

Decision 87 11 025

NOV 13 1987

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 REBL Communications, Inc. for a)
 Certificate of Public Convenience)
 and Necessity to Operate as a)
 Reseller of Telecommunications)
 Services Within California.)

Application 87-08-023
 (Filed August 12, 1987)

ORIGINAL

OPINION

REBL Communications, Inc. (applicant) has filed an application requesting that the Commission issue a certificate of public convenience and necessity under Public Utilities (PU) Code § 1001 to permit applicant to operate as a reseller of telephone services offered by communications common carriers providing telecommunications services in California.

By order dated June 29, 1983, the Commission instituted an investigation to determine whether competition should be allowed in the provision of telecommunications transmission services within the state (OII 83-06-01). Numerous applications to provide competitive service were consolidated with that investigation and by Interim Decision (D.) 84-01-037 dated January 5, 1984 and subsequent decisions, these applications were granted, limited to the provision of interLATA service and subject to the condition that applicants not hold out to the public the provision of intraLATA service pending our decision in the Order Instituting Investigation (OII).

On June 13, 1984 we issued D.84-06-113 in OII 83-06-01 denying the applications to the extent not previously granted and directing persons not authorized to provide intraLATA telecommunications services to refrain from holding out the

availability of such services and to advise their subscribers that intraLATA communications services should be placed over the facilities of the local exchange company.

On September 16, 1987, Pacific Bell filed a protest to the part of the application that requests intraLATA authority.

Pacific Bell also protested the application on the belief that it implied that applicant be excused from filing tariffs with this Commission and asked for careful scrutiny of applicant's tariff and proposed rate structure.

On October 2, 1987, applicant responded to Pacific Bell's protest stating that its application was clearly limited to inter-LATA service. Applicant also included a revised tariff schedule, which appeared to cover rates for weekday service only.

On that same date (October 2, 1987) the assigned Administrative Law Judge (ALJ) wrote applicant a letter requesting that it respond to Pacific Bell's concerns regarding applicant's proposed tariff schedule(s). The letter also requested a statement describing applicant's sources and types of funding for the startup phase of the business until its proposed sale of stock is consummated.

On October 8, 1987, applicant responded to the assigned ALJ's letter with a detailed tariff schedule covering service for all weekdays, evenings, nights, weekends and holidays. (The example rate schedule is attached as Appendix A to this order.)

Applicant's letter also included a declaration setting forth the availability of more than \$400,000 in cash and letters of credit for funding the first year of operation as a reseller of interLATA telecommunications service. Applicant certified that it mailed copies of its October 2 and 8, 1987 letters to Pacific Bell and the Public Staff Division of this Commission, at the same time that it mailed the original letters to the assigned ALJ.

Discussion

Applicant's letters of October 2 and 8, 1987, have clarified: (1) its intent to refrain from providing intraLATA telecommunications service, (2) its proposed interLATA tariff rates for all periods of service, and (3) the sources and types of funding for its first year of operation as a reseller of telecommunications service.

Pacific Bell did not oppose the granting of interLATA authority, and applicant has responded that it does not plan to engage in the resale of intraLATA telecommunications service. Furthermore, since we are not authorizing intraLATA service the protest is moot.

There is no basis for treating this applicant any differently than those which filed earlier. Therefore, this application will be granted to authorize interLATA service and to the extent that it requests authorization for intraLATA service it will be denied.

Findings of Fact

1. By D.84-01-037 the Commission authorized interLATA entry generally.

2. By D.84-06-113 the Commission denied applications to provide competitive intraLATA telecommunications service and required persons not authorized to provide intraLATA telecommunications service to refrain from holding out the availability of such services and to advise their subscribers that intraLATA communications should be placed over the facilities of the local exchange company.

3. Applicant has, subsequent to filing this application, supplied a copy of its proposed interLATA rate schedule, which is consistent with this Commission's current requirements for rate information for resale of telecommunications service.

4. Applicant has declared that it will have sufficient funds to carry out the first year of business as a telecommunications reseller.

5. There is no basis for treating this applicant differently than those which filed earlier.

6. Because of the public interest in effective competition interLATA this order should be effective today.

7. As a telecommunications service supplier, applicant should be subject to the 4% interim surcharge on gross intrastate interLATA revenues and the conditions as set forth in D.87-07-090.

8. Applicant should be subject to the user fee as a percentage of gross intrastate revenue pursuant to PU Code §§ 431-435. The fee is currently .1% for the 1987-88 fiscal year.

Conclusion of Law

This application should be granted in part to the extent set forth below.

