

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-1499
of Long Distance Direct Holdings,)
Inc., of Pearl River, New York,)
who seeks to obtain a certificate)
of public convenience and neces-) GRANTED AS AMENDED
sity to provide non-facility)
based, private line and switched)
intercity service and to provide)
intracity switched and non-)
switched services within the)
state of Nebraska.) Entered: August 26, 1997

BY THE COMMISSION:

APPEARANCES:

For the Applicant:

None

For Intervenor:

Arapahoe, Benkelman, Cozad,
Diller, Henderson and Wauneta
Telephone Companies:
Timothy F. Clare, Esq.
Rembolt, Ludtke, et. al.
1201 Lincoln Mall, Suite 102
Lincoln, NE 68508

BY THE COMMISSION;

By its application filed March 7, 1997, Long Distance Direct Holdings, Inc., Pearl River, New York, seeks to obtain a certificate of public convenience and necessity to provide non-facility based, private line and switched intercity service and to provide intracity switched and non-switched services within the state of Nebraska. Notice of the application was published in the Omaha Daily Record on March 11, 1997, pursuant to the rules of Commission. Petitions of intervention were filed by Aliant Communications, Co. (Aliant), Nebraska Independent Telephone Association (NITA), the Nebraska Telephone Association (NTA), Plainview Telephone Co., Inc., Arapahoe Telephone Co., Benkelman Telephone Co., Cozad Telephone Co., Diller Telephone Co., Henderson Cooperative Telephone Co. and Wauneta Telephone Co. Hearing on the application was held June 11, 1997 at Lincoln, with appearances as shown.

Prior to the taking of evidence, applicant and the intervenors NITA, Aliant, Plainview, Arapahoe, Benkelman, Cozad and Wauneta stipulated that applicant has demonstrated that it meets and exceeds the standards of financial, technical and managerial competence and all criteria necessary to provide local exchange service in Nebraska in the territory presently served by US West Communications, Inc., GTE Midwest, Inc. and Sprint-United. Before

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applicant is allowed to provide local exchange service to its users, it must either: 1) through negotiation or arbitration reach an interconnection/resale agreement with US West, GTE and/or Sprint and receive Commission approval of the interconnection/resale agreement; or 2) in the event a certificated local exchange carrier provides a wholesale tariff, purchase rates from that tariff, file its own tariff and receive Commission approval of its tariff. Applicant must file and the Commission must approve tariffs in accordance with provisions of Section 002.21 of the Commission's regulations.

Applicant produced one witness, Salome James, who testified: She is accounts receivable manager of applicant. It is her opinion that LDDH possesses technical, financial and managerial resources and ability sufficient to provide exchange telecommunications services on a resale basis to every person within the geographic area of the license. LDDH has provided high quality interexchange service, voice as well as data, to customers in Nebraska beginning in October 1996. LDDH originates interstate and international traffic in all 50 states. LDDH has obtained local service authority in 6 states. LDDH buys time from MCI and AT&T and sells it to the customer at a lower rate. LDDH's chief executive officer is Steven Lampert, who oversees the expansion of LDDH's worldwide network. Applicant has a customer service department which handles its complaints through an 800 number. Applicant markets its services through direct mail, telemarketing and infomercials. Late-filed Exhibit #7 shows the states where applicant has pending applications.

No other evidence was adduced by any other party.

O P I N I O N A N D F I N D I N G S

On February 8, 1996, the Federal Telecommunications Act of 1996 opened the way for competition in all corners of the telecommunications market. One purpose of the Act is to promote the development of competition in local exchange service markets. To implement that, the federal act requires incumbent local exchange carriers to resell their services to new entrants and to open their existing facilities under interconnection agreements which must be negotiated or arbitrated and then be approved by state commissions. The federal act contemplates simplifying and reducing existing regulations to expedite entry by new local exchange carriers by removing all barriers to entry.

This Commission finds that it should embrace and adopt the pro-competitive policies of the Act. There is a strong likelihood that multiple benefits will flow from a competitive environment.

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Competition in local exchange service is likely to produce improved efficiency in the provision of services, accelerated deployment of technological innovations and improved customer service. Competition will also offer consumers a choice of providers.

As it currently does when evaluating applications for certificates of authority to provide interLATA interexchange services, the Commission will consider applications, including LDDH's application, for authority to provide local exchange service in light of the following criteria and standards:

- (a) Whether the applicant has provided the information required by the Commission;
- (b) Whether the applicant has provided a performance bond, if required;
- (c) Whether the applicant possesses adequate financial resources to provide the proposed service;
- (d) Whether the applicant possesses adequate technical competence and resources to provide the proposed service;
- (e) Whether the applicant possesses adequate managerial competence to provide the proposed service; and
- (f) Whether granting the applicant a certificate preserves and advances universal service, protects the public safety and welfare and ensures the continued quality of telecommunications services and safeguards the rights of consumers, pursuant to Section 253(b) of the Federal Telecommunications Act.

LDDH has demonstrated that it meets and exceeds the standards of financial, technical and managerial competence and all other criteria necessary to provide local exchange service, in Nebraska.

Before LDDH is allowed to provide local exchange service to its users:

- (a) LDDH, either through negotiation or arbitration, must reach interconnection agreements with US West, United or GTE;
- (b) The Commission must approve the interconnection agreement;
- (c) LDDH must file, and the Commission must approve, tariffs in accordance with the provisions of Section 002.21 of

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Neb. Admin. R. & Regs. tit. 291, ch. 5 ; and

- (d) LDDH must include in its promotional materials, used by all of its marketing personal, a listing of Nebraska exchanges where LDDH has authority as a local exchange service provider.

Further, prior to providing service to any areas outside the territories of US West, United and GTE, LDDH must obtain additional authority from this Commission. The Commission will enforce the stipulation entered into by the parties. The intervenors who participated in the stipulation maintain the right and opportunity to contest any future application of LDDH to expand its service territory in Nebraska. Nothing in the stipulation shall in any way limit LDDH's right in connection with any such future application to demonstrate to the Commission that it has satisfied the criteria or standards established by the Commission in such cases.

As a provider of local exchange service in Nebraska, LDDH is subject to the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service, deposits), applicable to any other local exchange company except those obligations imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Federal Telecommunications Act.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1499 be, and it is hereby, granted subject to applicant's fulfillment of the conditions set forth in the foregoing findings.

IT IS FURTHER ORDERED that upon final approval of the interconnection agreement, LDDH is granted authority to provide local exchange service in areas served by US West, United and GTE once specific interconnection agreements have been approved. LDDH must make further application to this Commission for authority to provide local exchange service outside the US West, United and GTE service areas.

IT IS FURTHER ORDERED that upon final approval of appropriate interconnection agreement(s), LDDH is granted authority to provide local exchange service in areas served by US West, United and GTE. LDDH must make further application to this Commission for authority to provide local exchange service outside the US West, United and GTE service areas.

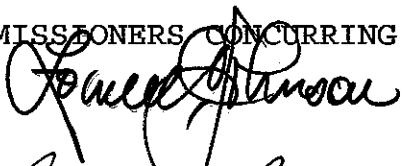

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IT IS FURTHER ORDERED that LDDH shall abide by the same laws, rules and regulations, both federal and state applicable to other local exchange carriers except obligations imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Federal Telecommunications Act.

IT IS FINALLY ORDERED that this Order be, and it is hereby, made the Commission's official certificate of public convenience and necessity to the applicant to provide local exchange service within the territory described herein in Nebraska.

COMMISSIONERS CONCURRING:

//s//Rod Johnson
//s//Frank E. Landis
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION

Chairman



ATTEST:


Executive Director