

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the application )	Application No. C-932
of Corporate Telemanagement Group, )	
Greenville, South Carolina seeking )	
authority to operate as a reseller )	GRANTED
of interexchange telecommunications)	
service in Nebraska. )	Entered: September 1, 1992

APPEARANCES

For the Applicant

Charles Houser, Pro Se  
Corporate Telemanagement Group  
Chairman and CEO  
430 Woodruff Road Suite 450  
Greenville, SC 29607  
(803) 458-7302

For the Communications Dept.

Jeffrey P. Goltz, Esq.  
Legal Counsel, NPSC  
300 The Atrium Building  
1200 "N" St. Box 94927  
Lincoln, NE 68509  
(402) 471-3101

PRELIMINARY MATTERS

By application filed May 22, 1992, Corporate Telemanagement Group, Inc. ("CTG") Greenville, South Carolina seeks authority to operate as a reseller of intrastate interLATA and intraLATA interexchange telecommunications services in Nebraska. CTG's principal office is noted above and it is the location where its books and records are kept. The applicant's registered agent is the CT Corporation, 206 South 13th Street, Lincoln, Nebraska, 68508.

Notice of the application was published in the Omaha *DAILY RECORD* May 27, 1992 in accordance with the Commission's rules of procedure. No protests to the application were received. Hearing on the application was held July 23, 1992 in the Commission Hearing Room, Lincoln, Nebraska with appearances as shown. Commissioner Frank Landis chaired the hearing.

Nebraska was divided into three Local Access Transport Areas (LATAs) as a result of the terms of the Modified Final Judgment issued in the AT&T divestiture case. *United States v. American Telephone & Telegraph Co.*, 552 F.Supp. 131 (D.D.C. 1982), aff'd sub nom., *California v. United States*, 460 U.S. 1001 (1983) and *United States v. American Telephone & Telegraph Co.*, 569 F. Supp. 990 (D.D.C. 1983) aff'd sub nom., *California v. United States*, 460 U.S. 1001 (1983). While Neb. Rev. Stat. §75-604, by its language, refers to local exchange service, the Nebraska Supreme Court in *Northwestern Bell Telephone v. Consolidated Telephone Co.*, 180 Neb. 268, 142 N.W.2d 324 (1966) held that long distance service is also subject to the provisions of the statute. This was recognized by the Nebraska Legislature

in L.B. 835 because interexchange services (which include resellers) in §86-805 are referenced to in §75-604. For this reason, the Commission distinguishes between intraLATA and interLATA resale in deciding reseller applications.

BY THE COMMISSION

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

Upon consideration of the application, the governing statutes and rules<sup>1</sup>, the evidence adduced at the hearing, and being fully informed, the Commission is of the opinion and finds:

Mr. Charles Houser, the applicant's Chairman and Chief Executive Officer, appeared at the hearing. CTG was incorporated in South Carolina December 11, 1989 and began operations the following month. CTG is a privately held company, the corporate officers of which are Houser, Leighton M. Cubbage, President; William M. Rogers, Vice President; Frank W. Robinson, Vice-President; Thomas McAbee, Vice President; and Catherine McDowell, Assistant Secretary and Treasurer. The company has 47 employees and since it is employee-owned, they constitute the stockholders. Houser, Cubbage, Rogers, and Robinson are each owners of five percent or more of the stock. CTG's financial statement, the certificate to do business as a foreign corporation in Nebraska, and a copy of its articles of incorporation are a part of the record.

The pleadings reflect the application seeks both intrastate interLATA and intraLATA interexchange reseller authority. In response to a question from Commission counsel, Houser reaffirmed the application's contents in this regard. The filed application, upon which the DAILY RECORD notice is based, *does not* seek a certificate to provide alternate operator service ("AOS"). We note this Commission has consistently held an application for reseller authority does not include AOS <sup>2</sup> unless specifically petitioned for in the application.

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<sup>1</sup> Interexchange reseller applications are governed by Neb. Rev. Stats. §§75-604 and 86-805 (1990 and 1987 Reissues, respectively) and Title 291 Neb. Admin. Regs. Ch. 5, Rule 003.12.

<sup>2</sup> We observe that a late-filed amendment to add AOS to the application is an inadequate solution; the previously published notice of the application would not then accurately reflect the authority sought in the application.

