

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

M. Gene Hand, Director, ) Departmental Complaint 21  
Communications Department, ) Application No. C-1680  
Nebraska Public Service )  
Commission, Lincoln, )  
Nebraska, Complainant, ) ORDER TO CEASE AND DESIST  
vs. )  
Total World Telecom, Inc., San )  
Antonio, Texas, Defendant. ) Entered: March 24, 1998

APPEARANCES:

For the Complainant:  
Deonne Bruning  
300 The Atrium, 1200 N Street  
Lincoln, NE 68508

BY THE COMMISSION:

On November 18, 1997, M. Gene Hand, Director of the Nebraska Public Service Commission's Communications Department, opened a Departmental Complaint against Total World Telecom, Inc. of San Antonio, Texas, and its officers (defendant). Complainant petitioned the Nebraska Public Service Commission to convene a hearing pursuant to Neb. Rev. Stat. Section 75-131 (1996) and enter an order requiring defendant to cease and desist from offering telecommunications services in Nebraska pursuant to Neb. Rev. Stat. Section 75-133 (1996). Notice of the complaint was published in The Daily Record, Omaha, Nebraska, on November 19, 1997. A hearing was held on the matter in the Commission Hearing Room on March 10, 1998. Commission staff made numerous attempts to notify the defendant of the complaint and hearing, as detailed below.

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

Defendant had previously applied for authority to transact business as a reseller of interexchange telecommunications services in Nebraska on December 25, 1995, in Application No. C-1276. Mr. Jack Shultz of Lincoln, Nebraska, represented the defendant in that application. In that application, defendant accrued \$202.50 in fees which to date have still not been paid. Pursuant to defendant's request to withdraw its application, the Commission dismissed the application with prejudice on July 9, 1996. In July of 1997, the Commission obtained a mailing issued by the defendant advertising interexchange service (Exhibit 3). The Commission staff contacted Mr. Shultz both by telephone and letter to determine whether he continued to represent the defendant. Mr. Shultz indicated that he did not and that after several attempts he was unable to contact the defendant. Commission staff initiated the complaint and mailed a copy to the defendant by registered, certified mail at the San Antonio address indicated on its advertisement (Exhibit 5). That let-

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ter was returned to the Commission with a postal stamp indicating a new address in Houston, Texas. The complaint was re-sent to the defendant by registered, certified mail at the Houston address (Exhibit 6). That notice was likewise returned with a postal stamp indicating that the defendant had moved without a forwarding address. Commission staff then attempted to access the defendant's WEB page as listed on its advertisement, but the site was no longer operable. Staff then posted a message on an internet bulletin board asking other state commissions if they had any information about the defendant (Exhibit 4). Staff received several responses stating that the defendant's authority had been revoked in numerous states and defendant had filed for bankruptcy. Through the internet posting, staff also obtained Dallas, Texas, and Boca Raton, Florida, addresses for the defendant. A hearing date was set and notice was sent to defendant at the Houston, Dallas, and Boca Raton addresses (Exhibit 7). The notice sent to Boca Raton was returned and marked undeliverable. Mr. Shultz was also notified of the hearing by telephone. A hearing was held on the matter on March 10, 1998. Staff was represented by counsel as indicated above and defendant did not make an appearance at the hearing.

Upon presentation of the evidence described above, the Commission finds that the defendant is operating as a reseller of intrastate interLATA and intraLATA interexchange telecommunications services in Nebraska without a Certificate of Public Convenience and Necessity contrary to Neb. Rev. Stat. Section 75-604 (1996) and that the departmental complaint against defendant should be sustained. The Commission further finds that the defendant should cease and desist from providing such services in Nebraska.

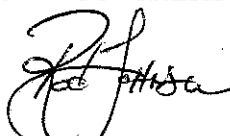

## O R D E R

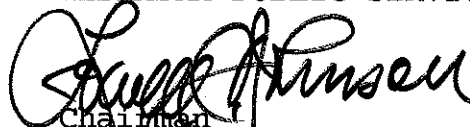
IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Departmental Complaint No. 21, Commission Docket No. C-1680, be, and it is hereby, sustained and that the defendant Total World Telecom, Inc. of San Antonio, Texas, shall cease and desist from the provision of interLATA and intraLATA telecommunications services in Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 24th day of March, 1998.

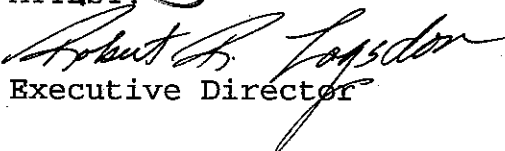
COMMISSIONERS CONCURRING:

NEBRASKA PUBLIC SERVICE COMMISSION

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

  
Chairman

ATTEST:

  
Executive Director