

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application ) Application No. C-1251  
of Atlas Communications, Inc. of )  
Blue Bell, Pennsylvania seeking )  
authority to operate as a resale ) GRANTED  
carrier of intrastate interLATA and )  
intraLATA telecommunications ser- )  
vices within the state of Nebraska. ) Entered: February 13, 1996

APPEARANCES:

For the Applicant

Steven Lutz  
482 Norristown Road  
Blue Bell, Pennsylvania 19422

For the Communications Department

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

PRELIMINARY MATTERS

Atlas Communications, Ltd. (hereinafter referred to as Atlas) of Blue Bell, Pennsylvania filed an application with the Commission on October 20, 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, October 24, 1995. Atlas appeared before the Commission for a video-conference hearing, chaired by Commissioner Landis, January 30, 1996 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 rules<sup>1</sup>, the evidence adduced at the January 30, 1996 hearing, and being fully informed, the Commission is of the opinion and finds:

---

<sup>1</sup>Interexchange 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.

Application No. C-1251

PAGE TWO

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.

Steven Lutz, Controller of Atlas Communications, Ltd., testified. Mr. Lutz stated, and the pleadings reflect, the applicant seeks both intraLATA and interLATA authority.

The applicant incorporated in May, 1995 and has received authority to operate in numerous states and intends on becoming certified nationwide. No state has denied Atlas a certificate of authority and no formal complaints have been filed against the company.

The underlying carrier for the services will be Sprint. The company provides a toll-free 800 number for customer service, twenty-four hours a day, seven days a week.

Atlas markets its services through independent network distributors. To prevent slamming, the company requires the distributors obtain written letters of authorization.

Atlas will offer 1+, 800 service and travel cards to Nebraskans. The company intends to target small to medium sized businesses. However, they will offer services to residential subscribers if asked. Atlas will offer its services throughout the state. The company requests an advance deposit if a customer has a poor credit history. Atlas will not provide alternate operator services in Nebraska.

Financial information was provided to the Commission in the application. The statements reflect the company began

Application No. C-1251

PAGE THREE

doing business in August, 1995 and encountered a year-end loss. However, the company projects to become profitable during the fourth quarter of 1996.

The proposed tariff, which is part of the application, is in accordance with the Commission's Rules and Regulations. The proposed changes requested by Mr. Lutz at the January 30, 1996 hearing are allowed and may be added to the tariff.

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-1251 be, and it is hereby, granted and Atlas Communications, Ltd. of Blue Bell, 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) a copy of any annual report to stockholders, (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission, (d) 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.

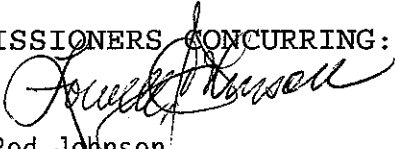
IT IS FINALLY ORDERED that this order be, and it is hereby made the Commission's official certificate of authority to furnish the service authorized herein as a common carrier.

Application C-1251

PAGE FOUR

MADE AND ENTERED at Lincoln, Nebraska this 13th day of February, 1996.

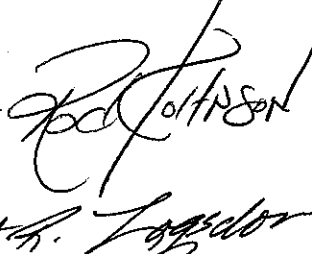
COMMISSIONERS CONCURRING:

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

NEBRASKA PUBLIC SERVICE COMMISSION

Chairman

ATTEST:

  
Executive Director