

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application)	Application No. C-1046
of Hospitality Communications)	
Corporation, Van Nuys, Califor-)	
nia which seeks authority to)	GRANTED
operate as a resale carrier of)	
intrastate InterLATA and intra-)	
LATA telecommunications services)	
within the State of Nebraska.)	Entered: March 30, 1994

APPEARANCES

For the Applicant

Bernadette Richardson
16105 -8H Victory Blvd. Suite 339
Van Nuys, CA 91406
800/650-6461

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 January 3, 1994, Hospitality Communications Corporation ("HCC") of Van Nuys, California seeks authority to operate as a reseller of intrastate interLATA and intraLATA interexchange telecommunications services in Nebraska. The application also seeks authority to provide intrastate operator services. HCC's principal office and the location where its books and records are kept is noted above and its registered agent is the Prentice-Hall Corporation System, Inc. 1900 FirstTier Bank Building, 233 South 13th Street, Lincoln, Nebraska, 68508.

Notice of the application was published in the Omaha *DAILY RECORD* January 7, 1994 in accordance with the Commission's rules of procedure. No one protested the application. Hearing on the application was held March 9, 1994 in the Commission Hearing Room, Lincoln, Nebraska with appearances as shown; Commissioner Landis chaired the proceeding.

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 rules¹, the evidence adduced at the hearing, and being fully informed, the Commission is of the opinion and finds:

Nebraska was divided into three Local Access Transport Areas ("LATAs") as a result of the terms of the Modification of Final Judgement 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, 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 that statute. This was recognized by the Nebraska Legislature when it approved L.B. 835 (LAWS 1986) because interexchange services (which include resellers) governed in part by Neb. Rev. Stat. §86-805 (Reissue 1987) are referenced to in Neb. Rev. Stat. §75-604 (Reissue 1987). Therefore, the Commission distinguishes between intraLATA and interLATA resale when considering reseller applications.

Bernadette Richardson, the applicant's Marketing Manager, testified for HCC. Richardson oversees the marketing of the company's telecommunications products. She also represents HCC before state utility commissions in proceedings such as the one before this Commission.

The applicant incorporated in California in 1992. It is a privately held corporation, the corporate officers of which are Stan Slaton (President), and Jim DeArkland and Robert Hale. These three individuals are also the company's primary stockholders.

HCC will be a non-facilities based telecommunications reseller within Nebraska. HCC offers outbound message telecommunications service, operator services, and travel cards to its customers. In addition, HCC service allows customers to place direct dialed (1+) and 0+ calls to terminating locations

¹ 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.

through switched or dedicated access facilities. HCC currently has approximately 2,500 customers across the country.

HCC utilizes the underlying network and operator services of MCI Communications, Inc. and other carriers on a contract basis. HCC contracts for services from its underlying carrier at discounted rates based on a long-term commitment. The underlying transmission carrier is selected based on the best mix of quality, service and price. Calls originate via Feature Group D purchased by the underlying carrier from the local exchange carrier or via special access circuits purchased directly by the customer.

HCC proposes to offer its resale services to small and medium-sized customers. All services are offered twenty-four hours per day, seven days per week and are priced based on call duration, distance between end points, time of day and day of week.

Operator assisted calls are handled in one of two ways. When HCC sells its services to an entity which, in the normal course of business, offers the use of its telephones to the transient public, HCC installs equipment to handle the fully automated calls. Calls which require live operator intervention are routed to the operator center(s) of its underlying carrier using Feature Group D access service or autodialers and 1-800, 10XXX or Feature Group B routing. Through a clearinghouse billing service, the end user is billed by the local exchange carrier or credit card company that issued the card offered for payment. In the case of third party and collect calls, customers are billed by the local exchange carrier of the billed party. Richardson estimated HCC has operator services at about 200 hotel properties and a few correctional facilities.

When HCC sells its direct dialed service to business or residential customers, it does not typically install automated 0+ call processing equipment. Instead, operator requests are handled by the underlying carrier. In most cases, the underlying carrier handles the operator treated call, brands the call in its own name and bills the customer at its tariffed rate. In this instance, HCC is not offering operator services. In the near future, however, HCC plans to make arrangement with its underlying carrier to handle the operator assisted calls in HCC's name. The calls will be branded "Hospitality" and billed at HCC's rates. The company has no plans to construct any new facilities to implement service in Nebraska. The applicant will use leased facilities.

At the hearing, the applicant's financial statements, the certificate to do business as a foreign corporation in Nebras-

ka, and a copy of its articles of incorporation were made a part of the record.

Richardson testified (and the application reflects) that the company seeks both intraLATA and interLATA reseller authority. The filed application, upon which the DAILY RECORD notice is based, *does* seek a certificate to provide alternate operator service ("AOS"). We note this Commission has consistently held an application for a reseller certificate does not include AOS unless specifically petitioned for in the application.²

No state commission has rejected an HCC application for reseller authority, nor has a formal complaint been filed against it by any state commission for its reseller activities. The authority sought here in Nebraska is the same as obtained in those states. The applicant does not propose to provide service of a different type in this state.

The financial information provided by the applicant was prepared in-house by the company's controller, Greg Johnson, and is unaudited. As of December 31, 1993, the company had total assets of \$3.024 million. For the year, HCC earned total revenues of \$7.235 million. For the month of December, it earned \$810 thousand. After operating expenses, the company was left with an operating profit of \$1.629 million and \$148 thousand, respectively. In terms of net income, the company lost \$334 thousand for all of 1993 and \$96 thousand for the month of December. This compares to a net income of \$157 thousand and \$31 thousand for the period ending November 30, 1992 and the month of November, 1992, respectively.

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.³

This is still a fairly new company, but it has a satisfactory amount of financial support for its operations. Coupled with the demonstration that the company is competently operated and has the requisite expertise, we believe the evidence warrants approval of the application.

² 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.

³ See §75-604.

Application No. C-1046

Page -5-

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-1046 be, and it is hereby, granted and Hospitality Communications Corporation, Van Nuys, California be, and it is hereby, authorized to *operate as a resale carrier of intrastate interexchange interLATA and intraLATA telecommunications services and as a provider of alternate operator services in Nebraska.*

IT IS FURTHER ORDERED that applicant shall file, in accordance with the applicable statutes, an annual report with this 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 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 30th day of March, 1994.

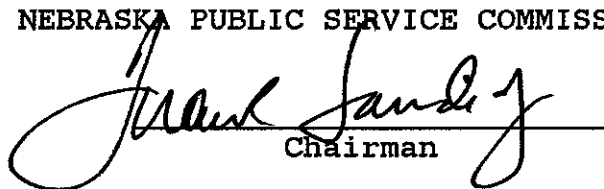
NEBRASKA PUBLIC SERVICE COMMISSION

Commissioners Concurring:

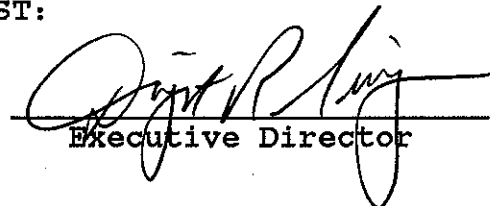


//s//Duane D. Gay

//s//Frank E. Landis, Jr.


Chairman

ATTEST:


Executive Director