

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1194
McLeod Telemanagement, Inc., of Cedar)
Rapids, Iowa, seeking authority to) GRANTED
operate as a resale common carrier)
in the state of Nebraska.) Entered: August 14, 1995

APPEARANCES:

For the Applicant

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Crosby, Guenzel, et.al
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Lincoln, Nebraska 68508

Stephen Gray
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For the Communications Department

Deonne Niemack, Staff Counsel
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PRELIMINARY MATTERS

McLeod Telemanagement, Inc. (hereinafter referred to as McLeod) of Cedar Rapids, Iowa filed an application with the Commission on May 30, 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 under Mr. Gray's appearance. Notice of the application appeared in the Omaha Daily Record, May 31, 1995. McLeod appeared before the Commission for a hearing, chaired by Commissioner R. Johnson, July 18, 1995 in the Commission Hearing Room, 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

¹Interexchange reseller applications 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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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 (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.

Stephen Gray, Chief Operating Officer and Director for McLeod, testified. Mr. Gray stated, and the pleadings reflect, the applicant seeks interLATA and intraLATA authority. The filed application also seeks authority to provide AOS.

The applicant, McLeod Telemanagement is a wholly-owned subsidiary of McLeod, Inc., a privately owned company. The various subsidiaries of McLeod, Inc. are involved in the sale of local and long-distance telecommunications services (the applicant), maintenance of the State of Iowa Fiber Optics Communications Network and job management and long-term planning for fiber optic installations.

The applicant is currently certified to operate in Illinois and Iowa. At this time, efforts to expand the company's operations will be limited to neighboring states. No state has denied McLeod a certificate and no formal complaints have been filed against the company. McLeod intends to offer intrastate services throughout Nebraska, with marketing beginning in Lincoln, Omaha and along the Iowa border. Specifically, the applicant proposes to provide 1+ and 800 services using facilities leased from various interexchange carriers.

The applicant will market its services, primarily to businesses, through direct contact by its sales agents. For questions regarding customer service, the company provides a

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toll-free 800 number. McLeod provides customer service 24 hours a day. Billing will be done in-house by McLeod and will display an 800 number for questions and concerns.

The requisite financial information was provided to the Commission in the application and the statements reflect the company has encountered significant net losses. Mr. Gray testified that McLeod will continue to encounter losses for years 1995 and 1996. However, the company anticipates by year-end 1997, a profit will be realized. This Commission has routinely granted applications whereby the applicant has encountered initial losses. The projected earnings Mr. Gray testified to are not unreasonable and fairly depict the company's expected future operations. However, until the company provides more solid financial statements to the Commission, McLeod Telemanagement is precluded from accepting deposits from Nebraska subscribers. The Commission may change this position upon a written request by McLeod, with evidence of improved financial fitness.

The proposed tariff, which is part of the application, is in accordance with the Commission's Rules and Regulations. The tariff should be amended so as to remove all references to deposits or advance payments, as such activity is not permitted. Further, the time table of forty-five (45) days in Section 2.10.1 should be removed. No member may be disconnected if a complaint is pending with the Commission, regardless of whether forty-five (45) days have elapsed.

In conclusion, Mr. Gray testified that McLeod will offer excellent services to its subscribers and that the company has an extensive background in telecommunications.

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-1194 be, and it is hereby, granted and McLeod Telemanagement, Inc. of Cedar Rapids, Iowa is hereby authorized to operate as a resale carrier of intrastate interexchange interLATA and intraLATA telecommunications services within the state of Nebraska, including operator services.

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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) 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 applicant cannot request deposits or advance payments from Nebraska subscribers until financial statements are submitted to the Commission and until such activity is expressly permitted.

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.

MADE AND ENTERED at Lincoln, Nebraska this 14th day of August, 1995.

COMMISSIONERS CONCURRING:



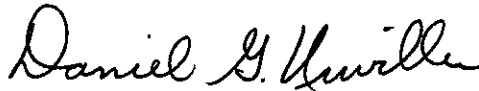
//s//Rod Johnson

//s//Frank E. Landis

//s//James F. Munnely

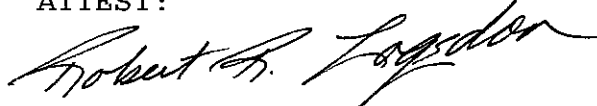
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION



Chairman

ATTEST:



Executive Director