

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) Application No. C-4167
on its own motion, seeking to)
conduct an inquiry into the)
operation of Norstan Network)
Services, Inc., as a provider of)
telecommunications services) ORDER INITIATING SHOW CAUSE
within the State of Nebraska) AND SETTING HEARING
without a Certificate of Public)
Convenience and Necessity as)
required under Nebraska law and)
Commission Rules and)
Regulations.) Entered: May 5, 2009

BY THE COMMISSION:

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

Pursuant to the Nebraska Telecommunications Regulation Act¹ ("Telecom Act"), prior to offering any telecommunications service in the state of Nebraska, telecommunications providers shall obtain a Certificate of Public Convenience and Necessity from the Nebraska Public Service Commission ("Commission"). *Neb. Rev. Stat. § 86-128(1)(a)*, states, "a person shall file an application and receive either a certificate of convenience and necessity as a telecommunications common carrier or a permit as a telecommunications contract carrier before such person may offer any telecommunications service."² The Commission has promulgated rules and regulations containing application requirements for any carrier desiring to receive a Certificate of Public Convenience and Necessity from the Commission prior to operating as a provider of telecommunications services within the State of Nebraska.

Norstan Network Services, Inc., ("Norstan"), received a Certificate of Public Convenience and Necessity to provide interexchange telecommunications service in the state of Nebraska in 1992.³ Norstan's Certificate of Authority to operate in Nebraska was revoked by the Commission in 2005 for failure to file an annual report consistent with statutory requirements.⁴

¹ See *Neb. Rev. Stat. § 86-101 et seq.* (Reissue of 2008).

² See *Neb. Rev. Stat. § 86-128 (1)(a)* (Reissue of 2008).

³ See Application No. C-915, *In the Matter of Norstan Network Service, Inc., Minneapolis, Minnesota which seeks authority to operate as a reseller of telecommunications services within the State of Nebraska*. Granted and Protective Order Issued Regarding Proprietary Information. (April 21, 1992).

⁴ See Application No. C-3381/DC-70, *In the Matter of the Nebraska Public Service Commission Communication's Department seeking an order to cease and desist operations and to revoke the Certificates of Public Convenience*

The Commission received Nebraska Universal Service Fund ("NUSF") worksheets and payments in 2008 indicating that Norstan is providing telecommunications services in Nebraska. On August 27, 2008, telephone contact was made with Mr. Rafael Vanegas, an employee of Norstan, regarding the Company's operations in Nebraska without a Certificate of Authority by Commission Staff. Mr. Vanegas assured Commission Staff that Norstan would submit an application for authority to the Commission immediately to come into compliance with Nebraska Law and Commission rules and regulations. Copies of application forms were sent via electronic mail to Mr. Vanegas the same day. No response was received from Norstan, and a subsequent email request by staff on September 24, 2008 went unanswered as well.

On November 3, 2008, the Director of the Commission's Communications Department, Gene Hand, sent a letter to Norstan giving the company until December 3, 2008, to submit an application for authority or cease operations in Nebraska. On January 20, 2009, the Commission received an incomplete application for authority from Norstan with insufficient information to process the application. After repeated attempts to contact Norstan by Staff, an email response from Mr. Vanegas received on January 28, 2009, indicated the company would file a completed application. The Commission has received no further contact from Norstan regarding the application for authority. The Commission did receive NUSF worksheets for the Fourth Quarter, 2008 in January, 2009, and First Quarter 2009 in April of 2009 indicating that Norstan continues to provide telecommunications services and conduct business in Nebraska.

Accordingly, the Commission finds it appropriate to initiate a Show Cause proceeding requiring Norstan Network Service, Inc. to appear before the Commission at 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska on **June 23, 2009**, at 1:30 p.m. CDT and show cause why the Commission should not order Norstan to immediately cease and desist operations in Nebraska and, why the Commission should not impose administrative penalties against it pursuant to *Neb. Rev. Stat. § 75-156* (Reissue of 2008) for operating in Nebraska without a Certificate of Public Convenience and Necessity.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Norstan Network Service, Inc., be and is hereby ordered, to show cause why the Commission should not order Norstan to immediately cease and desist operations in Nebraska and assess upon said company administrative penalties for illegally operating in Nebraska without a Certificate of Public Convenience and Necessity.

IT IS FURTHER ORDERED that Norstan Network Services, Inc. appear before the Commission on **June 23, 2009**, at 1:30 p.m. CDT, in the Commission Hearing Room, 300 The Atrium Building, 1200 N Street, Lincoln, Nebraska, for a hearing on this Show Cause Order.

MADE AND ENTERED at Lincoln, Nebraska, this 5th day of May, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Norstan Network Service, Inc., be and is hereby ordered, to show cause why the Commission should not order Norstan to immediately cease and desist operations in Nebraska and assess upon said company administrative penalties for illegally operating in Nebraska without a Certificate of Public Convenience and Necessity.

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MADE AND ENTERED at Lincoln, Nebraska, this 5th day of May, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Gerald A. Up *Allen J. Funder*
Chairman

ATTEST:

Miss R. J. H.
Executive Director

John J. H.

Rene C. Bayle

Tim Schram

//s// Frank E. Landis