

Decision 88 08 015 AUG 10 1988

ORIGINAL

Mailed

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

AUG 11 1988

In the Matter of the Application of)
Network USA, Inc. for a Certificate)
of Public Convenience and Necessity)
to Operate as a Reseller of Tele-)
communications Services Within)
California.)

Application 88-02-036
(Filed February 22, 1988)

O P I N I O N

The subject application filed by applicant Network USA, Inc. will be dismissed for lack of prosecution. In a request for an indefinite postponement of the hearing in this matter, Victor J. Toth advised the Commission that he has withdrawn as counsel to applicant. He requested that all correspondence and other contact regarding the application be directed to Michael Mead, applicant's Chief Executive Officer. Copies of a June 10, 1988 Administrative Law Judge (ALJ) ruling were sent to Toth, Mead, protestant GTE California, Incorporated (GTE), and to the Commission staff. The ruling states in part:

"At applicant's request, the original hearing in this proceeding was rescheduled from May 13, 1988 to June 9, 1988. The Commission received a last-minute request for applicant from Mr. Toth seeking to indefinitely continue the hearing.

"Applicant should furnish me with a satisfactory written explanation of the reason it was not ready to proceed with the June 9 hearing and advise me when it will be ready to proceed. I should receive your letter on or before June 28, 1988. Otherwise, I would recommend dismissal of the application by the Commission due to a lack of prosecution."

Findings of Fact

1. Applicant filed an application requesting a certificate of public convenience and necessity to operate as a reseller of telecommunication services within California.
2. A timely protest was filed by GTE.
3. A hearing scheduled for May 13, 1988 was continued to June 9, 1988 at applicant's request.
4. The Commission received a last minute request for application from Toth seeking to indefinitely continue the hearing.
5. A June 10, 1988 ALJ Ruling directed applicant to supply the ALJ with a satisfactory written explanation of the reason it was not ready to proceed with the June 9 hearing and to advise him when it would be ready to proceed. Applicant was advised that the ALJ would recommend dismissal of the application if he did not receive applicant's letter by June 28, 1988.
6. Applicant did not respond to the ALJ's ruling.

Conclusion of Law

The application should be dismissed for lack of prosecution by applicant.

ORDER


IT IS ORDERED that Application 88-02-036 filed by Network USA, Inc. is dismissed without prejudice.

This order is effective today.

Dated AUG 10 1988, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

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


Victor Weiser, Executive Director