

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1196
Westinghouse Electric Corp., of)
Pittsburgh, Pennsylvania seeking au-)
thority to obtain a Certificate of) GRANTED
Public Convenience and Necessity to)
operate as a reseller of interex-)
change telecommunications services)
within the state of Nebraska.) Entered: August 28, 1995

APPEARANCES:

For the Applicant

For the Communications Department

Tom O'Toole
302 Brinton Road
Pittsburgh, Pennsylvania 15221

Hal Hasselbalch, General Counsel
300 The Atrium, 1200 N Street
P.O. Box 94927
Lincoln, Nebraska 68508

PRELIMINARY MATTERS

Westinghouse Electric Corp. (hereinafter referred to as Westinghouse) of Pittsburgh, Pennsylvania filed an application with the Commission on June 2, 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, June 6, 1995. Westinghouse appeared before the Commission for a video-conference hearing, chaired by Commissioner Landis, July 31, 1995 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.

Tom O'Toole, Vice-President of Operations for Westinghouse, testified. Mr. O'Toole stated, and the pleadings reflect, the applicant seeks intraLATA and interLATA authority. The filed application does not seek authority to provide AOS.

The applicant started doing business in 1988 and is currently certified in approximately 31 states. No state has denied Westinghouse a certificate and no formal complaints have been filed against the company.

Westinghouse intends to offer intrastate services throughout Nebraska. Specifically, the applicant proposes to provide switched and dedicated 1+ services. The company will also offer calling cards. The underlying carrier will be MCI.

The company provides a toll-free 800 number for customer service, twenty-four hours a day. Westinghouse has its own billing software and sends invoices to its customers.

The requisite financial information was provided to the Commission in the application and the statements reflect the company is adequately financed. The proposed tariff, which is part of the application, is in accordance with the Commission's Rules and Regulations.

In conclusion, Mr. O'Toole testified that Westinghouse Corporation has over 30 years of experience in the telecommunications industry and will offer customers multiple services at competitive rates.

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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-1196 be, and it is hereby, granted and Westinghouse Electric Corp. of Pittsburgh, Pennsylvania 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, 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 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 28th day of August, 1995.

COMMISSIONERS CONCURRING:

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

NEBRASKA PUBLIC SERVICE COMMISSION

Daniel G. Urwiller
 Chairman

ATTEST:

Robert B. Lago
 Executive Director

