

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1185
MTC Telemangement Corporation, of)
Petaluma, California seeking to)
obtain a certificate of public con-) GRANTED
venience and necessity to operate as)
a reseller of interexchange telecom-)
munications services within the)
state of Nebraska.) Entered: October 16, 1995

APPEARANCES:

For the Applicant

Edward Brinskele
1304 Southpoint Blvd.
Petaluma, California 94954

For the Communications Department

Deonne L. Bruning
300 The Atrium, 1200 N Street
P.O. Box 94927
Lincoln, Nebraska 68508

PRELIMINARY MATTERS

MTC Telemangement Corporation, (hereinafter referred to as MTC), of Petaluma, California filed an application with the Commission on May 1, 1995. The company seeks authority to conduct business as an intrastate telecommunications common carrier offering resold intraLATA and interLATA long distance service. The applicant's business address is noted above. Notice of the application appeared in the Omaha Daily Record, May 3, 1995. MTC appeared before the Commission for a video-conference hearing, September 12, 1995, with Commissioner Rod Johnson chairing the proceeding, in the Commission Library, Lincoln, Nebraska.

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:

¹Interexchange reseller application are governed by Neb. Rev. Stats. 75-604 and 86-805 (Cum. Supp. 1994 and 1994 Reissue, respectively) and Title 291 Neb. Admin. Regs. Ch. 5, Rule 003.12.

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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., 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.

Edward Brinskele testified on behalf of MTC. Mr. Brinskele, President and Chief Executive Officer of MTC, stated, and the pleadings reflect, the applicant seeks both intraLATA and interLATA authority. The filed application does not seek authority to provide AOS.

MTC originally began operating as a technology manager for small to medium-sized businesses. The company expanded its operations to develop telecommunications technology. Specifically, MTC holds a patent on international telecommunications technology known as Call-Back. The company further offers resale services.

The company is headquartered in Petaluma, California and is in the process of becoming certified nationwide. Currently, the company is certificated in approximately twenty-seven states. No state has denied MTC a certificate. The company has a formal complaint outstanding in California. The matter, State of America v. TRI and MTC, pertains to a claim for a tax refund. State of America claims that it is exempt from state taxes which MTC collected and therefore, a refund of those amounts should be issued. No other formal complaints have been filed against the company.

The applicant intends to offer intrastate services throughout Nebraska. Specifically, the applicant proposes to provide direct dialed 1+ service using the underlying services of LDDS. The company may also use Sprint, MCI and Allnet. Callers will also be able to place outbound, as well as inbound 800 calls. A travel card will also be available. Customers

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are billed directly by MTC. The company provides a toll-free 800 number for customers on each bill.

Financial information was provided to the Commission in the application, as well as in a late-filed exhibit. The records reflect the company is steadily improving its operations and generated a positive net income for the year ending 1994.

The proposed tariff, which is part of the application, is in accordance with the Commission's Rules and Regulations.

In conclusion, Mr. Brinskele testified that MTC will offer small and medium-sized businesses a technology package that has previously not been available to Nebraskans.

Based on the testimony, the exhibits, and the proposed tariff, the applicant has provided the requisite information, has demonstrated its financial resources, and has proven to be technically competent to provide service. 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-1185 be, and it is hereby, granted and MTC Telemanagement Corporation of Petaluma, California is hereby authorized to operate as a **resale carrier of intrastate interexchange intraLATA and interLATA telecommunications services within the state of Nebraska.**

IT IS FURTHER ORDERED that the applicant shall file, in accordance with the applicable statutes on or before April 30th of each year, 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, (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission, (d) a balance sheet and income statement for the previous year of operation and (e) 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.

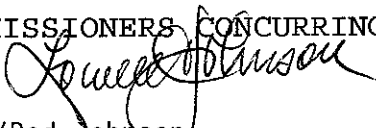
IT IS FINALLY ORDERED that this order be, and it is hereby made the Commission's official certificate of authority to furnish the service authorized herein as a common carrier.

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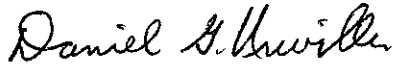
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MADE AND ENTERED at Lincoln, Nebraska this 16th day of
October, 1995.

COMMISSIONERS CONCURRING:


//s//Rod Johnson
//s//Frank E. Landis
//s//James F. Munnelly
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION


Chairman

ATTEST:


Executive Director