ORDER

IT IS ORDERED that:

1. The application of REBL Communications, Inc., is granted to the limited extent of providing the requested service on an interLATA basis, subject to the condition that applicant refrain from holding out to the public the provision of intraLATA service and subject to the requirement that it advise its subscribers that intraLATA communications should be placed over the facilities of the local exchange company.

2. To the extent that the application requested authorization to provide intraLATA telecommunications services, the application is denied.

3. Applicant is authorized to file with this Commission, 5 days after the effective date of this order, tariff schedules for the provision of interLATA service. Applicant may not offer

service until tariffs are on file. If applicant has an effective FCC-approved tariff, it may file a notice adopting such FCC tariff with a copy of the FCC tariff included in the filing. Such adoption notice shall specifically exclude the provision of intraLATA service. If applicant has no effective FCC tariffs, or wishes to file tariffs applicable only to California intrastate interLATA service, it is authorized to do so, including rates substantially as set forth in Appendix A, to this order, together with rules, regulations, and other provisions necessary to offer service to the public. Such filing shall be made in accordance with General Order (GO) 96-A, excluding Sections IV, V, and VI, and shall be effective not less than 1 day after filing.

4. Applicant is authorized to deviate on an ongoing basis from the requirements of GO 96-A in the following manner: (a) to deviate from the pagination requirements set forth in paragraph II.C.(1)(b) which requires consecutive sheet numbering and prohibits the reuse of sheet numbers, and (b) to deviate from the requirements set forth in paragraph II.C.(4) that "a separate sheet or series of sheets should be used for each rule." Tariff filings incorporating these deviations shall be subject to the approval of the Evaluation and Compliance Division's Telecommunications Branch. Tariff filings shall reflect the 4% interim surcharge noticed in Ordering Paragraph 7.

5. If applicant fails to file tariffs within 30 days of the effective date of this order, applicant's certificate may be suspended or revoked.

6. The requirements of GO 96-A relative to the effectiveness of tariffs after filing are waived in order that changes in FCC tariffs may become effective on the same date for California interLATA service for those companies that adopt the FCC tariffs.

7. Applicant is subject to the 4% interim surcharge applicable to the gross revenues of intrastate interLATA services as outlined in D.87-07-090 in Order Instituting Investigation

83-11-05 dated July 29, 1987. The 4% interim surcharge collected shall be retained in an interest bearing account pending further order of the Commission.

8. Applicant is subject to the user fee as a percentage of gross intrastate revenue pursuant to PU Code §§ 431-435.

9. The corporate identification number assigned to REBL Communications, Inc., is U-5134-C which should be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

10. The application is granted in part and denied in part as set forth above.

This order is effective today.

Dated NOV 13 1987, at San Francisco, California.

STANLEY W. HULETT
President
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OKANIAN
Commissioners

Commissioner Donald Viel, being necessarily absent, did not participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Victor Weiss, Executive Director

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APPENDIX A
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REBL Communications, Inc.
Proposed California InterLATA Telecommunications
Rate Schedules

These proposed rates include provisions for discounts for evening, night, and weekend service as follows:

A. BASIC RATE (Monday - Friday: 8:00 a.m. to 5:00 p.m.)

<u>Rate Mileage</u>	<u>1st Minute</u>	<u>Each Additional Minute</u>
0- 20	\$.23	\$.11
21- 40	.32	.19
41- 70	.34	.20
71-100	.38	.23
101-150	.41	.24
151-330	.43	.27
Over 330	.44	.28

B. TIME OF USE DISCOUNTS

REBL will offer discounts to the above "Basic Rate" in the manner set forth below:

1. Evening Discount (Monday - Friday, 5:00 p.m. to 11:00 p.m.)
- 20% off Basic Rate.
2. Night Discount (Monday - Friday, 11:00 p.m. to 8:00 a.m.)
- 40% off Basic Rate
3. Weekend Discount (Saturday and Sunday, all hours)
- 40% off Basic Rate
4. Holiday Discount (New Year's Day, Washington's Birthday, Independence Day, Labor Day, Thanksgiving Day and Christmas Day)
- 40% off Basic Rate

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C. VOLUME DISCOUNT

REBL will apply a volume discount to all of its proposed rates, including those in its Time-of-Use Discount Schedule, in the manner set forth below:

<u>Gross Monthly Billing</u>	<u>Discount</u>
\$ 0 - 50	0%
51 - 100	10
101 - 150	15
151 +	20

REBL respectfully requests that its proposed rate schedule, as set forth in this section, be substituted for the rate schedule set forth in Exhibit V of REBL's original application for a certificate of public convenience and necessity (A.87-08-023).

(END OF APPENDIX A)