

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Chandler S. Lynch,)	FC-1165
dba Midtown Business Center & Answering)	
Service)	
Kearney, Nebraska)	
)	
Complainant,)	
)	
vs.)	OVERRULED
)	
General Telephone Company of the Midwest))	
Columbus, Nebraska,)	
)	
Defendant)	Entered: March 15, 1983

APPEARANCES: For the Complainant
Ken Gotobed, Attorney
2022 Avenue A
Kearney, Nebraska

For the Defendant
Victor Covalt, Attorney
1500 American Charter Center
Lincoln, Nebraska

OPINION AND FINDINGS

BY THE COMMISSION:

By formal complaint filed October 7, 1982, Chandler S. Lynch, dba Midtown Business Center & Answering Service, Kearney, Nebraska charged that General Telephone Company of the Midwest, Columbus, Nebraska failed to provide additional lines requested by complainant without construction charge.

A copy of the complaint was served upon the defendant on October 8, 1982.

Pursuant to notice required by law, public hearing was held on the formal complaint on January 7, 1983 at 9:30 a.m. in the Public Library Meeting Room, Kearney, Nebraska with appearances as set forth above.

Upon consideration of the formal complaint, the evidence adduced at the hearing and being fully advised, the Commission is of the opinion and finds that:

1. Complainant is an individual engaged in the businesses of renting office space, telephone answering service and radio common carrier service all located at 2022 Avenue A Kearney, Nebraska.
2. Defendant is engaged in the telephone business as a common carrier under the jurisdiction of this Commission and furnishes telephone service at Kearney, Nebraska and other cities throughout the state.
3. Mr. Lynch testified that in August, 1982, he asked the telephone company how many vacant cable pairs were available to serve his business location. The telephone company responded that there were five pairs available. Mr. Lynch then wrote a letter to the telephone company in which he asked that an unspecified number of additional cable pairs be made available and indicated that he did not feel obligated to pay any construction charges. Mr. Lynch testified that the telephone company then told him that construction charges would apply if new cable pairs were placed to serve his business.

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4. K. N. Bauman, District Manager, testified for defendant. As of the date of hearing, there were 18 vacant pairs in the cable serving the complainant. Complainant's service consists of both primary service and off premises extension (OPX) service. Primary service is provided for the tenants in the building and for the answering service clients who have no other telephone service elsewhere. OPX service is provided for answering service clients whose primary telephone service is located somewhere else in the exchange. Defendant's position is that it would add whatever additional facilities are necessary to provide primary service to customers without construction charge and would provide OPX service without construction charge where existing facilities are available but would not construct additional facilities for OPX service without construction charges.

5. Kip D. Hendrickson, Director of Revenues and Tariffs, testified for the defendant that the tariffs filed with and approved by the Commission provide for construction charges in the event of unusual construction. Network services such as a customer's primary telephone service would be furnished without construction charge but off premises extension service is considered non-network service and benefits only an individual customer. Such non-network service would be provided without construction charge where facilities are available, but where construction is required a construction charge would be applied.

6. Complainant has not placed an order for any additional circuits. Eighteen pairs are available to provide additional service before the placement of additional cable would be required.

7. The formal complaint should be overruled.

ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that formal complaint No. FC-1165 be and it is hereby overruled.

MADE AND ENTERED at Lincoln, Nebraska, this 15th day of March, 1983.

NEBRASKA PUBLIC SERVICE COMMISSION

Harold D. Simpson
Chairman

ATTEST:

John S. Morgan
Acting Executive Secretary

COMMISSIONERS CONCURRING:

Duane D. Gay