service pursuant to the certificate granted in this order.

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.

MADE AND ENTERED at Lincoln, Nebraska this 7th day of March, 1996.



COMMISSIONERS CONCURRING:


//s//Rod Johnson
//s//Frank Landis
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION

Chairman

ATTEST:



Executive Director