

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF AMERICAN NETWORK EXCHANGE,)
INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY TO OPERATE AS AN INTEREXCHANGE) CASE NO.
TELECOMMUNICATIONS RESELLER AND PROVIDER OF) 90-351
OPERATOR SERVICES WITHIN THE COMMONWEALTH OF)
KENTUCKY)

O R D E R

On November 9, 1990, American Network Exchange, Inc. ("AMNEX") filed its application with the Commission seeking a Certificate of Public Convenience and Necessity to provide intrastate resold telecommunications services and interLATA operator-assisted services.

The Commission ordered AMNEX to file additional information by Order dated January 2, 1991. AMNEX filed its responses on February 1, 1991 and February 7, 1991.

INTRALATA AUTHORITY ISSUE

Although AMNEX is seeking intraLATA operating authority, the Commission has permitted intraLATA competition only through the resale of local exchange carrier ("LEC") provided WATS.¹ There is no evidence that AMNEX will use WATS to provide intraLATA services. Furthermore, AMNEX's switch located outside of Kentucky appears to make it impossible to use intrastate WATS as the sole

¹ Wide Area Telecommunications Service.

transport for intraLATA services. However, consistent with its decisions in Case No. 89-017² and Case No. 89-363,³ the Commission will allow AMNEX to provide intraLATA services using its existing switch in Orlando, Florida, pending the outcome of Administrative Case No. 323.⁴ As with the carriers mentioned herein, AMNEX will be required to originate all intraLATA calls on LECs' access services and terminate via LECs' WATS. AMNEX will be required to keep records reflecting that its intraLATA traffic volumes correspond to its purchase of LECs' services.

OPERATOR SERVICES ISSUE

The Commission established Administrative Case No. 330⁵ to address the restrictions and guidelines for the provision of operator-assisted services by all non-LECs.

² Case No. 89-17, The Application of LDD, Inc. For the Issuance of A Certificate of Public Convenience and Necessity To Operate As a Reseller of Telecommunications Services Within The Commonwealth of Kentucky; The application of DCI, Inc. For the Issuance of A Certificate of Public Convenience and Necessity To Provide Intrastate, InterLATA Telecommunications Services To the Public As A Facilities-Based Non-Dominant InterLATA Carrier.

³ Case No. 89-363, Cincinnati Bell Long Distance, Inc., For Authority to Expand Their Market Area. For a discussion of the Commission's policy concerning resellers' use of out-of-state facilities, see the March 8, 1990 Order in this proceeding.

⁴ Administrative Case No. 323, An Inquiry Into IntraLATA Toll Competition, An Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality.

⁵ Administrative Case No. 330, Policy And Procedures in the Provision of Operator-Assisted Telecommunications Services.

Based on its application and responses, AMNEX appears fully aware of Administrative Case No. 330 and has stated its ability and intent to comply with the Orders issued in that case.

FINDINGS AND ORDERS

AMNEX has the financial, technical, and managerial capabilities to provide service. This capability is demonstrated by its provision of service in California, Colorado, Delaware, Florida, Illinois, Louisiana, Maryland, Michigan, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, Washington and Washington, D.C. AMNEX should be granted authority to provide statewide telecommunications services as a WATS reseller on an interim basis, pending the outcome of Administrative Case No. 323, and contingent upon AMNEX's compliance with originating intraLATA calls only on LECs' access services and terminating such calls using only LECs' WATS. Furthermore, AMNEX should be authorized to provide intrastate interLATA operator-assisted services, subject to all guidelines, requirements, restrictions, and conditions of service addressed in Administrative Case No. 330.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, HEREBY ORDERS that:

1. AMNEX be and it hereby is granted authority to provide statewide telecommunications services as a WATS reseller on an interim basis, pending the outcome of Administrative Case No. 323, and contingent upon AMNEX's compliance with originating intraLATA traffic only on LECs' access services and terminating such traffic using only LECs' WATS.

2. AMNEX shall file a statement within 20 days from the date of this Order stating that it will comply with the above conditions of a WATS reseller, including that it will provide intraLATA services, exclusive of intraLATA operator-assisted services, by originating such traffic only on LECs' access services and terminating intraLATA traffic using only LECs' WATS.

3. If AMNEX is unable to comply with ordering paragraphs 1 and 2, it shall file tariffs reflecting only interLATA operating authority within 30 days from the date of this Order.

4. Within 30 days of a final Order in Administrative Case No. 323, Phase I, AMNEX shall file evidence demonstrating its service configuration is consistent with the Commission's policies.

5. AMNEX shall keep records reflecting that its intraLATA traffic volumes reasonably correspond to its purchase of LECs' services.

6. AMNEX be and it hereby is granted authority to provide intrastate interLATA operator-assisted telecommunications services, subject to all restrictions, conditions of service, and guidelines described in the March 27, 1991 Order in Administrative Case No. 330. Those requirements are:

a. Operator-assisted services shall be subject to rate regulation and rates shall not exceed AT&T Communications of the South Central States, Inc.'s ("AT&T's") maximum approved rates.

