

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1302
Preferred Telecom, Inc. of Dallas,)
Texas seeking authority to operate as) GRANTED
a resale carrier of intrastate inter-)
LATA and intraLATA telecommunications)
services within the state of Nebraska.) Entered: August 20, 1996

APPEARANCES:

For the Applicant:

Jerry G. Kirby
12655 North Central Expressway
Suite 800
Dallas, Texas 75243

For the Communications Department:

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

PRELIMINARY MATTERS

Preferred TeleCom, Inc. of Fort Lauderdale, Florida filed an application with the Commission on March 6, 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 March 8, 1996. Preferred TeleCom appeared before the Commission for a video-conference hearing, chaired by Commissioner Johnson, May 6, 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 rules (1), the evidence adduced at the May 6, 1996 hearing, and being fully informed, the Commission is of the opinion and finds:

(1) Interexchange reseller applications 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.

Preferred TeleCom is a privately-held company that was incorporated in 1994 in Delaware. Preferred TeleCom seeks both intraLATA and interLATA authority. Preferred TeleCom was represented by Mr. Jerry Kirby. Mr. Kirby has been active in telecommunications for a number of years and is the Director of Regulatory Affairs for Preferred Telecom.

The applicant has received authority to operate in approximately twenty-five (25) states and it plans to eventually be certified in all forty-eight (48) continental states. No state has denied Preferred TeleCom a certificate of authority and no formal complaints have been filed against the company.

The underlying carrier for the services will be MCI or Sprint. Preferred TeleCom uses the International TeleMedia Billing service for some of its customers. Preferred Telecom's name and customer service information is located on all of its bills. In addition, Preferred TeleCom has a toll-free 800 number for customer service, which operates every business day for at least a period of eight hours. Eventually, Preferred Telecom will operate a twenty-four hour customer service hotline.

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Preferred TeleCom markets 1+, 800 services and travel cards. Some of the marketing techniques that will be used in Nebraska are direct mailing, telemarketing and direct sales agents. Preferred Telecom specializes in sales to travel agents. Their service includes using a voice activated calling system that gives the customer added account security. In addition, Preferred TeleCom does have a policy that prohibits slamming.

Financial information was provided to the Commission in the application. The statements reflect the company is making improvements. However, the statements reflect substantial operating losses. Therefore, the Company is not to take deposits or advance payments from Nebraska subscribers until granted permission by this Commission. The proposed tariff, which is part of the application, is in accordance with the Commission's Rules and Regulations. It should reflect deposits/advance payments will not be required.

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-1302 be, and it is hereby, granted and Preferred Telecom, Inc. of Dallas, Texas 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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IT IS FURTHER ORDERED that applicant file an updated tariff prior to offering service pursuant to the certificate granted in this order.

IT IS FURTHER ORDERED that applicant shall not require or accept advance payments or deposits from Nebraska subscribers until authorized by this Commission.

IT IS FURTHER ORDERED that monthly financial statements be filed through August, 1997 with the Commission in order to monitor the company's fitness.

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 20th day of August, 1996.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



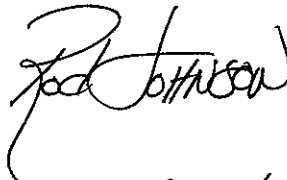
//s//Noel Johnson

//s//Frank E. Landis

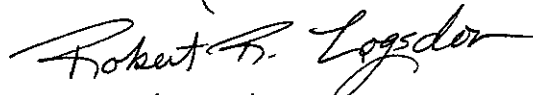
//s//James F. Munnely

//s//Daniel G. Urwiller

Chairman



ATTEST:



Executive Director