

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application ) Application No. C-2097  
of StormTel, Inc., f/k/a Z-Tel, )  
Inc. of Cape Coral, Florida, ) DISMISSED FOR LACK OF  
seeking authority to transfer ) JURISDICTION  
control to CCC Merger Corporation. )  
Entered: November 4, 1999

BY THE COMMISSION:

By application filed August 10, 1999, StormTel, Inc., f/k/a Z-Tel, Inc. (StormTel) of Cape Coral, Florida, seeks authority to transfer control to CCC Merger Corporation (CCC Merger). Notice of the application was published in The Daily Record, Omaha, Nebraska, on August 11, 1999. No protests were filed; therefore, this application is processed pursuant to the Commission's Rule of Modified Procedure.

O P I N I O N   A N D   F I N D I N G S

CCC Merger, a Florida corporation, is a wholly-owned subsidiary of Progressive Telecommunications Corporation (Progressive). CCC Merger does not possess a certificate to provide telecommunications services in Nebraska.

StormTel, a Nevada corporation, is a wholly-owned subsidiary of CCC Communications Corporation (CCC Communications). StormTel received authority from this Commission to provide interexchange telecommunications services in Nebraska, under the name Z-tel, Inc., pursuant to Application No. C-1612.

The current application stems from a merger agreement entered into by Progressive and CCC Communications. The transaction would result in CCC Merger purchasing 100 percent of the issued and outstanding capital stock of CCC Communications. Following the transfer of control of CCC Communications, StormTel will continue to operate as it has in the past, under the same name, tariff and operating authority. The transfer will have no effect on the immediate ownership or control of StormTel, as StormTel will continue to operate as a wholly-owned subsidiary of CCC Communications.

In Docket No. C-1746/PI-19, the Commission examined the situations in which it has authority to approve, condition or deny mergers, acquisitions and other transfers of control. The Commission concluded that, based on the pertinent statutes, rules and regulations, the Commission's authority over transfers of control extends only to transactions involving certificated carriers in Nebraska.

The Commission's authority is further limited to transfers which directly affect the ownership or control of the certificated carrier. Transactions having only indirect effects on the securities of a certificated carrier, such as those involving entities at the holding company level or above, typically do not affect the

Application No. C-2097

PAGE 2

actual ownership or control of the certificated entity and thus escape Commission jurisdiction.

In the present application, the transaction for which approval is sought does not directly involve the securities of the certificated entity in Nebraska, StormTel. StormTel will continue to be directly and wholly-owned and controlled by its parent corporation, CCC Communications. While the transaction may in fact touch the operations of StormTel through CCC Merger's control of CCC Communications, the governing statutes and rules preclude us from exercising authority unless StormTel experiences a change in ownership or control directly as a result of the transfer of control. Because this condition is not satisfied, the Commission does not have the authority to express an opinion over the transaction. The application should be dismissed.

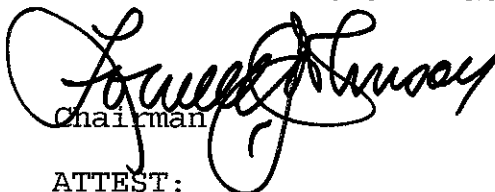
O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-2097 be, and it is hereby, dismissed.

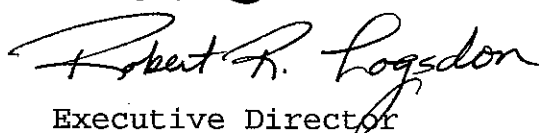
MADE AND ENTERED at Lincoln, Nebraska, this 4th day of November, 1999.

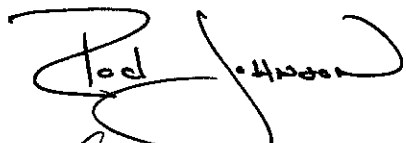
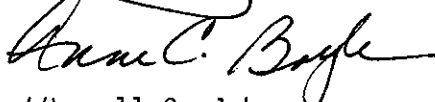
NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

  
Chairman

ATTEST:

  
Executive Director

//s//Lowell C. Johnson  
//s//Frank E. Landis  
//s//Daniel G. Urwiller