"Maximum approved rates" is defined as the rates approved by this Commission in AT&T's most recent proceeding for measured toll service applicable to operator-assisted calls as well as the additional charges for operator assistance. AMNEX is not permitted to include any other surcharge or to bill for uncompleted calls. Time-of-day discounts shall also be applicable. AMNEX is also required to rate calls using the same basis that AT&T uses to rate calls, i.e., distance calculations based on points-of-call origination and termination, definitions of chargeable times, billing unit increments, rounding of fractional units, and minimum usages. In Case No. 9889,⁶ the Commission allowed AT&T to reduce certain rates up to a maximum of 10 percent without filing the full cost support normally required in a rate proceeding. AMNEX is not required to match AT&T's rate reduction resulting from this rate flexibility. However, when there is any change in AT&T's maximum approved rates, AMNEX shall file tariffs necessary to comply with the requirements herein within 30 days from the effective date of AT&T's rate change.

b. AMNEX shall be subject to regulation as delineated in the May 25, 1984 and October 26, 1984 Orders in Administrative Case No. 273,⁷ as well as any subsequent modifications to non-dominant carrier regulations.

⁶ Case No. 9889, Adjustment of Rates of AT&T Communications of the South Central States, Inc.

⁷ Administrative Case No. 273, An Inquiry Into Inter- and IntraLATA Competition in Toll and Related Services Markets in Kentucky.

c. Access to the operator services of competing carriers shall not be blocked or intercepted; however, this requirement does not pertain to situations where the customers who have control of premises equipment are also the users and billpayers of the services.

d. Access to the LECs' operators shall not be blocked or otherwise intercepted by traffic aggregators. Specifically, all "0 minus"⁸ calls shall be directed to the LECs' operators. In equal access areas, "0 plus"⁹ intraLATA calls shall not be intercepted or blocked. In non-equal access areas, AMNEX is prohibited from blocking or intercepting "0 minus" calls; however, it is permissible to intercept "0 plus" calls.

e. Blocking and interception prohibitions shall be included in AMNEX's tariffs and contracts by stating that violators will be subject to immediate termination of service after 20 days notice to the owners of non-complying customer premises equipment.

f. AMNEX shall provide tent cards and stickers to be placed near or on telephone equipment provided by its traffic aggregators. AMNEX shall include provisions in tariffs and contracts that subject violators to termination of service.

⁸ A "0 minus" or "0-" call occurs when an end-user dials zero without any following digits.

⁹ A "0 plus" or "0+" call occurs when an end-user dials zero and then dials the digits of the called telephone number.

g. AMNEX's operators shall be required to identify AMNEX, making reference to "American Network Exchange, Inc.," at least once during every call before any charges are incurred.

h. AMNEX's operators shall provide an indication of its rates to any caller upon request.

i. AMNEX shall not accept calling cards for billing purposes if it is unable to validate the card.

7. This authority to provide service is strictly limited to those services described in this Order, AMNEX's application, and conditions described in this Order.

8. AMNEX shall comply with the Commission decisions in Administrative Case Nos. 323 and 328,¹⁰ now pending, that may apply to AMNEX's Kentucky operations.

9. AMNEX's "AMNEX Omni Service," "Travel Service," and any special/dedicated services shall only be provided under the following conditions:

a. AMNEX shall measure and report interstate and intrastate jurisdictional usage and interLATA and intraLATA usage. AMNEX shall file the reports with the Commission on a quarterly basis. These reports shall be filed in Case No. 91-036.¹¹

¹⁰ Administrative Case No. 328, Investigation Into Whether Resellers Should be Included in the ULAS Allocation Process.

¹¹ Case No. 91-036, Jurisdictional Usage Reports.

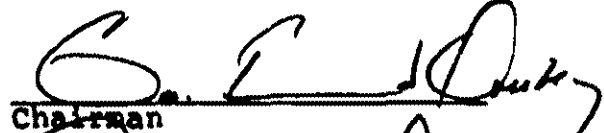
b. AMNEX shall inform its prospective customers that the Commission has not authorized it to market or tariff these services to complete intraLATA calls.

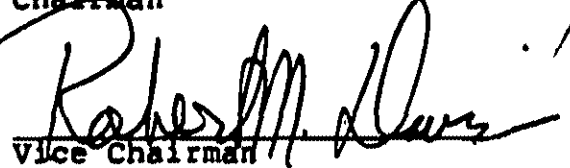
c. AMNEX shall be prepared to compensate LECs for unauthorized intraLATA call completion.

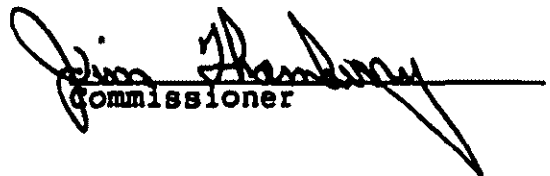
10. Within 30 days from the date of this Order, AMNEX shall file its tariff sheets in accordance with 807 KAR 5:011 to conform to the restrictions and conditions of service contained herein and consistent with AMNEX's response to the Commission's January 2, 1991 Order as modified by AMNEX's February 7, 1991 response.

Done at Frankfort, Kentucky, this 14th day of May, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director