

Decision 88 06 061

JUN 30 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of International Business)
 Machines Corporation to transfer and)
 Contel Tenant Services, Inc. to acquire)
 all the outstanding stock of RealCom)
 Communications Corporation (U-5091-C))
 and of RealCom Communications)
 Corporation to merge into Contel Tenant)
 Services, Inc.)

Application 88-03-014
 (Filed March 4, 1988)

ORIGINALOPINION MODIFYING DECISION

By Decision (D.) 88-04-003 dated April 13, 1988, the Commission granted Application (A.) 88-03-014 and authorized Contel Tenant Services, Inc. (CTS) to acquire all of the outstanding capital stock of RealCom Communications Corporation (RCC). D.88-04-003 also authorized RCC to merge with and into CTS, subject to certain conditions including CTS first qualifying to do business as a foreign corporation in California and then revising RCC's tariffs to reflect the new ownership of CTS. (Ordering Paragraphs 1, 2, and 3 of D.88-04-003.)

On June 10, 1988 RCC and CTS (applicants) jointly filed a "Petition for Modification of D.88-04-003..." based on their current preference to instead merge CTS into RCC and leave RCC as the surviving corporation. Applicants claim that this modification of the transaction, "...will have no impact from a regulatory standpoint, since there will still be one combined entity as a wholly owned subsidiary of Contel Corporation."

Specifically, applicants request that, pursuant to Rule 43 of the Commission's Rules of Practice and Procedure, D.88-04-003 be modified by adding the following paragraph:

- "9. Subsequent to its acquisition of all of the outstanding capital stock of RealCom Communications Corporation, Contel Tenant Services, Inc. is authorized to merge with

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- "9. Subsequent to its acquisition of all of the outstanding capital stock of RealCom Communications Corporation, Contel Tenant Services, Inc. is authorized to merge with

and into RealCom Communications Corporation; and, within 30 days after the completion of any such merger, the parties shall file written notice thereof with the Director of the Commission Advisory and Compliance Division."

Applicants further request that they be given 60 days to perfect this merger, after issuance of this order on their Petition for Modification.

Discussion

The requested modification of D.88-04-003 will have no serious consequences on the overall operations of this utility, and since it is not controversial, may be granted by the Commission's Executive Director under the procedure adopted in D.86-08-057 which authorized the Commission's Executive Director to grant non-controversial transfers of certificates of public convenience and necessity for non-dominant interexchange carriers of telecommunications services in California.

Findings of Fact

1. The modification requested by applicants to leave RCC as the surviving entity after merger with CTS will have no serious consequences on the overall operations of the utility as noted in the discussion herein.
2. RCC will continue to use corporate identification number U-5091-C in all formal matters filed before this Commission.
3. A public hearing is not necessary.
4. An order modifying a decision involving the transfer of a reseller's certificate, such as this, may be approved by our Executive Director as authorized by D.86-08-057 dated August 18, 1986.
5. This decision should be effective today to allow orderly transfer of ownership without further delay.

Conclusion of Law

The Petition for Modification of D.88-04-033 should be granted as provided for in the following order.

ORDER

IT IS ORDERED that:

1. D.88-04-003 is hereby modified by the addition of the following Ordering Paragraph:

9. Subsequent to its acquisition of all of the outstanding capital stock of RealCom Communications Corporation, Contel Tenant Services, Inc. is authorized to merge with and into RealCom Communications Corporation; and, within 30 days after the completion of any such merger, the parties shall file written notice thereof with the Director of the Commission Advisory and Compliance Division.

2. Ordering Paragraphs 4, 5, 6, and 7 of D.88-04-003 are modified to reflect "RealCom Communications Corporation" as the surviving entity rather than "Contel Tenant Services, Inc."

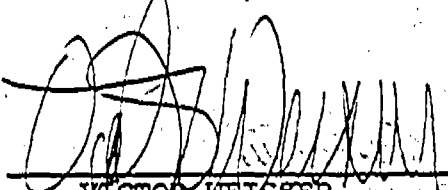
3. Ordering Paragraph 8 of D.88-04-003 is changed as follows:

8. The authority granted in Ordering Paragraph 1 shall expire unless it is exercised before September 30, 1988.

4. The ordering paragraphs and other requirements of D.88-04-003 dated April 13, 1988, except as modified herein, will continue to apply to RealCom Communications Corporation after its merger with Contel Tenant Services, Inc.

This order is effective today.

Dated JUN 30 1988, at San Francisco, California.


VICTOR WEISSNER
Executive Director

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


Victor Weissner, Executive Director