

Decision 90 11 084 NOV 29 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of West Coast Telecommunications, Inc. (U-5195-C) to acquire control of Commonwealth Heritage dba/Commonwealth Communications Network U-5182-C).

Application 90-09-007  
(Filed September 5, 1990)

**ORIGINAL**

O P I N I O N

West Coast Telecommunications, Inc. (WCTI), a California corporation, seeks nunc pro tunc authority to acquire control of Commonwealth Heritage, a California corporation, doing business as Commonwealth Communications Network (CCN).

WCTI entered into an Agreement of Purchase and Sale of Shares whereby WCTI purchased all of CCN's outstanding shares from Edward Epstein and Gary Haner (Sellers), owners of 700 shares, for a total purchase price of \$70,000. Prior to this transaction, WCTI owned 700 shares, being 50% of CCN's stock, but Sellers controlled CCN's affairs. By the acquisition by WCTI of all of the outstanding shares of CCN, the latter corporation became a wholly owned subsidiary of WCTI.

Notice of filing of the application appeared in the Commission's Daily Calendar of September 6, 1990. The application was found to be incomplete by the Administrative Law Judge to whom the matter was referred, and it was made complete by applicant on October 7, 1990. No protests have been received.

The Commission makes the following findings and conclusions.

Findings of Fact

1. A public hearing is not necessary in this matter.
2. CCN is a California corporation which received authority from the Commission in Decision (D.) 89-08-004 to provide interLATA telecommunication service in California.

3. WCTI is a California corporation which received authority from the Commission in D.90-01-009 to provide interLATA telecommunications service in California.

4. WCTI entered into an Agreement of Purchase and Sale of Shares whereby WCTI purchased all of CCN's outstanding shares from Sellers, who together owned 700 shares, for a total purchase price of \$70,000. Prior to this transaction, WCTI owned 700 shares, 50% of CCN's stock, but Sellers controlled CCN's affairs. By this transaction, CCN became a wholly owned subsidiary of WCTI.

5. WCTI's projected balance sheet shows total assets of \$8,035,000 and total equity of \$3,245,000 as of September 30, 1990.

6. CCN was indebted to WCTI in the amount of \$500,000 for services rendered as of July 27, 1990.

7. If the parties ratify or reexecute the agreement dated July 27, 1990, the proposed acquisition of control of CCN by WCTI would not be adverse to the public interest.

8. CCN and WCTI are telephone corporations which are nondominant telecommunications carriers.

9. Ordering Paragraph 1 of D.85-01-008 in Application 85-03-092 dated January 3, 1985, provides that:

"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."

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

"...in noncontroversial applications of 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."

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

Conclusions of Law

1. The requested authority should not be granted nunc pro tunc. The parties should be required to ratify or reexecute the agreement of July 27, 1990.
2. If the parties ratify or reexecute the agreement, the application should be granted.

ORDER

IT IS ORDERED that:

1. On or after the effective date of this order Commonwealth Heritage, West Coast Telecommunications, Inc. (WCTI), Edward Epstein, and Gary Hamer may ratify or reexecute the agreement executed by them on July 27, 1990. A copy of the document ratifying or reexecuting the transaction shall be forwarded to the Commission Advisory and Compliance Division (CACD) within 10 days after execution.
2. If the parties comply with the provisions of Ordering Paragraph 1, WCTI is authorized to acquire control of Commonwealth Heritage by the purchase of all of its outstanding stock in accordance with the terms set forth in Exhibit 1 attached to the application. WCTI shall file written notice of the acquisition of control with CACD within 15 days after it has occurred.

3. The authority granted in this Order shall expire unless it is exercised before December 31, 1990.

Dated NOV 29 1990, at San Francisco, California.

*Neal J. Shulman/WJF*

NEAL J. SHULMAN  
Executive Director

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

*Neal J. Shulman*  
NEAL J. SHULMAN, Executive Director

*pb*