

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. AD-115
James Beeson, dba Hollywood Calling,))
Cloverdale, California, for author-) DENIED
ity to connect an automatic dialing-))
announcing device.)

In the Matter of the Application of) Application No. AD-116
James Beeson, dba Hollywood Calling,))
Cloverdale, California, for author-) DENIED
ity to connect an automatic dialing-))
announcing device.)

In the Matter of the Application of) Application No. AD-117
James Beeson, dba Hollywood Calling,))
Cloverdale, California, for author-) DENIED
ity to connect an automatic dialing-))
announcing device.)

In the Matter of the Application of) Application No. AD-118
James Beeson, dba Hollywood Calling,))
Cloverdale, California, for author-) DENIED
ity to connect an automatic dialing-))
announcing device.)

In the Matter of the Application of) Application No. AD-119
James Beeson, dba Hollywood Calling,))
Cloverdale, California, for author-) DENIED
ity to connect an automatic dialing-))
announcing device.)

In the Matter of the Application of) Application No. AD-120
James Beeson, dba Hollywood Calling,))
Cloverdale, California, for author-) DENIED
ity to connect an automatic dialing-))
announcing device.)

In the Matter of the Application of) Application No. AD-121
James Beeson, dba Hollywood Calling,))
Cloverdale, California, for author-) DENIED
ity to connect an automatic dialing-))
announcing device.)

In the Matter of the Application of) Application No. AD-122
James Beeson, dba Hollywood Calling,))
Cloverdale, California, for author-) DENIED
ity to connect an automatic dialing-))
announcing device.)

In the Matter of the Application of) Application No. AD-123
James Beeson, dba Hollywood Calling,))
Cloverdale, California, for author-) DENIED
ity to connect an automatic dialing-))
announcing device.)

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In the Matter of the Application of) Application No. AD-124
James Beeson, dba Hollywood Calling,))
Cloverdale, California, for author-) DENIED
ity to connect an automatic dialing-))
announcing device.) Entered: February 9, 1988

APPEARANCES:

For the Applicant: Wayne Rohde
182 Valley View Drive
Auburn, California 95603

For the Protestant: Roseann Mastio
3630 S. 114th Avenue
Omaha, Nebraska

Kathleen Mastio
3630 S. 114th Avenue
Omaha, Nebraska

OPINION AND FINDINGS

BY THE COMMISSION:

By applications filed January 14, 1988, James Beeson, dba Hollywood Calling, Cloverdale, California, seeks authority to connect ten automatic dialing-announcing devices in the state of Nebraska.

A request for a temporary permit to connect automatic dialing-announcing devices was received and granted on January 20, 1988 pursuant to the provisions of the Commission Rules and Regulations.

The Commission was advised that several complaints were already filed and recorded against Hollywood Calling operating in the state and set the applications for hearing. Applicant was given notice pursuant to the Commission procedures.

A public hearing was held on the applications on February 2, 1988 at 1:30 p.m. in Lincoln, Nebraska with appearances as shown.

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

1. Wayne Rohde, a partner, testified on behalf of the applicant. Applicant has operated in the state since November 3, 1987. Upon notification regarding the laws of the state of Nebraska by the Commission staff on January 14, 1988, the applicant disconnected the dialers and submitted applications.

2. Applicant is engaged in the promotion of a "976 free products line" using automatic dialing-announcing devices under the jurisdiction of this Commission.

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3. Subsequent to filing of the applications, complaints were received from the Omaha area concerning the Hollywood Calling solicitation. Frustration and dissatisfaction regarding the billing and product solicitation were expressed in complaints to the Commission.

4. Mr. Rohde explained the operation of the "976" product line and submitted a script used to solicit interest in the free product line. The Commission questioned the use of a "976" product line in order to qualify for a drawing for a free trip. The caller must place a "976" call to receive information on where to send a postcard to be eligible in the drawing. Applicant used no other source of advertising to qualify for the drawing except to call the "976" number. In addition, the correct answer to the quiz had to be listed on the postcard. The Commission questioned the applicant regarding whether applicant had researched the laws of the state or the constitution to see if this constitutes a raffle. Applicant stated that "I don't think it would be a raffle."(T. 16) "It's just part of the thing we give to the people that participate with us."(T. 17)

5. The Commission questioned the public benefit in a free product information line when the call costs \$2.97 a minute and where the value of the product is based upon a product club price in another state.

6. Mr. Rohde stated that they had experienced difficulty in billing procedures and if an individual complained about the bill they would reimburse the charge. He stated that the recording only lasted two minutes, therefore, the bill should not be over two minutes at \$2.97 cents a minute with the average bill being at \$3.00 to \$4.00 dollars. The Commission received several complaints on billings of \$10.00 and \$5.95.

7. Roseann Mastio testified regarding unsolicited phone calls and the time and energy it takes to track down a company like Hollywood Calling.

8. Kathleen Mastio, age 11, testified that she received a call from Hollywood Calling and called the "976" number. She testified, "Then, I hung up, and I kind of realized that a lot of things like that are just gypts."(T. 52)

9. The applicant has been and is now currently operating an automatic dialing-announcing device to telephone lines in the jurisdiction of the Nebraska Public Service Commission.

10. Neb. Rev. Stat. §87-308 (Reissue 1981) provides that this Commission possesses the power to deny an application for service or modify the application and grant the application as so modified.

11. Neb. Rev. Stat. §87-309 (Reissue 1981) provides that this Commission shall require each applicant to include, on all calls a "statement of the nature of the call". The Commission finds

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that the script utilized by Hollywood Calling has in the past misinformed Nebraska consumers regarding the nature of the call.

12. The Commission finds that the solicitation of a drawing based upon calling a "976" number appears from the evidence to be a raffle or lottery and the applicant has not convinced this Commission that the solicitation is within the laws of the state of Nebraska.

13. The applications should be denied.

ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application Nos. AD-115, AD-116, AD-117, AD-118, AD-119, AD-120, AD-121, AD-122, AD-123, and AD-124 be and they are hereby denied and Hollywood Calling is ordered to disconnect their automatic dialing-announcing devices.

IT IS FURTHER ORDERED that the temporary permits issued be and they are hereby revoked.

IT IS FURTHER ORDERED that all Nebraska telephone companies refuse to knowingly connect service to Hollywood Calling for use of an automatic dialing-announcing device.

MADE AND ENTERED in Lincoln, Nebraska this 9th day of February, 1988.

NEBRASKA PUBLIC SERVICE COMMISSION

Daniel G. Urwiller

Chairman

COMMISSIONERS CONCURRING:

Quane D. Gay

//s//James F. Munnelly

//s//Eric Rasmussen

//s//Harold D. Simpson

//s//Daniel G. Urwiller

Attest:

John Bavarian

Acting Executive Secretary