

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1319  
Business Options, Inc. of Lansing, )  
Illinois, seeking authority to ) GRANTED  
operate as a resale common carrier )  
of telecommunications services )  
within the state of Nebraska. ) Entered: June 4, 1996

APPEARANCES:

For the Applicant

For the Communications Department

Kurtis Kintzel, President  
2301 172nd Street, Suite 101  
Lansing, Illinois 60438

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

PRELIMINARY MATTERS

Business Options, Inc. (hereinafter referred to as Business Options) of Lansing, Illinois filed an application with the Commission on April 4, 1996. The company seeks authority to obtain a Certificate of Public Convenience and Necessity to operate as a reseller of interexchange 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, April 5, 1996. Business Options appeared before the Commission for a video-conference hearing, chaired by Commissioner Rod Johnson, May 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 rules<sup>1</sup>, the evidence adduced at the May 13, 1996 hearing, and being fully informed, the Commission is of the opinion and finds:

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<sup>1</sup>Interexchange 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. Kurtis Kintzel of Business Options, testified. Mr. Kintzel 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). Business Options incorporated in the state of Illinois on August 2, 1993. The applicant is a privately-held corporation.

The applicant has received authority to operate in approximately twenty (20) states and has applications pending in several others. No formal complaints or other investigatory or enforcement proceedings involving the business operations of Business Options, its officers, directors, shareholders or principals, have been initiated by a state commission. No state has denied Business Options a certificate of authority.

Business Options will use Wiltel as its underlying carrier. Business Options proposes to offer 1+, 800 services and calling card services. Business Options' services are provided to both residential and business customers.

The applicant provides a toll-free 800 number for customer service, during business hours. The customer service toll-free number is displayed on Business Options' bill.

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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.

Lastly, we note that Business Options has admitted to marketing its services within Nebraska for interstate traffic through a marketing company, Creative Financial Options, Inc. We urge Business Options to follow all Commission Rules & state statutes and to abide by all Commission orders to ensure its marketing efforts are in the consumer's interest.

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-1319 be, and it is hereby, granted and Business Options, Inc., of Lansing, Illinois 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.

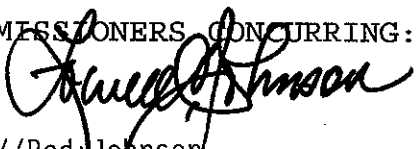
IT IS FINALLY ORDERED that this order be, and it is hereby made the Commission's official certificate of authority to furnish the service authorized herein as a common carrier.

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MADE AND ENTERED at Lincoln, Nebraska this 4th day of June, 1996.

COMMISSIONERS CONCURRING:

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

NEBRASKA PUBLIC SERVICE COMMISSION

Chairman

ATTEST:

  
  
Executive Director