

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1136
VarTec Telecommunications, Inc. of)
Lancaster, Texas, which seeks) GRANTED
authority to operate as a resale)
common carrier of telecommunications)
services in the state of Nebraska.) January 31, 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 December 16, 1994, VarTec Telecom, Inc. of Lancaster, Texas 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 December 19, 1994, pursuant to the rules of the Commission. Hearing on the application was held on January 24, 1995 in the Commission Hearing Room with appearances as shown.

Applicant produced one witness, Michael G. Hoffman, who testified: He is senior vice president for legal and regulatory affairs of the applicant. Applicant was incorporated in Texas in February, 1989. Applicant is owned by Community Group, Inc., which is a fully owned subsidiary of Telephone Electronics Corporation, which is headquartered in Jackson, Mississippi. Applicant's principal base of operations is Lancaster, Texas. CT Corporation is its registered agent in Nebraska. Applicant will have no office or facilities in Nebraska. Applicant has approximately 500,000 customers in the United States. It is certificated in 33 states. Applicant will offer 1 plus and 800 services. It focuses on residential customers. It will offer calling cards. It uses debit calling cards. Its underlying carriers are MCI and WilTel. It also utilizes services of AT&T and Sprint. Applicant's financial statement was submitted with its application. Applicant owns and operates 4 switches in the United States. Applicant had almost \$5,000,000 in profits in 1994. Applicant bills through the local exchange carrier. It markets its service by direct mail. It intends to do telemarketing also. More than half of Applicant's 200 employees are engaged in customer service. Applicant has 24-hour a day customer service. Applicant's telemarketing script and its advertising material are shown as Exhibit 3.

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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-1136 be and it is hereby, granted and VarTec Telecom, Inc., Lancaster, Texas 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 31st day of January, 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:

John Swain

Deputy Director

