

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application ) Application No. C-1616  
of ComTel Computer Corp. of West- )  
minster, Colorado, seeking auth- ) APPLICATION DENIED AND  
ority to operate as a resale com- ) ORDER TO CEASE AND DESIST  
mon carrier of telecommunications )  
services within the state of )  
Nebraska. ) Entered: December 23, 1997

APPEARANCES:

For the Applicant:  
None

For the Commission Staff:  
Hal Hasselbalch, Staff Attorney  
300 The Atrium, 1200 N Street  
Lincoln, Nebraska 68508

BY THE COMMISSION:

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

By application filed August 20, 1997, ComTel Computer Corp. ("ComTel" or "Applicant") of Westminster, Colorado, seeks authority to provide intraLATA and interLATA resold telecommunications services within the state of Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska, on August 22, 1997, pursuant to the rules of the Commission. No protests were filed. A hearing on the application was held by video conference on October 15, 1997.

Applicant produced two witnesses, Larry Trudell and Marlene Twiford.

Larry Trudell testified: ComTel currently provides telecommunications services in Nebraska for three hotels with a total of approximately 214 rooms. Mr. Trudell was aware that ComTel's certificate had been previously revoked, but he thought it had been reinstated.

In response to questions concerning the adequacy of the applicant's financial resources, Marlene Twiford testified: ComTel had made a profit in each of the past three years.

However, the balance sheet and income statement submitted by ComTel in its application reflect a cumulative deficit of approximately \$54 million, with a net revenue loss through last year.

The Commission afforded the applicant an opportunity to submit late-filed exhibits to cure the deficiencies in its application. The Commission requested that the applicant file:

- (1) Documentation concerning the alleged reinstatement of applicant's certificate of public convenience and necessity;

- (2) A break-even analysis indicating when ComTel expects to achieve profitability; and
- (3) The company's business plan.

Applicant failed to provide the required documentation.

ComTel was previously a certificated telecommunications carrier in Nebraska. However, that certificate was revoked by the Commission on September 26, 1994, in Application No. C-1207 due to applicant's failure to file an annual report.

Resellers of telecommunications services are subject to Commission jurisdiction under Neb. Rev. Stat. Sections 75-604 (1997 Supp.) and 86-805 (Reissue 1994), and Title 291 of the Commission's Rules and Regulations, Chapter 5, Rule 003.12. Neb. Rev. Stat. Section 75-604 provides in part that no company "shall offer any telecommunications service . . . without first making an application for and receiving from the commission a certificate of public convenience and necessity, after due notice and hearing under the rules and regulations of the commission." Neb. Rev. Stat. Section 85-805(2) provides that:

The commission may deny certification to any telecommunications company which:

- (a) Does not provide the information required by the commission;
- (b) Fails to provide a performance bond, if required;
- (c) Does not possess adequate financial resources to provide the proposed service; or
- (d) Does not possess adequate technical competency to provide the proposed service.

From examination of the application filed herein and the testimony adduced at the hearing, the Commission finds that the applicant has not provided all of the information requested. This failure to comply prevents the Commission from being able to make an accurate assessment as to the applicant's fitness and ability to provide telecommunications services in Nebraska. Due to this failure to comply with the Commission's request for information and failure to demonstrate adequate financial resources, the Commission is of the opinion and finds that the application should be denied. Further, the Commission is of the opinion and finds that the applicant has been offering telecommunications service in Nebraska without authority and should cease and desist from providing such services.

If applicant continues to operate, measures will be taken to assess administrative fines, as authorized under state law.

O R D E R

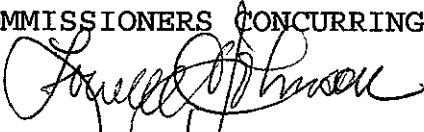
IT IS THEREFORE ORDERED, by the Nebraska Public Service Commission that Application Number C-1616 be, and hereby is, denied.

IT IS FURTHER ORDERED that ComTel Computer Corp. cease and desist from providing telecommunications services in the state of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 23rd day of December, 1997.

NEBRASKA PUBLIC SERVICE COMMISSION

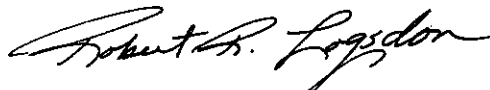
COMMISSIONERS CONCURRING:



Chairman



ATTEST:



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

Executive Director

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

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