

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-2092
of JD Services, Inc., d/b/a)
American Freedom Network, Salt Lake)
City, Utah, seeking to obtain a)
Certificate of Public Convenience) APPLICATION GRANTED
and Necessity to operate as a)
reseller of interexchange tele-)
communications services within the) Entered: February 15, 1999
state of Nebraska.

BY THE COMMISSION:

On August 5, 1999, JD Services, Inc., d/b/a American Freedom Network (Applicant), filed with the Commission an application to obtain a Certificate of Public Convenience and Necessity to operate as reseller of interexchange telecommunications services in the state. Notice of the application was published in The Daily Record on August 9, 1999.

Because the applicant had a prior certificate under Application No. C-1237 that had been revoked, the Commission set this application for hearing. Notice of the hearing was sent to all interested parties by first class mail on October 18, 1999. On November 4, 1999, a hearing was held in the Commission Hearing Room. Mark Pieper appeared for the applicant. Michael Loeffler appeared for the Commission. Based on the evidence adduced at the hearing, this Commission, on November 23, 1999, entered an order denying the application.

On December 1, 1999, JD Services filed a motion for rehearing which was treated as a motion for rehearing and reconsideration. The Commission granted the motion on December 7, 1999, and a rehearing was held on January 11, 2000. A notice of the hearing was sent by the executive director of the Commission to all interested parties by first class mail on December 22, 1999. Appearing at the rehearing for the applicant was Robyn Davis and Mark Pieper. Michael Loeffler appeared for the Commission.

F I N D I N G S

A short recitation of the facts regarding this application is herein included. We note for the record that a full recital of the facts including notation of proper notice is included in our November 23, 1999, order and is incorporated into the record of this proceeding.

In short, applicant was previously issued a Certificate of Public Convenience and Necessity in Application No. C-1237. JD Services filed its 1997 annual report with the Commission on May 12, 1998, which was twelve days following the deadline for such filing.

On May 14, 1998, the applicant was notified by certified mail that its annual report was received after the filing deadline and

that the company was being assessed an administrative fine of \$500.00. In addition, a stipulation was sent in which JD Services would acknowledge that it had failed to file the required annual report. On August 4, 1998, a hearing was held in the Commission Hearing Room to determine whether named defendants, including JD Services, should have their authority to operate in the state revoked. The applicant made no appearance at the hearing. On August 11, 1998, the Commission entered an order revoking the Certificate of Public Convenience and Necessity of JD Services. On August 19, 1998, the executive director of the Commission sent a letter by first class mail to JD Services informing them of its revocation.

Nothing further was heard from the applicant until the applicant filed a tariff revision for the authority granted, but later revoked in Application No. C-1237 in June 1999. On July 28, 1999, the applicant was informed once again that the authority had been revoked and this application ensued in order to regain authority to operate in the state.

At the rehearing, the Commission heard additional evidence in which the applicant detailed managerial steps it had taken to prevent similar occurrences such as those that led to the original revocation of the certificate. The applicant has terminated the employment of employees, including their controller and secretarial staff, who were key in positions at the time JD Services failed to file their annual report. In addition, JD Services has reorganized its internal structure and now has assigned its regulatory matters to its legal in-house counsel. The company has also indicated that all mail relating to regulatory matters would be directed to the office of their in-house attorney. Mr. Kirk Guinn, the in-house legal counsel now assigned to regulatory matters by JD Services, testified that he has since introduced a "tickler" file system and a new docketing system since he assumed responsibility for such matters.

In our November 1999, order we lamented that the Commission lacks a full range of enforcement tools to deal with regulatory non-compliance. We note that since that time, legislation has been introduced which would allow this Commission to fine regulated entities for non-compliance with Commission orders. Pending the outcome of that legislation, we are still limited to either approving the new application or denying it. Given the information that we received in the rehearing, it is apparent that JD Services has taken necessary and significant steps to ensure future compliance with Commission orders. We feel more assured that the new counsel for the applicant is aware of the severe consequences of future non-compliance with Commission directives.

Accordingly, we find that the application should be granted with the condition that any violation of a reporting requirement in the future will be regarded as willful disregard of a Commission order and subject the applicant to revocation of its certificate. As a condition to the granting of this application, we direct the applicant to agree to a stipulation so noting this condition. We

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further warn the applicant that no further considerations or accommodations regarding required filings with this Commission will be entertained.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-2092 shall be, and is hereby, granted, upon the receipt of a signed stipulation by the applicant agreeing that any future non-compliance of the filing deadlines for the annual report shall be considered willful and subject the applicant to revocation of its certificate. Said stipulation shall be filed with the Commission on or before thirty days from the date of this order.

IT IS FURTHER ORDERED that the stipulation be made a part of this record and application.

MADE AND ENTERED in Lincoln, Nebraska on this 15th day of February, 2000.

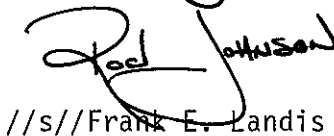
NEBRASKA PUBLIC SERVICE COMMISSION

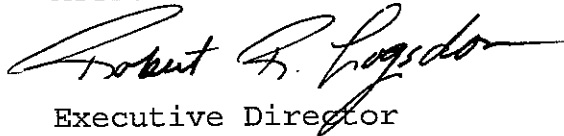
COMMISSIONERS CONCURRING:




Chairman

ATTEST:


//s//Frank E. Landis


Executive Director

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