

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application ) Application No. C-1252  
of CapRock Communications Corp. )  
of Dallas, Texas seeking authority )  
to operate as a resale carrier of ) GRANTED  
intrastate interLATA and intra- )  
LATA telecommunications services )  
within the state of Nebraska. ) Entered: February 13, 1996

APPEARANCES:

For the Applicant

For the Communications Department

Timothy Rogers, Vice President  
CapRock Communications Corp.  
13455 Noel Rd., Suite 1925  
Dallas, Texas 75240

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

PRELIMINARY MATTERS

CapRock Communications Corp. (hereinafter referred to as CapRock) of Dallas, Texas filed an application with the Commission on October 20, 1995. The company seeks authority to obtain a Certificate of Public Convenience and Necessity to operate as a reseller of interexchange telecommunications services within the State of Nebraska. The applicant's business address is noted above. Notice of the application appeared in the Omaha Daily Record, October 24, 1995. CapRock appeared before the Commission for a video-conference hearing, chaired by Commissioner Rod Johnson, January 24, 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 24, 1996 hearing, and being fully informed, the Commission is of the opinion and finds:

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<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.

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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.

Timothy Rogers, Executive Vice President of CapRock, testified. Mr. Rogers stated, and the pleadings reflect, the applicant seeks both intraLATA and interLATA authority. The application does not seek authority to provide Alternate Operator Services (AOS). CapRock is a privately held company that incorporated in Texas on January 30, 1991.

The applicant has received authority to operate in fifteen (15) states, with applications pending in several others. No formal complaints or other investigatory or enforcement proceedings involving the business operations of CapRock, its officers, directors, shareholders or principals, have been initiated. No state has denied CapRock a certificate of authority.

CapRock will use Network Long Distance of Baton Rouge, Louisiana as its underlying carrier. The applicant performs its own billing and collection functions for commercial subscribers; but, relies on local exchange carrier billing for residential subscribers.

CapRock proposes to offer 1+, 800 services and calling card services. CapRock's services are targeted to small and medium size business customers, as well as on a wholesale basis, to other resale companies.

The applicant requires a signed LOA to guard against slamming. Customers are routinely contacted again regarding the satisfaction level of the company.

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Financial information was provided to the Commission in the application. In March 1995, CapRock became a switched and facility-based company which greatly affected its financial status. However, the company has steadily increased its sales.

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-1252 be, and it is hereby, granted and CapRock Communications Corp. of Dallas, Texas, 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 statements 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.

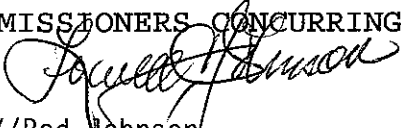
IT IS FINALLY ORDERED that this order be, and it is hereby made the Commission's official certificate of authority to furnish the service authorized herein as a common carrier.

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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