

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Nebraska Public) Application No. C-3381/DC-
Service Commission Communica-) 70
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)
Convenience and Necessity issued)
to the named defendants.) Entered: September 21, 2005

BY THE COMMISSION:

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

By Petition filed on March 4, 2005, the Communications Department (Department) of the Nebraska Public Service Commission (Commission) opened this docket to collect and review the 2004 Annual Reports required pursuant to Neb. Rev. Stat. § 86-159 (2004 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 March 9, 2005. A hearing was held on August 9, 2005, 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 31, 2005, of their obligation to file an annual report on or before April 30, 2005. All IXCs and CLECs were notified a second time via first class mail on March 31, 2005. Copies of all of these letters were entered into the record as Exhibit 4. Requests for reduction or waiver of the fine were also submitted by CI2 and Gates Communications, Inc. These requests were entered into the record as Exhibits 5, 6, and 7. The Commission also took administrative notice of all previous orders entered in this docket dismissing certain defendants.

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

The following defendants remain in the docket: Gates Communications, Inc.; Intermedia Communications, Inc.; Atlas Communications, LTD; Dancris Telecom, LLC; Marathon Communications; Miko Telephone Communications, Inc.; Norstan Network Services, Inc.; NorVergence, Inc.; Transcommunications, Inc.; Winstar Communications, LLC; CI2, Inc.; and Premiere Network Services, Inc.

Gates Communications, Inc. (Gates) has signed a stipulation with the Department wherein Gates admits to filing its report late and agrees to pay an administrative fine to dismiss the departmental complaint. The signed stipulation is satisfactory and therefore, Gates should be dismissed from the complaint.

Gates should be aware that this Commission will not tolerate similar behavior in 2006 regarding the filing of the 2005 report. If reports are not postmarked on or before April 30, 2006, the option of resolving the complaint through a stipulation will be closely scrutinized. All companies that have agreed to such a stipulation will be considered a willful violator and be subject to the maximum penalty allowed.

Gates has complied with the provisions of § 86-159 and has satisfactorily remitted an annual report for the year 2004; therefore, said defendant should be dismissed from this complaint.

The remaining defendants are telecommunications companies generally regulated by the Commission, pursuant to Neb. Rev. Stat. §§ 75-101, et seq. (2004 Cum. Supp.) and 86-101 et. seq. (2004 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 2004. Therefore such parties were dismissed from the complaint.

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:

Intermedia Communications, Inc.
Atlas Communications, LTD
Dancris Telecom, LLC
Marathon Communications
Miko Telephone Communications, Inc.
Norstan Network Services, Inc.
NorVergence, Inc.
Transcommunications, Inc.
Winstar Communications, LLC
CI2, Inc.
Premiere Network Services, Inc.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Gates Communications Inc. be, and is hereby, dismissed from the departmental complaint.

IT IS FURTHER ORDERED that the Certificates of Public Convenience issued to the defendants: Intermedia Communications, Inc.; Atlas Communications, LTD; Dancris Telecom, LLC; Marathon Communications; Miko Telephone Communications, Inc.; Norstan Network Services, Inc.; NorVergence, Inc.; Transcommunications, Inc.; Winstar Communications, LLC; CI2, Inc.; and Premiere Network Services, Inc. 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.

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Furthermore, said carriers shall give at least 30 days notice of discontinuance of service to their customers and reimburse said customers for any charges associated with obtaining service from a different carrier.

MADE AND ENTERED at Lincoln, Nebraska, this 21st day of September, 2005.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Leanne Johnson

Anne C. Boyle

Rod JOHNSON

//s// Frank E. Landis

//s// Gerald L. Vap

Chairman

Gerald L. Vap

ATTEST:

And S. Pollak

Executive Director