

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1294
Voyager Networks, Inc. of New York,)
New York seeks authority to obtain)
a Certificate of Convenience and) GRANTED
Necessity to operate as a reseller)
of interexchange telecommunications)
services within Nebraska.) Entered: April 23, 1996

APPEARANCES:

For the Applicant:

Tammy Rich
88 Pine Street, 7th Floor
New York, New York 10005

For the Communications Department:

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

PRELIMINARY MATTERS

Voyager Networks, Inc., (hereinafter referred to as Voyager) of New York, New York filed an application with the Commission on February 14, 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 February 16, 1996. Voyager appeared before the Commission for a video-conference hearing, chaired by Commissioner Johnson, April 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 April 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.

Application No. C-1294

PAGE TWO

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.

Ms. Tammy Rich, Vice-President of Operations, testified on behalf of Voyager. Ms. Rich has been with the company since 1993. Ms. Rich stated that Voyager seeks both intraLATA and interLATA authority.

Voyager is a privately held company which was incorporated in 1992 in Delaware. Ms. Rich stated the applicant has received authority to operate in approximately thirty-eight (38) states and plans to eventually be certified in all fifty (50) states. No state has denied Voyager a certificate of authority and no formal complaints have been filed against the company. Voyager currently has roughly 1,500 subscribers.

The underlying carrier for the services will be WilTel. Voyager uses Profit-Tech for billing. Voyager's name and customer service information is located on all its bills. The applicant has a toll-free 800 number for customer service during normal business hours.

At this time, Voyager markets switched and dedicated access services, travel cards and debit cards. The company does not provide alternate operator services. Voyager uses direct person-to-person contact and referrals for marketing. The applicant requires written LOA's to minimize the possibility of slamming. Voyager reserves the right to request an advance deposit if necessary.

Financial information was provided to the Commission in the application. The proposed tariff, which is part of the application, is in accordance with the Commission's Rules and Regulations. However, a modification must be made to Section 2.7.3(c) pertaining to deposit. By Commission Rule, interest

Application No. C-1294

PAGE THREE

will be paid on deposits and this should be reflected in the tariff.

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-1294 be, and it is hereby, granted and Voyager Networks, Inc., of New York, New York 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.

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

COMMISSIONERS CONCURRING:


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

NEBRASKA PUBLIC SERVICE COMMISSION

Chairman

ATTEST:

Deputy Executive Director

