

Decision 91 01 007 JAN 15 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CELLULAR LONG DISTANCE COMPANY for)
a Certificate of Public Convenience)
and Necessity to resell telecommuni-)
cations services within the State)
of California.)

~~CONFIDENTIAL~~
Application 90-10-024
(Filed October 9, 1990)

OPINION

This is an application in which Cellular Long Distance Company (applicant) seeks a certificate of public convenience and necessity (CPCN) authorizing it to operate an interLATA¹ telecommunications system in California.

Notice of the filing of the application appeared in the Commission's Daily Calendar on October 18, 1990, and applicant has served copies of its application on 88 entities and individuals with which it may compete. No protest has been received.

Applicant seeks authority under Public Utilities (PU) Code § 1001 to operate as a reseller of telecommunications service, including the termination of interLATA calls originated by the subscribers of cellular and other intraLATA² exchange carriers. Applicant's service will be purchased in bulk from other

1 The term interLATA describes services, revenues, and functions that relate to telecommunications originating in one local access and transport area (LATA) and terminating in another LATA or outside of a LATA. California is divided into ten LATAs of varying geographical size, each containing numerous local telephone exchanges.

2 IntraLATA describes services that relate to telecommunications originating and terminating within a single local access and transport area.

certificated carriers and will be resold to end users. Applicant proposes no new construction or extension of facilities.

In addition to seeking a CPCN to provide interLATA services, applicant intends to provide high-speed digital private line services on an intraLATA basis on the terms of the authority granted in Decision (D.) 88-01-060. Applicant would not hold out the availability of intraLATA telecommunications services to its customers. However, as in D.88-01-060, applicant intends that its circuits may be used by other interLATA carriers in putting together their networks, by end users as part of their interLATA private line communications systems, and by certificated intraLATA carriers as a means of delivering or terminating interLATA traffic. (See, also, D.87-09-062.) The Commission recently granted similar authority with respect to intraLATA 1.544 megabits per second (Mbps) high speed digital private line service (HS-DPLS), subject to the rates, charges, and special conditions set forth in a carrier's tariffs (D.90-09-083).

In D.90-08-032, the Commission determined that all new applicants seeking CPCNs to become non-dominant interexchange carriers must demonstrate that they possess a minimum of \$400,000 available to carry out the first year of their operations. Applicant has submitted a letter of guarantee from its corporate parent, LIN Cellular Communications Corporation, New York, N.Y., committing \$400,000 in cash or equivalent resources to applicant for so long as applicant continues in operation.

Applicant asks to be exempted from the requirements of PU Code §§ 816-830 dealing with the issuance of stock and other evident of ownership and bonds, notes, and other evidence of indebtedness.

This application is similar to others that have received ex parte treatment by the Commission. The Commission makes the following findings and conclusion.

Findings of Fact

1. Applicant is a California corporation. It is a wholly owned subsidiary of LIN Cellular Communications Corporation, a California corporation, and an indirect subsidiary of LIN Broadcasting Corporation, a Delaware corporation with principal offices in New York, N.Y.

2. The application was filed on October 9, 1990. Notice of the filing appeared in the Commission's Daily Calendar on October 18, 1990. No protest has been received by the Commission.

3. Applicant proposes to operate as a reseller of interLATA telecommunications service within the State of California.

4. Applicant also proposes to provide high-speed digital private line service on an intraLATA basis to the extent permitted in D.88-01-060.

5. Applicant has provided a current balance sheet showing that it has not yet begun business. A letter of guarantee of up to \$400,000 in uncommitted cash or equivalent financial resources has been provided by applicant's corporate parent, LIN Cellular Communications Corporation.

6. By D.84-01-037, the Commission authorized interLATA entry generally.

7. By D.84-06-113, the Commission denied applications to provide competitive intraLATA telecommunications service and required persons not authorized to provide intraLATA service to refrain from holding out such service and to advise subscribers that intraLATA communications should be placed over the facilities of the local exchange company.

8. Exemption from the provisions of PU Code §§ 816-830 has been granted to other resellers (e.g., D.86-10-007 and D.88-12-076).

9. There is no basis for treating this applicant differently than those that filed earlier.

10. Since no facilities are to be constructed, it can be seen with certainty that the proposed operation will not have a significant effect on the environment.

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

12. It is reasonable to require that the initial tariffs filed by applicant be filed on not less than 1 day's notice before they become effective.

13. As a telephone corporation operating as a telecommunication service supplier, applicant is subject to:

- a. the current 3.4% surcharge applicable to service rates of intraLATA toll and intrastate interLATA toll revenues to fund Universal Telephone Service (PU Code § 879, Resolution T-14081);
- b. the current 0.3% surcharge on gross intrastate interLATA revenues to fund Telecommunications Devices for the Deaf (PU Code § 2881; Resolution T-13061), and
- c. the user fee provided for in PU Code §§ 431-435 which is 0.1% of gross intrastate revenue for the 1990-91 fiscal year (Resolution M-4754).

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

Conclusion of Law

This application should be granted to the extent set forth below.

Only the amount paid to the State for operative rights may be used in 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 is granted to Cellular Long Distance Company (applicant) to operate as a reseller of the interLATA telecommunication service offered by communication common carriers in California, subject to the following conditions:

- a. Applicant shall offer and provide its services only on an interLATA basis;
- b. Applicant shall not provide intraLATA services;
- c. Applicant shall not hold out to the public that it has authority to provide, or that it does provide, intraLATA services; and
- d. Applicant shall advise its subscribers that they should place their intraLATA calls over the facilities of the local exchange company.

