

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application ) Application No. C-1339  
of Innovative Telecom Corporation )  
of Nashua, New Hampshire, seeking )  
authority to operate as a resale ) GRANTED  
common carrier of telecommunications )  
services within the state of )  
Nebraska. ) Entered: August 20, 1996

APPEARANCES:

For the Applicant

Tim Bass, General Counsel  
Two Harrison Street  
Nashua, New Hampshire 03060

For the Communications Department

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

PRELIMINARY MATTERS

Innovative Telecom Corporation (hereinafter referred to as ITC) of Nashua, New Hampshire filed an application with the Commission on May 13, 1996. The company seeks authority to operate as a resale carrier of intrastate interLATA and intraLATA 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, May 16, 1996. ITC appeared before the Commission for a video-conference hearing, chaired by Commissioner Rod Johnson, July 31, 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 July 31, 1996 hearing, and being fully informed, the Commission is of the opinion and finds:

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(1) Interexchange 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.

Application No. C-1339

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.

Tim Bass of ITC, testified. Mr. Bass 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). ITC incorporated in the state of Delaware.

The applicant has received authority to operate in approximately sixteen (16) states and has applications pending in several others. No state has denied ITC a certificate of authority.

No officer, director or shareholder having 5% or more of ITC's voting securities nor any of ITC's business operating has been involved in a formal complaint or other investigative or enforcement proceeding. Customer service is provided through the use of a toll-free telephone number.

ITC proposes to provide MTS, 800 services, and prepaid debit travel card services to subscribers to and from all points in the State of Nebraska. The applicant primarily markets its products through promotional offerings where debit cards are distributed at discount or gratuitously with nationally distributed products.

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

Application No. C-1339

PAGE THREE

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-1339 be, and it is hereby, granted and Innovative Telecom Corporation, of Nashua, New Hampshire is hereby authorized to operate as a resale carrier of intrastate interexchange intraLATA and interLATA telecommunications services within the state of Nebraska, including alternate operator services.

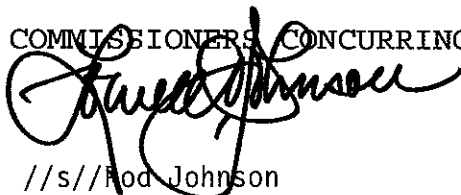
IT IS FURTHER ORDERED that the applicant shall file, in accordance with the applicable statutes on or before April 30th of each year, an annual report with this Commission consisting of (a) a copy of any report filed with the Federal Communications Commission, (b) a copy of any annual report to stockholders, (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.

MADE AND ENTERED at Lincoln, Nebraska this 20th day of August, 1996.

COMMISSIONERS CONCURRING:



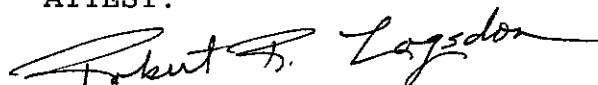
//s//Rod Johnson  
//s//Frank E. Landis  
//s//James F. Munnally  
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION

Chairman



ATTEST:



Executive Director

# SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

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