The applicant proposes to operate as a non-facilities based reseller of Sprint long-distance service in Nebraska. The company currently has 4,015 subscribers across the country who are billing approximately 9 million billable minutes in calls per month. The applicant is a switchless reseller and no future facilities in Nebraska are contemplated nor will any employees be located within this state. The applicant resells switched Dial 1+ service (MTS WATS)<sup>3</sup>, Outbound Dial 1+800 Service, 800 T-1 Termination<sup>4</sup>, Calling Cards, Direct Access, and dedicated private line resale.

To be profitable as a reseller, CTG has a multi-year, multi-million dollar agreement with Sprint. CTG buys access at a heavily discounted rate. Generally, CTG offers this access to the Sprint network to CTG's subscribers for 10 to 15 percent less than Sprint direct access rates. The difference between the rate paid by the subscribers and the discounts received by CTG from the underlying carrier provides the margin of profit.

CTG applied for reseller operating authority to and was rejected by the Connecticut Public Utilities Commission. CTG proposed to offer the same services which are being proposed in this application. The Connecticut Commission has taken the position that, with the exception of private line dedicated service and resale of local exchange switch services, resellers cannot operate in Connecticut. The rejection does not appear to have been based on the ability to offer reseller services or CTG's financial capabilities. The applicant did have a formal complaint filed against by the State of North Carolina. After inquiring about North Carolina's regulatory scheme, CTG began operations with the understanding North Carolina did not regulate the type of services offered by CTG. North Carolina's Utilities Commission subsequently decided otherwise and began proceedings against CTG. CTG agreed to refund revenues collected prior to obtaining certification in that state and the company is now fully authorized to conduct business in North Carolina. As of the hearing date, the applicant has operating authority in 19 states and also operates in six states which do not regulate resellers.

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<sup>3</sup> Mileage Time Sensitive WATS

<sup>4</sup> 800 T-1 Termination is identical to the 800 business line except that all calls are routed to the subscriber's telephone facilities via a dedicated, point to point, digital service.

The applicant bills its reseller subscribers under its own name and using its own computer system. There are not intermediate billing agents or collection agencies involved absent an uncollectible.

The financial information provided by the applicant was marked as Exhibit H in the application and was compiled by Peat Marwick, CPAs. This exhibit covers the first quarter of 1992 (January 1 through March 31) and shows net sales of \$4.391 million for the quarter and \$1.518 million for the month of March. For the same periods, respectively, CTG has gross profits of \$1.028 million and \$340,000. After costs and expenses (including salaries), CTG had net income of \$22,550 for the quarter and a loss of \$7,421 for the month of March. The applicant's assets equaled \$4.456 million, as did its shareholder's equity/liabilities. Houser testified orally at the hearing that the company generated revenues of \$12.233 million for calendar year 1991.

The applicant's proposed tariff, which is part of its application, is in accordance with the Commission's rules and regulations. The tariff appears reasonable in light of the proposed service.

The facilities of the applicant now in place are providing interstate service. Applicant does not propose to construct facilities for use in intrastate service; therefore, no existing facilities will be duplicated if this application is granted for reseller service.

Based on the testimony, the exhibits, and the proposed tariff, the application is fair and reasonable, is in the public interest, and should be granted.

#### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-932 be, and it is hereby, granted and Corporate Telemanagement Group, Inc., of Greenville, South Carolina be, and it is hereby, authorized to *operate as a resale carrier of intrastate interexchange interLATA and intraLATA telecommunications services in Nebraska.*

IT IS FURTHER ORDERED that applicant shall file, in accordance with the applicable statutes, an annual report with this

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<sup>5</sup> See §75-604.

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Commission consisting of (a) a copy of any report filed with the Federal Communications Commission, (b) the annual report to stockholders, and (c) for the state of Nebraska on a combined interstate-intrastate basis, the investment in telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues, operating expenses, and taxes.

IT IS FURTHER ORDERED that applicant file an updated and corrected tariff prior to offering service pursuant to the certificate granted in this order.

IT IS FURTHER ORDERED that this order be, and it is hereby, made the Commission's official Certificate of Public Convenience and Necessity to furnish the service authorized herein.

MADE AND ENTERED at Lincoln, Nebraska this first day of September, 1992.

NEBRASKA PUBLIC SERVICE COMMISSION

Commissioners Concurring:

*Daniel H. Quiville*  
*Deane D. Gay*

//s//Frank E. Landis, Jr.  
//s//James F. Munnelly  
//s//Eric Rasmussen

*Frank E. Landis, Jr.*  
Chairman

ATTEST:

*D. R. G.*  
Executive Director