

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Nebraska Public) Docket No. C-3213/
Service Commission Communica-) DC-67
tions Department, seeking an)
order to cease and desist) COMPLAINT DISMISSED IN PART
operations and to revoke the) AND SUSTAINED IN PART
Certificates of Public Conveni-)
ence and Necessity issued to the)
named defendants.) Entered: November 23, 2004

BY THE COMMISSION:

By Petition filed on June 8, 2004, the Communications Department (Department) of the Nebraska Public Service Commission (Commission) opened this docket requesting the Commission to revoke the operating authority of various defendants for failure to timely file annual reports pursuant to Neb. Rev. Stat. § 86-159 (2002 Cum. Supp.). All interexchange carriers (IXCs) and competitive local exchange carriers (CLECs) who had not timely filed annual reports with the Commission were named as defendants.

Notice of the docket appeared in The Daily Record, Omaha, Nebraska, on June 9, 2004, and Notice of the hearing was sent to all interested parties on July 20, 2004. A hearing was held on September 28, 2004, in the Commission Hearing Room, Lincoln, Nebraska, for any defendants who were not previously dismissed from the docket. All IXCs and CLECs were notified via first class mail on January 28, 2004, of their obligation to file an annual report on or before April 30, 2004. Copies of these letters were entered into the record as Exhibits 3 and 4. All IXCs and CLECs were notified a second time via first class mail on March 23, 2004. Copies of these letters were entered into the record as Exhibits 5 and 6. A copy of the Petition was entered into the record as Exhibit 7 and the Commission took administrative notice of all previous orders entered in this docket dismissing certain defendants.

OPINION AND FINDINGS

The following defendants remain in the docket: NUI Telecom, Inc. (IXC); FairPoint Comm. Solutions Corp. (IXC); Globcom, Inc. (IXC & CLEC); United Systems Access Telecom, Inc. (IXC); Univance Telecommunications, Inc. (IXC); Alticom, Inc. (IXC & CLEC); Better World Telcom, Inc. (IXC); Ciera Network Systems, Inc. (IXC); Colorado Comm. Network, Inc., d/b/a Hospitality Comm. (IXC); Coyote Network Systems, Inc. (IXC); Direct Telephone Company, Inc. (IXC); DirectOne, LLC (IXC); Equal Access Communications, LLC (IXC); Group Long Distance, Inc. (IXC)

& CLEC); International Exchange Comm., Inc., d/b/a IE Com (IXC); LH Telecom (IXC & CLEC); NetworkIP, LLC (IXC); NexGen Integrated Comm., L.C. (IXC & CLEC); NTERA, Inc. (IXC & CLEC); OneStar Long Distance, Inc. (IXC & CLEC); Operator Communications, Inc. (IXC); Radiant Telecom, Inc. (IXC); Special Accounts Billing Group, Inc. (IXC); Tracy Corporation II (IXC & CLEC); Covista, Inc. (CLEC); and Intermedia Communications, Inc. (CLEC).

The following companies were inadvertently included in the complaint as a result of reporting errors or due to a revised fining schedule for this year and accordingly will be administratively dismissed:

Intermedia Communications, Inc. (CLEC)
Covista, Inc. (CLEC)

United Systems Access Telecom, Inc. (IXC) voluntarily requested that their authority be withdrawn, therefore on October 25, 2004, their authority was withdrawn, and accordingly they will be dismissed from this docket.

The remaining defendants are telecommunications companies generally regulated by the Commission, pursuant to Neb. Rev. Stat. §§ 75-101, et seq. (2002 Cum. Supp.) and 86-101 et. seq. (2002 Cum. Supp.). Defendants are also governed by Title 291, NAC Ch. 5 of the Commission's Rules and Regulations.

As part of its regulatory authority and pursuant to § 86-159, the Commission, through its Communications Department, requires telecommunications companies which file an annual report with a federal agency to file a copy of the same report with the Commission on or before the date on which said report is filed with the federal agency. Every such company not required to file such a report with a federal agency is required to file an annual report with the Commission in a form prescribed by the Commission on or before April 30th of each year.

The defendants originally named in the petition failed to comply with the mandates of Neb. Rev. Stat. § 86-159. Therefore, this Commission, pursuant to its legislative authority, may administratively fine all such companies after notice and public hearing or revoke the certificates of public convenience and necessity issued to the defendants.

