

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1303
of Long Distance Wholesale Club of)
Arlington, Virginia, seeking)
authority to operate as a resale) GRANTED
common carrier of telecommunica-)
tions services within the state)
of Nebraska.) Entered: June 12, 1996

APPEARANCES:

For the Applicant

Thomas J. Cirrito, President
1400 Wilson Blvd., 11th Floor
Arlington, Virginia 22209

For the Communications Department

Chris A. Post
300 The Atrium, 1200 N Street
P.O. Box 94927
Lincoln, Nebraska 68508

PRELIMINARY MATTERS

Long Distance Wholesale Club (hereinafter referred to as LDWC) of Arlington, Virginia filed an application with the Commission on March 8, 1996. The company seeks authority to operate as a resale carrier of intrastate interLATA and intraLATA telecommunications services within the state of Nebraska. The applicant's business address is noted above. Notice of the application appeared in the Omaha Daily Record, March 11, 1996. LDWC appeared before the Commission for a video-conference hearing, chaired by Commissioner Rod Johnson, May 21, 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 May 21, 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.

Mr. Thomas Cirrito of LDWC, testified. Mr. Cirrito 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). LDWC incorporated in the state of Delaware in 1993. The applicant is a majority-owned subsidiary of Telco Communications Group, Inc.

The applicant has received authority to operate in approximately eighteen (18) states and has applications pending in several others. No formal complaints have been filed against LDWC, its officers, directors, shareholders or principals. Several informal complaints or inquiries have been initiated; however, each has been subsequently satisfied. No state has denied LDWC a certificate of authority.

LDWC will use AT&T as its underlying carrier. LDWC proposes to offer 1+ and travel card services. LDWC's services are provided to both residential and business customers.

The applicant utilizes direct mail, radio and television advertising. LDWC provides a toll-free 800 number for customer service twenty-four hours a day.

LDWC does not routinely require subscribers to make advance deposits in order to obtain service. However, the applicant may collect deposits if it is necessary due to a subscribers credit history. Should LDWC find it necessary to collect deposits, such deposits will be collected in accordance with Commission rules.

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Financial information was provided to the Commission in the application. The statements reflect the company is capable of offering service within the state.

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-1303 be, and it is hereby, granted and Long Distance Wholesale Club, of Arlington, Virginia 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 statements 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 12th day of June, 1996.


COMMISSIONERS CONCURRING:

//s//Lowell C. Johnson
//s//Frank E. Landis
//s//James F. Munnely
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION


Vice Chairman

ATTEST:


Executive Director