2. Applicant's request to provide high-speed digital private line service on an intraLATA basis, to the extent permitted by D.88-01-060, is granted.

3. To the extent the application requests authority to provide intraLATA telecommunication service on any other basis, it is denied.

4. Within 30 days after this order is effective, applicant shall file a written acceptance of the certificate granted in this proceeding.

5. 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 tariff approved by the Federal Communications Commission (FCC), 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. Applicant's initial filing shall be made in accordance with General Order (GO) 96-A, excluding Sections IV, V, and VI, and shall be effective not less than 1 day after filing. Applicant is a non-dominant interexchange telecommunications utility (NDIEC). The effectiveness of its future tariffs is subject to the schedules set forth in Ordering Paragraph 5 of D.90-08-032 as follows:

"5. All NDIECs are hereby placed on notice that their California tariff filings will be processed in accordance with the following effectiveness schedule:

- "a. Inclusion of FCC-approved rates in California Public Utilities tariff schedules shall become effective on one (1) day's notice.
- "b. Uniform rate reductions for existing services shall become effective on five (5) days' notice.
- "c. Uniform rate increases for existing services shall become effective on thirty (30) days' notice, and shall require bill inserts or first class mail notice to customers of the pending increased rates, and
- "d. Advice letter filings for new services and for all other types of tariff revisions shall become effective on forty (40) days' notice."

6. Applicant may deviate from the following provisions of GO 96-A: (a) paragraph II.C.(1)(b), which requires consecutive sheet numbering and prohibits the reuse of sheet numbers, and

(b) paragraph II.C.(4), which requires that a separate sheet or series of sheets be used for each rule. Tariff filings incorporating these deviations shall be subject to the approval of the Commission Advisory and Compliance Division (CACD) Telecommunications Branch. Tariff filings shall reflect all surcharges to which applicant is subject, as reflected in Finding of Fact 13.

7. The requirements of GO 96-A relative to the effectiveness of tariffs after filing are waived to the extent that changes in FCC tariffs may become effective on the same date for California interLATA service for those companies that adopt the FCC tariffs.

8. Applicant shall file as part of its individual tariff, after the effective date of this order and consistent with Ordering Paragraph 5, a service area map.

9. Applicant shall notify this Commission in writing of the date service is first rendered to the public within 5 days after service begins.

10. Applicant shall keep its books and records in accordance with the Uniform System of Accounts specified in Part 32 of the FCC rules.

11. Applicant shall file an annual report, in compliance with GO 104-A, on a calendar-year basis using the information request form developed by the CACD Auditing and Compliance Branch and contained in Attachment A.

12. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months after the effective date of this order.

13. Applicant shall send a copy of this decision to concerned local permitting agencies not later than 30 days from today.

14. The corporate identification number assigned to applicant is U-5228-C, which shall be included in the caption of all original

filings with this Commission, and in the titles of other pleadings filed in existing cases.

15. Within 60 days of the effective date of this order, applicant shall comply with PU Code § 708, Employee Identification Cards, and notify the Chief of CACD's Telecommunications Branch in writing of its compliance.

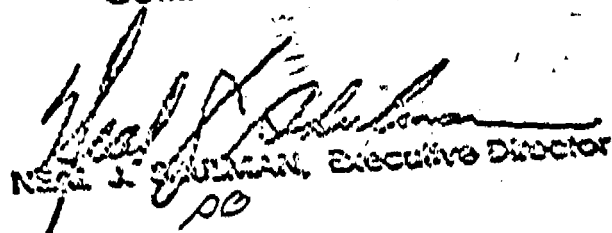
16. Applicant is exempted from the provisions of PU Code §§ 816-830.

This order is effective today.

Dated JAN 15 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

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


Neil J. Sullivan, Executive Director
00

TO: ALL INTEREXCHANGE TELEPHONE UTILITIES

Article 5 of the Public Utilities Code grants authority to the California Public Utilities Commission to require all public utilities doing business in California to file reports as specified by the Commission on the utilities' California operations.

A specific annual report form has not yet been prescribed for the California interexchange telephone utilities. However, you are hereby directed to submit an original and two copies of the information requested in Attachment A no later than March 31st of the year following the calendar year for which the annual report is submitted.

Address your report to:

California Public Utilities Commission
Auditing and Compliance Branch, Room 3251
505 Van Ness Avenue
San Francisco, CA 94102-3298

Failure to file this information on time may result in a penalty as provided for in §§ 2107 and 2108 of the Public Utilities Code.

If you have any question concerning this matter, please call
(415) 557-2484.

ATTACHMENT A

Information Requested of California Interexchange Telephone Utilities.

To be filed with the California Public Utilities Commission, 505 Van Ness Avenue, Room 3251, San Francisco, CA 94102-3298, no later than March 31st of the year following the calendar year for which the annual report is submitted.

1. Exact legal name and U # of reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (e.g., corporation, partnership, sole proprietorship, etc.).
If incorporated, specify:
 - a. Date of filing articles of incorporation with the Secretary of State.
 - b. State in which incorporated.
6. Commission decision number granting operating authority and the date of that decision.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. A list of all affiliated companies and their relationship to the utility. State if affiliate is:
 - a. Regulated public utility.
 - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.
11. Income statement for California operations for the calendar year for which information is submitted.

(END OF ATTACHMENT A)