

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) Application No. C-1301
TresCom USA, Inc. of Fort Lauderdale,)
Florida seeking authority to operate)
as a resale carrier of intrastate) GRANTED
interLATA and intraLATA telecommunica-)
tions services within the state of)
Nebraska.) Entered: June 4, 1996

APPEARANCES:

For the Applicant:

Sharon B. Abny
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Suite 2100
Fort Lauderdale, FL 33301

For the Communications Department:

R. Andrew Massey
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P.O. Box 94927
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PRELIMINARY MATTERS

TresCom USA, Inc. of Fort Lauderdale, Florida filed an application with the Commission on March 4, 1996. 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, on March 6, 1996. TresCom USA appeared before the Commission for a video-conference hearing, chaired by Commissioner Rod Johnson, May 6, 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 rules¹, the evidence adduced at the May 6, 1996 hearing, and being fully informed, the Commission is of the opinion and finds:

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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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.

TresCom USA, Inc. is a wholly-owned subsidiary of the publicly-held TresCom International Corporation. TresCom USA was incorporated in 1994 in Florida. TresCom USA seeks both intraLATA and interLATA authority. TresCom USA was represented by Ms. Sharon B. Abny. Ms. Abny has been active in telecommunications for a number of years. She has a B.S. in accounting and a Juris Doctorate in law. In addition, Ms. Abny has previously worked for the Florida Public Service Commission.

Ms. Abny stated the applicant has received authority to operate in approximately seventeen (17) states and it plans to eventually be certified in all fifty (50) states. No state has denied TresCom USA a certificate of authority and no formal complaints have been filed against the company.

The underlying carrier for the services will be LCI. TresCom USA uses the EDS Billing service for its customers. TresCom USA's name and customer service information is located on all of its bills. In addition, TresCom USA has a toll-free 800 number for customer service, which operates from 8:00 a.m. to 7:00 p.m.

TresCom USA markets 1+, 800 services, travel cards, and alternate operator services. TresCom USA targets both residential and small to medium sized businesses.

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Some of the marketing techniques that will be used in Nebraska are direct mailing, telemarketing and direct sales agents. TresCom USA requires written LOA's to prevent slamming.

Financial information was provided to the Commission in the application. The statements reflect the company is capable of offering service within the state.

The proposed tariff, which is part of the application, is in accordance with the Commission's Rules and Regulations. The tariff states that company may collect advance payments or deposits if deemed necessary.

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-1301 be, and it is hereby, granted and TresCom USA, Inc. of Fort Lauderdale, Florida 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.

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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 4th day of June, 1996.

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