BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of)	Application No. C-1310
Xtracom, Inc. of Chicago, Illinois,)	
seeking authority to operate as a)	GRANTED
resale common carrier of telecom-)	
munications services within the)	
state of Nebraska.)	Entered: June 4, 1996

APPEARANCES:

For the Applicant   For the Communications Department

Steve Shyman, President   Chris A. Post
935 W. Chestnut, Suite 206   300 The Atrium, 1200 N Street
Chicago, Illinois 60622   P.O. Box 94927
                                    Lincoln, Nebraska 68508

PRELIMINARY MATTERS

Xtracom, Inc. (hereinafter referred to as Xtracom) of Chicago, Illinois filed an application with the Commission on March 22, 1996. 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, March 25, 1996. Xtracom appeared before the Commission for a video-conference hearing, chaired by Commissioner Rod Johnson, May 21, 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[1], the evidence adduced at the May 21, 1996 hearing, and being fully informed, the Commission is of the opinion and finds:

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[1]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.

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.

Mr. Steve Shyman of Xtracom, testified. Mr. Shyman 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). Xtracom incorporated in the state of Illinois on August 2, 1989. The applicant is a privately-held corporation.

The applicant has received authority to operate in approximately thirty (30) states and has applications pending in several others. No formal complaints or other investigatory or enforcement proceedings involving the business operations of Xtracom, its officers, directors, shareholders or principals, have been initiated by a state commission. No state has denied Xtracom a certificate of authority.

Xtracom will use AT&T and Wiltel as its underlying carrier. Xtracom proposes to offer 1+, 800 services and calling card services. Xtracom's services are provided to both residential and business customers.

The applicant follows FCC rules and regulations and has a policy against slamming. A written LOA is required before a change in provider is initiated.

The applicant provides a toll-free 800 number for customer service, twenty-four hours a day, seven days a week. The customer service toll-free number is displayed on Xtracom's bill.

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

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-1310 be, and it is hereby, granted and Xtracom, Inc., of Chicago, Illinois 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.
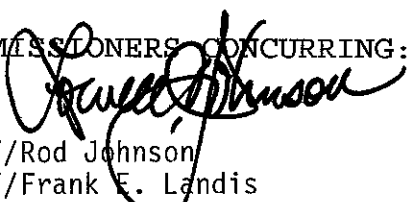
IT IS FINALLY ORDERED that this order be, and it is hereby made the Commission's official certificate of authority to furnish the service authorized herein as a common carrier.

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MADE AND ENTERED at Lincoln, Nebraska this 4th day of June, 1996.

COMMISSIONERS CONCURRING: NEBRASKA PUBLIC SERVICE COMMISSION

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

Executive Director