The Commission subsequently determined that several defendants had adequately complied with the provisions of Neb. Rev. Stat. § 86-159 and had satisfactorily submitted an annual report for the year 2003. Therefore such parties were dismissed

from the complaint in Commission orders entered on July 7 and 20, 2004, August 3 and 24, 2004, and September 21, 2004.

All defendants who contacted the Commission were given the option of negotiating a settlement by submitting an annual report and signing a stipulation with the Department, wherein each defendant admitted to filing their annual report late and agreed to pay an administrative fine to dismiss the departmental complaint against them. The remaining Defendants either did not contact the Commission or did not agree to the terms of the stipulation. Furthermore, all defendants were notified of the hearing and were entitled to appear. Nonetheless no carriers made an appearance at the public hearing to show cause as to why their certificates of authority should not be revoked.

Accordingly, the Certificates of Public Convenience and Necessity issued to the following defendants should be revoked:

NUI Telecom, Inc. (IXC)
FairPoint Comm. Solutions Corp. (IXC)
Globcom, Inc. (IXC & CLEC)
United Systems Access Telecom, Inc. (IXC)
Univance Telecommunications, Inc. (IXC)
Alticomm, Inc. (IXC & CLEC)
Better World Telcom, Inc. (IXC)
Ciera Network Systems, Inc. (IXC)
Colorado Comm. Network, Inc., d/b/a Hospitality Comm. (IXC)
Coyote Network Systems, Inc. (IXC)
Direct Telephone Company, Inc. (IXC)
DirectOne, LLC (IXC)
Equal Access Communications, LLC (IXC)
Group Long Distance, Inc. (IXC & CLEC)
International Exchange Comm., Inc., d/b/a IE Com (IXC)
LH Telecom (IXC & CLEC)
NetworkIP, LLC (IXC)
NexGen Integrated Comm., L.C. (IXC & CLEC)
NTERA, Inc. (IXC & CLEC)
Operator Communications, Inc. (IXC)
Radiant Telecom, Inc. (IXC)
Special Accounts Billing Group, Inc. (IXC)
Tracy Corporation II (IXC & CLEC)

OneStar Long Distance, Inc. is currently involved in Chapter 11 bankruptcy. OneStar has indicated that it intends to transfer its customer base and exit the telecommunications market in Nebraska. Based upon its current bankruptcy status and this representation, the Commission finds that OneStar's authority will not be revoked at this time. However, should OneStar fail to timely file its annual report for 2004, it shall

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be classified as a willful violator pursuant to Commission rules.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Intermedia Communications, Inc. (CLEC) and Covista, Inc. (CLEC) and United Systems Access Telecom, Inc. (IXC) are dismissed from the Petition.

IT IS FURTHER ORDERED that Certificates of Public Convenience issued to the defendants: NUI Telecom, Inc. (IXC); FairPoint Comm. Solutions Corp. (IXC); Globcom, Inc. (IXC & CLEC); United Systems Access Telecom, Inc. (IXC); Univance Telecommunications, Inc. (IXC); Alticomm, Inc. (IXC & CLEC); Better World Telcom, Inc. (IXC); Ciera Network Systems, Inc. (IXC); Colorado Comm. Network, Inc., d/b/a Hospitality Comm. (IXC); Coyote Network Systems, Inc. (IXC); Direct Telephone Company, Inc. (IXC); DirectOne, LLC (IXC); Equal Access Communications, LLC (IXC); Group Long Distance, Inc. (IXC & CLEC); International Exchange Comm., Inc., d/b/a IE Com (IXC); LH Telecom (IXC & CLEC); NetworkIP, LLC (IXC); NexGen Integrated Comm., L.C. (IXC & CLEC); NTERA, Inc. (IXC & CLEC); Operator Communications, Inc. (IXC); Radiant Telecom, Inc. (IXC); Special Accounts Billing Group, Inc. (IXC); and Tracy Corporation II (IXC & CLEC) shall be and are hereby revoked.

IT IS FURTHER ORDERED that the defendants revoked herein shall cease and desist providing service in the State of Nebraska within 60 days from the date of this order. Furthermore, said carriers shall give at least 30 days notice of discontinuance of service to their customers and reimburse said customers for any necessary switching charges.

MADE AND ENTERED at Lincoln, Nebraska, this 23rd day of November, 2004.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Lowell Johnson
Anne C. Boyle

Chairman *Gerald L. Vap*

ATTEST:
John S. Pollard
Executive Director

Frank E. Landis
//s// Frank E. Landis
Gerald L. Vap
//s// Gerald L. Vap