

ORIGINAL

Decision 88 08 017 AUG 10 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Applications)
of Access Net, Inc. for a)
Certificate of Public Convenience)
and Necessity to Operate as a)
nondominant provider of)
Telecommunications Services within)
California.)

AUG 11 1988

Application 88-04-040
(Filed April 13, 1988)

OPINION

Access Net, Inc. (applicant) has filed an application requesting that the Commission issue a certificate of public convenience and necessity (CPCN) 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.

The application, as filed, contained only a sketchy pro forma balance sheet and income statement and did not include any substantive financial showing of applicant's ability to carry out this utility operation. The proposed rates for intrastate service, appended as Exhibit V to the application also lacked definition of what service was actually being offered.

These deficiencies were called to the attention of the attorneys for the applicant, via telephone, by the assigned Administrative Law Judge (ALJ) during the week of April 18, 1988.

On April 25, 1988, applicant responded by letter to the assigned ALJ and provided a more detailed rate schedule which also contained a limitation to offer interLATA-only telecommunications service. (The sample rate schedule is attached as Appendix A to this order.)

In further letters to the ALJ, applicant confirmed that it had arranged financing for the purchase and installation of fiber optic systems for its utility operations in California, through a bank in Chicago.

The remaining question of necessary funding of operating and maintenance expenses, and employee payroll, as well as for payment of wholesale communications services for resale was resolved by a July 7, 1988 letter, to the assigned ALJ, in which applicant declared that it had available a cash commitment of \$500,000 to cover the first year operation of this Los Angeles based utility. An equal amount of cash has been committed to cover the similar start-up operations of applicant's proposed San Francisco utility for which a CPCN is sought in Application (A.) 88-05-003, according to the applicant.

No timely protests were received regarding this application.

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 interLATA competition 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 in Order Instituting Investigation 83-11-05 dated July 29, 1987, and D.87-10-088 dated October 28, 1987.

8. As a telecommunications service supplier, applicant should also be subject to the one-half percent (1/2%) surcharge on gross intrastate interLATA revenues to fund Telecommunications Devices for the Deaf. This surcharge becomes effective on October 1, 1988 as set forth in Resolution T-13005 dated July 22, 1988 and issued pursuant to PU Code § 2881.

9. 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 1988-89 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 Access Net, 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, 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 Subsection G.5. of Section III, 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 Commission Advisory and Compliance Division's Telecommunications Branch. Tariff filings shall reflect the 4% interim surcharge noted in Ordering Paragraph 7.

5. If applicant fails to file tariffs within 60 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 and D.87-10-088 dated October 28, 1987.

8. Effective on and after October 1, 1988, applicant is subject to a one-half percent (1/2%) monthly surcharge to fund

Telecommunications Devices for the Deaf as outlined in Resolution T-13005 dated July 22, 1988 pursuant to PU Code § 2881.

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

10. The corporate identification number assigned to Access Net, Inc. is U-5157-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.

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

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 Weisser, Executive Director

Access Net, Inc.

PROPOSED RATES FOR INTRASTATE INTERLATA
DEDICATED TELEPHONE SERVICE

	<u>Per Month</u>	<u>Initial Installation Fee (non-recurring)</u>
A. One (1) Voice Grade Channel	\$ 127.89	\$ 270.00
B. Twenty-Four (24) Voice Grade Channels (D-1 Service)	\$ 669.12	\$ 681.30
C. Six Hundred Seventy-Two (672) Voice Grade Channels (DS-3 Service)	\$6,000.00	\$6,000.00

As reflected above, Applicant is proposing to offer dedicated interLATA-only telephone service in three separate packages. Consumers may purchase service capable of handling: (1) a single voice channel; (2) 24 voice channels; or (3) 672 voice channels. Service under all three options is provided on a 24-hour basis.