

Decision 89 06 025 JUN 7 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
Cable & Wireless Communications, )  
Inc. (I.D. No. U-5056-C), for the )  
Authorization of Acquisition and )  
Control of Cable & Wireless )  
Management Services, Inc. )  
(I.D. No. U-5131-C). )

**ORIGINAL**  
Application 89-02-044  
(Filed February 22, 1989)

OPINION

This is an application in which Cable & Wireless Communications, Inc. (CWC) seeks authority to acquire control of Cable & Wireless Management Services, Inc. (CWMS).

Notice of the filing of the application appeared in the Commission's Daily Calendar on February 24, 1989. 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. CWC (formerly known as TDX Systems, Inc.) is a District of Columbia corporation which is qualified to do business in California. CWC holds a certificate of public convenience and necessity issued by the Commission authorizing it to operate as a telephone corporation to provide interLATA telephone service in California (U-5056-C).
3. CWMS is a Texas corporation which is qualified to do business in California. It holds a certificate of public convenience and necessity issued by the Commission authorizing it to operate as a telephone corporation to provide interLATA private line service and high speed interLATA digital service in California.

4. CWC and CWMS are sister corporations, whose parent corporation is a wholly owned subsidiary of Cable & Wireless North America which, in turn, is the United States arm of Cable & Wireless plc. of London, England. The parties seek authority to consummate an agreement and plan of merger under which CWMS will be merged into CWC. No monetary consideration will be made under the agreement. Each share of CWMS stock will be converted into a share of CWC stock.

5. The parties state that the purpose of the merger is to consolidate the operations of both CWMS and CWC into one entity, thereby ensuring efficient and economic operation of the merged entity throughout the United States, and in this case, in California.

6. CWC states it will adopt and keep in full force and effect all existing and proposed tariffs of CWMS, to assure continuity of existing service to all CWMS customers after the proposed merger is effectuated.

7. The question of financial ability to continue public utility operations is an element to be considered in whether the sale of utility operating rights or the acquisition of control is adverse to the public interest. Applicant's request for a protective order in connection with not making public the financial statements required by Rule 17 is unreasonable and should be denied.

8. As of December 31, 1988 CWC had assets of \$91,238,000 and CWMS had assets of \$70,520,000.

9. CWC has the ability, including financial ability, to acquire control of CWMS and continue its operations.

10. The proposed acquisition of control of CWMS by CWC is not adverse to the public interest.

11. CWC and CWMS are telephone corporations which are nondominant telecommunications carriers with respect to the matters presented in this application.

Ordering Paragraph 1 of D.85-01-008 in Application 84-03-92 dated January 3, 1985, provides that:

- "1. On and after the effective date of this order, public utility resellers of telecommunications services are exempted from the requirements of PU Code §§ 816-830."

Ordering Paragraph 7 of D.87-04-017 dated April 8, 1987, relating to telecommunications carriers, provides in part that:

- "...in noncontroversial applications for authority to transfer assets or control under PU Code §§ 851-855, such authority may be granted by the Commission's Executive Director as specified in D.86-08-057."

Since the ensuring order primarily affects the parties to this application, it should be made effective on the date of issuance.

Conclusions of Law

1. The motion for a protective order should be denied.
2. The application should be granted.

This authorization is not a finding of the value of the rights and properties over which control is to be acquired.

ORDER

IT IS ORDERED that:

1. On or after the effective date of this order Cable & Wireless Communications, Inc. (CWC) may acquire control of Cable & Wireless Management Services, Inc. (CWMS) through the exchange of capital stock in accordance with the terms set forth in the application.
2. Within 10 days after acquisition of control, CWC shall write the Commission stating the date of the transfer of control. A copy of the documents effectuating the transfer of control shall be attached.

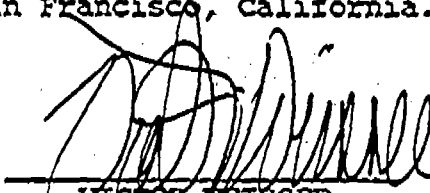
3. The motion for a protective order is denied.

4. Upon consumation of the merger, CWMS's Identification Number U-5131-C is revoked. CWC shall continue to use Identification Number U-5056-C in the caption of all original filings with the Commission, and in the titles of other pleadings filed in existing cases.

5. The authority granted in Ordering Paragraph 1 shall expire unless it is exercised before December 31, 1989.

This order is effective today.

Dated JUN 7 1989, at San Francisco, California.

  
VICTOR WEISSER  
Executive Director

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

  
Victor Weisser, Executive Director