

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-2051
of the Nebraska Public Service) Departmental Complaint No. 29
Commission Communications Depart-) ment, seeking an order to cease)
and desist operations and to re-) MOTIONS FOR RECONSIDERATION
voke the certificates of public) HELD IN ABEYANCE; ORDER
convenience and necessity issued) ISSUED
to the named defendants (IXCs).) Entered: September 14, 1999

BY THE COMMISSION:

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

On August 10, 1999, the Commission entered an order in this docket revoking the certificates of operating authority for all defendants named therein for failing to file annual reports with the Commission as required by Neb. Rev. Stat. sec. 86-807 (Reissue 1994) and by the Commission's Rules and Regulations, Title 291, Chapters 1 and 5.

On August 23, 1999, defendants Protel Advantage, Inc., d/b/a Long Distance Savings (Protel); Coleman Enterprises, Inc., d/b/a Local Long Distance (Coleman); and Network International, LLC (Network) (collectively, the movants or defendants), filed timely motions for reconsideration, requesting the Commission reconsider their August 10, 1999, decision to revoke the movants' certificates of operating authority.

As part of the proceedings in this docket prior to the August 10, 1999, order all defendants named in the initial complaint were given the opportunity to be dismissed from the complaint provided they: 1) sign and file a stipulation with the Commission's Communications Department (the Department) wherein each defendant admits to filing their annual report late; 2) agree to pay an administrative fine as determined by the Department; and 3) file the required annual report. Both Protel and Coleman filed delinquent annual reports with the Commission on June 1 and July 2, respectively; however, neither signed a stipulation or paid the administrative fine, resulting in the revocation of their certificates on August 10, 1999. Network did not file an annual report until August 23, 1999, and has neither signed a stipulation nor paid the administrative fine.

In their motions for reconsideration, the movants request reinstatement to provide telecommunications services in Nebraska. Coleman agrees to sign the required stipulation and pay the necessary fine upon reinstatement, while Protel and Network request a waiver of any fine outstanding. The Commission rejects these requests. As stated in prior orders of this docket and as presented during the August 3, 1999 hearing in the matter, each of the movants was given ample opportunity to comply with Commission requirements in this docket and received more than adequate notice of possible consequences. A waiver of all penalties ignores the defiance of the Commission's directives by the movants, whether intentional or not. Furthermore, we believe the burden of proving worthiness of being reinstated should be placed on the shoulders of

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those seeking reinstatement. Therefore, the Commission is of the opinion that should the movants desire to regain their certificates to provide telecommunications services, each must first comply with the following Commission requirements. Each party must:

- 1) Sign the required stipulation;
- 2) Pay the appropriate administrative fine. The amounts owed by each party to the Commission is as follows:

Protel	\$ 500.00
Coleman	\$3,510.00
Network	\$8,310.00; and,
- 3) Submit an agreement that they will comply with all Commission orders, including those entered in connection with the Nebraska Universal Service Fund.

In order to procedurally facilitate compliance and satisfaction with the requirements of this docket, this Commission will hold the defendants' motion for reconsideration in abeyance until such time as the above three conditions are met. At that time, the Commission will entertain the defendants' motion and will, upon confirmation of compliance, enter an order granting the defendants' motion.

Only upon satisfactory completion of each of the three conditions listed above, within 10 days of the date of this order, will the request of the respective party to be reinstated to provide telecommunications services pursuant to their original certificate be granted by this Commission.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the motions for reconsideration of Protel Advantage, Inc., d/b/a Long Distance Savings; Coleman Enterprises, Inc., d/b/a Local Long Distance; and Network International, LLC be, and they are hereby, denied.

IT IS FURTHER ORDERED that the defendants' motion for reconsideration be held in abeyance that the defendants be given 10 days from the date of this order to comply with the conditions set forth herein.

MADE AND ENTERED at Lincoln, Nebraska, this 14th day of September, 1999.

COMMISSIONERS CONCURRING:

Ann C. Boyle

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

NEBRASKA PUBLIC SERVICE COMMISSION

Lowell C. Johnson
 Chairman

ATTEST:

Robert S. Logsdon
 Executive Director