

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1320
of POPP Telcom Incorporated of)
Golden Valley, Minnesota, seeking)
authority to operate as a resale) GRANTED
common carrier of telecommunica-)
tions services within the state)
of Nebraska.) Entered: July 16, 1996

APPEARANCES:

For the Applicant

Adam Soffer, General Counsel
620 Mendelssohn Ave.
Golden Valley, Minnesota 55427

For the Communications Department

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

PRELIMINARY MATTERS

POPP Telcom Incorporated (hereinafter referred to as POPP) of Golden Valley, Minnesota filed an application with the Commission on April 5, 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, April 12, 1996. POPP appeared before the Commission for a video-conference hearing, chaired by Commissioner Rod Johnson, June 25, 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 June 25, 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.

Adam Soffer of POPP, testified. Mr. Soffer stated, and the pleadings reflect, the applicant seeks both intraLATA and interLATA authority. The application also seeks authority to provide Alternate Operator Services (AOS). POPP incorporated in the state of Minnesota on October 23, 1981. The applicant is a privately-held corporation owned entirely by William J. Popp.

The applicant has received authority to operate in approximately fourteen (14) states and has applications pending in several others. No state has denied POPP a certificate of authority.

POPP has been the subject to two (2) formal complaints before the Minnesota Public Utilities Commission ("MPUC"). One complaint dealt with advertising under the new name of POPP Telcom Incorporated before the MPUC had approved the name change. The second complaint stemmed from POPP's failure to fulfill the MPUC's request to obtain publicly available residential rate information. However, both complaints have been successfully resolved.

POPP will use Sprint, AT&T and MCI as its underlying carriers. POPP proposes to offer switched and dedicated long distance service. The applicant's main customers include small to mid-size businesses.

The applicant utilizes independent agents to market its products. POPP provides a toll-free 800 number for customer service twenty-four hours a day.

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

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-1320 be, and it is hereby, granted and POPP Telcom Incorporated, of Golden Valley, Minnesota is hereby authorized to operate as a resale carrier of intrastate interexchange intraLATA and interLATA telecommunications services within the state of Nebraska, including alternate operator services.

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.

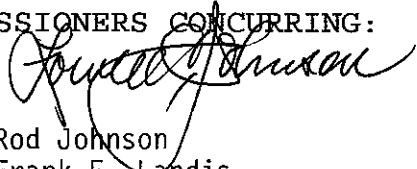
IT IS FINALLY ORDERED that this order be, and it is hereby made the Commission's official certificate of authority to furnish the service authorized herein as a common carrier.

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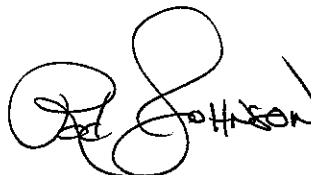
MADE AND ENTERED at Lincoln, Nebraska this 16th day of July, 1996.

COMMISSIONERS CONCURRING:

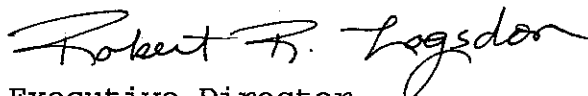

//s//Rod Johnson
//s//Frank E. Landis
//s//James F. Munnelly
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION

Chairman



ATTEST:


Executive Director