

Decision 89 04 043 APR 12 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
National Telephone Communications Inc.)
for a Certificate of Convenience and)
Necessity to Operate as a Reseller of)
Telecommunications Services within)
California.)

Application 88-12-007
(Filed December 5, 1988)

APR 14 1989

OPINION

This is an application in which National Telephone Communications, Inc. (National) seeks a certificate of public convenience and necessity to operate as a reseller of interLATA long distance telephone service in California.

Notice of the filing of the application appeared in the Commission's Daily Calendar on December 8, 1988. There are no protests.

The Commission makes the following findings and conclusions.

Findings of Fact

1. A public hearing is not necessary in this matter.
2. National is a Nevada corporation which is qualified to do business in California. National is a publicly traded company, currently being traded over the counter. It has 6,900,000 shares of common stock, issued and outstanding, of which 4,500,000 shares, held by Donald Rackemann, are restricted and not freely tradeable. National has hired Terry Dasno (Dasno) as its Director of Operations and Networking. Dasno has five years hands-on experience with switching, networking, digital fiber optics and has long standing relationships at Pacific Bell and G.T.E. Jack Davis is its Director of Marketing and has 3-1/2 years experience in telecommunications and direct sales of measured time service.

3. National proposes to operate an interLATA long distance telephone service using leased facilities in the Los Angeles, San Diego, Sacramento, and San Francisco metropolitan areas. National also proposes to operate interstate long distance interLATA telephone service between origination points in California and points in the contiguous 48 states and Alaska and Hawaii, for which no authority is required.

4. The application indicates that National intends to provide long distance service at rates which are below AT&T's rates and competitive with such OCC companies as MCI and Sprint. It proposes to establish the following rates:

Service 1 is a flat rate for unlimited, long distance service. The price to the subscriber will be \$229.00 per month.

Service 2 is based upon presubscribed units of monthly service without differentiation by call mileage or time of day. This is referred to as "block time." The units will range in size from 500 minute blocks to 300,000 minute blocks with prices ranging from 22¢ per minute to 15¢ per minute. Subscribers will, in many instances, purchase both flat rates lines and block time lines.

A statement of proposed rates is attached to the application, but proposed tariff pages, which are not mandatory, were not provided. It is reasonable to require that the initial tariffs filed by National be filed on not less than 15 days' notice before they become effective to allow time for appropriate review by the Commission Advisory and Compliance Division and other interested parties.

5. National's proposed intrastate resale services are designed to meet the long distance telephone service needs of subscribers who cannot currently realize cost savings in communications services. The use of excess communications circuits in providing service to National's customers will result in a more efficient use of existing facilities.

6. Granting the application will increase competition in the California interLATA communications market.

7. National has attached to the application a pro forma balance sheet which indicates total assets of \$204,500 for the commencement of operations. Losses are projected for the first five months of operations with profits projected thereafter.

8. National has the ability, including financial ability, to conduct the proposed operations.

9. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

10. Public convenience and necessity require that the application be granted.

11. As a telephone corporation operating as a telecommunications services supplier, National should be subject to the 4% surcharge on gross intrastate interLATA revenues as established by Commission decisions and resolutions pursuant to Public Utilities (PU) Code § 879.

12. As a telephone corporation operating as a telecommunications service supplier, National 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 became effective on October 1, 1988 as set forth in Resolution T-13005 dated July 22, 1988 and issued pursuant to PU Code § 2881.

13. National should be subject to the user fee as a percentage of gross intrastate revenue pursuant to PU Code §§ 431-435. The fee is currently 0.1% for the 1988-89 fiscal year.

14. Because of the public interest in effective interLATA competition, this order should be effective on the date of issuance.

Conclusion of Law

The application should be granted.

Only the amount paid to the State for operative rights may be used for rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity to operate as a telephone corporation as defined in PU Code § 234 for the purpose of operating an interLATA long distance telephone service is granted to National Telephone Communications, Inc. (National) in accordance with the terms of the application, except as herein modified.

2. The authority granted in Ordering Paragraph 1 is subject to the condition that National 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.

3. Applicant is authorized to file with this Commission, after the effective date of this order, on not less than 15 days' notice to the public and Commission, tariff schedules for the provision of interLATA service. Applicant may not offer service until tariffs are in effect. 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 Sections III.G.5, IV, V, and VI, and shall be effective not less than 15 days after filing.

4. After the filing of initial tariffs, as provided for in Ordering Paragraph 3, applicant is authorized to deviate on an ongoing basis from the requirements of GO 96-A in the following manner: (a) to deviate from 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% surcharge noticed in Ordering Paragraph 6.

5. 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.

6. National is subject to the 4% surcharge applicable to the gross revenues of intrastate interLATA services as established by Commission decisions and resolutions pursuant to PU Code § 879.

7. National 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.

8. National 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 National is U-5173-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 certificate of public convenience and necessity granted by this order shall expire on December 31, 1989, if applicant has not filed tariffs and commenced operations by that date.

This order is effective today.

Dated APR 12 1989, at San Francisco, California.

G. MITCHELL WILK
President
STANLEY W. HULETT
JOHN B. OHANIAN
Commissioners

Commissioner Frederick R. Duda
being necessarily absent, did
not participate.

Commissioner Patricia M. Eckert
present but not participating.

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

Victor Wussor

Victor Wussor, Executive Director

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