

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of)	Application No. C-1119
Polar Communications Corporation of)	
Manalapan, New Jersey, which seeks)	
authority to operate as a resale)	GRANTED
common carrier of telecommunications)	
services, including operator)	
services, within the state of)	
Nebraska.)	February 7, 1995

APPEARANCE:

For the Communications Department:

Deonne Niemack, Staff Counsel

BY THE COMMISSION

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

By application filed October 18, 1994, Polar Communications Corporation of Manalapan, New Jersey seeks authority to operate as a resale common carrier of telecommunication services in the state of Nebraska. Notice of the application was published in The Daily Record, Omaha, Nebraska October 10, 1994, pursuant to the rules of the Commission. Hearing on the application was held on January 18, 1995 in the Commission Hearing Room with appearances as shown.

Applicant produced one witness, Mark Kelly, who testified: He is employed by Polar Communications Corporation as vice chairman of the board of directors. Polar is organized as a Nevada corporation and has been authorized to transact business as a foreign corporation in Nebraska. Polar has been providing long distance service since July 5, 1991. It intends to offer 1 plus, 0 plus and 0 minus interchange telecommunications services. It will initially offer services at pay phones, hotels and motels, hospitals and educational institutions through use of credit calling card, credit card, collect and third number billed service. Initially it will not own facilities in Nebraska. Its operators will be located in Atlanta. Zero Plus Dialing, Inc. will provide billing services to Nebraska customers. Customer service will be handled out of Polar's New Jersey office. It does not intend to use a multi-level marketing plan. Service will be marketed through independent sales agents in direct sales. The majority of applicant's staff is in New Jersey. It intends to operate intraLATA and interLATA. Polar now serves 25 states and wants to be certificated nationwide. Most of its underlying network is provided by WilTel. It also has some contracts with MCI and AT&T.

A revised financial statement was filed as a late filed exhibit.

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Interexchange resellers 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.

Nebraska was divided into three Local Access Transport Areas ("LATAs") as a result of the terms of the Modification of Final Judgement (the "MFJ") 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 Legislature in LB 835 (LAWS 1986) because interexchange services (which include resellers) in Sec. 86-805 (part of LB 835) are referenced to in Sec. 75-604. For this reason, the Commission distinguishes between intraLATA and interLATA resale when deciding reseller applications.

The evidence shows the application is complete. All required information has been furnished. The application should be granted.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1119 be and it is hereby, granted and Polar Communications Corporation, Manalapan, New Jersey, is hereby authorized to operate as a resale carrier of intrastate interexchange interLATA and intraLATA telecommunications services within the state of Nebraska.

IT IS FURTHER ORDERED that the 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) its 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, revenues, operating expenses, and taxes.

IT IS FURTHER ORDERED that applicant maintain on file its current tariff for its service offered pursuant to the certificate granted in this order.

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THIS ORDER SHALL BE, and it is hereby made, the Commission's official certificate of authority to furnish the service authorized herein as a common carrier.

MADE AND ENTERED at Lincoln, Nebraska this 7th day of February, 1995.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Rod Johnson

//s//Rod Johnson

//s//Frank E. Landis

//s//James F. Munnelly

//s//Daniel G. Urwiller

Daniel G. Urwiller

Chairman

ATTEST:

Robert R. Logsdon

Executive Director