

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 DISMISSING SHOW CAUSE
within the State of Nebraska) AND CLOSING DOCKET
without a Certificate of Public)
Convenience and Necessity as)
required under Nebraska law and)
Commission Rules and)
Regulations.) Entered: July 28, 2009

BY THE COMMISSION:

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

On May 5, 2009, the Nebraska Public Service Commission ("Commission") opened the above-captioned proceeding against Norstan Network Service, Inc. (Norstan or Applicant). The Commission ordered Norstan to appear before the Commission and show cause as to why the Commission should not order Norstan to immediately cease and desist operations in Nebraska and impose administrative penalties against Norstan for operating in Nebraska without a Certificate of Public Convenience and Necessity.

Pursuant to the Nebraska Telecommunications Regulation Act¹ ("Telecom Act"), prior to offering any telecommunications service in the state of Nebraska, telecommunications providers are required to obtain a Certificate of Public Convenience and Necessity from the Commission.

Norstan received a Certificate of Public Convenience and Necessity to provide interexchange telecommunications service in the state of Nebraska in 1992.² Norstan's Certificate of Authority to operate in Nebraska was revoked by the Commission in 2005 for failure by the company to file an annual report consistent with statutory requirements.³

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

² 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).

³ 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 and Necessity issued to the named defendants*. Complaint Dismissed in Part and Sustained in Part. (September 21, 2005).

The Commission received Nebraska Universal Service Fund ("NUSF") worksheets and payments in 2008 indicating that Norstan was providing telecommunications services in Nebraska. Repeated contacts by staff with Norstan personnel went unreturned and the company failed to initiate application proceedings to come into compliance with Nebraska law and Commission Rules and Regulations.

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. After repeated attempts to contact Norstan by Staff, an email response from the company was received on January 28, 2009, indicating the company would file a completed application. The Commission received no further contact from Norstan regarding the application for authority, however, the Commission did receive NUSF worksheets for the Fourth Quarter 2008, and First Quarter 2009, indicating that Norstan continued to provide telecommunications services and conduct business in Nebraska. Therefore, the Commission initiated the above-captioned proceeding.

Subsequently, Norstan filed an application for authority with the Commission on May 27, 2009. On June 18, 2009, a Hearing Officer order was entered postponing the Show Cause Proceeding pending the outcome of Norstan's application for authority.⁴ On July 14, 2009, the Commission entered an order granting a Certificate of Public Convenience and Necessity to Norstan to operate as an interexchange carrier of telecommunications in the State of Nebraska.⁵

Upon review of the matter, the Commission is of the opinion and finds that the Show Cause issued in the above-captioned matter should be dismissed and the docket closed.

⁴ See Application No. C-4167, *In the Matter of the Commission, on its own motion, seeking to conduct an inquiry into the operation of Norstan Network Services, Inc., as a provider of telecommunications services within the state of Nebraska without a certificate of public convenience and necessity as required under Nebraska law and Commission Rules and Regulations*. Order Continuing Hearing (June 18, 2009).

⁵ See Application No. C-4172, *In the Matter of the Application of Norstan Network Services, Inc., Tampa, Florida, seeking authority to operate as an interexchange carrier of telecommunication services within the State of Nebraska*. Granted (July 14, 2009).

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Show Cause proceeding in the above-captioned matter be, and it is hereby, dismissed.

IT IS FURTHER ORDERED that the above-captioned docket be, and it is hereby, closed.

MADE AND ENTERED at Lincoln, Nebraska, this 28th day of July, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director

O R D E R

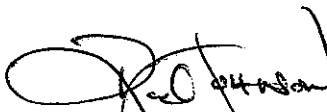

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Show Cause proceeding in the above-captioned matter be, and it is hereby, dismissed.

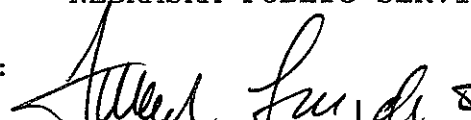
IT IS FURTHER ORDERED that the above-captioned docket be, and it is hereby, closed.

MADE AND ENTERED at Lincoln, Nebraska, this 28th day of July, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:


Chairman

ATTEST


Executive Director

//s// Frank E. Landis