

APR 10 1991

Decision 91-04-020 April 10, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Romney & Johnson Company for a)
 certificate of public convenience &)
 necessity to operate as a reseller)
 of interLATA telecommunications)
 services and alternate operator)
 services within California.)

ORIGINAL

Application 90-09-025
(Filed September 17, 1990)

O P I N I O N

Romney & Johnson Company filed an application seeking a certificate of public convenience and necessity under Public Utilities (PU) Code § 1001 to permit it to operate as a reseller of telephone service offered by communication common carriers providing telecommunication service and to offer alternate operator assisted service in California. Romney & Johnson Company is a Utah corporation. On November 8, 1990 it was authorized by the state of Utah to change its name to Teltrust, Inc. Teltrust, Inc. amended the application filed by Romney & Johnson Company in this proceeding to reflect this name change. Therefore, in this decision we refer to Teltrust, Inc. as the applicant. Applicant submitted a foreign corporation certificate of qualification to do business in California which reflects the name change from Romney & Johnson Company to Teltrust, Inc.

On April 13, 1988, the Director of the Commission Advisory and Compliance Division (CACD) sent a letter directing all companies which provide alternate operator services (AOS) within California to file applications for certificates of public convenience and necessity containing proposed tariffs for their intrastate services. Subsequently, we ordered operator services contained in these applications to be subject to pre-filing review and approval of the Chief of the CACD's Telecommunications Branch.

Upon receipt of a letter from the Chief of the Telecommunications Branch indicating CACD's approval of the AOS-related tariffs schedules, applicants were authorized to file with this Commission the tariff schedules for the provision of such services. Applicants were prohibited from offering AOS-related service until these tariffs were on file.

We find no basis for treating the operator services proposed in this application differently than other applications. Therefore, we will require pre-filing review of applicant's AOS-related tariffs. Applicant may not offer such service until tariffs are pre-approved and on file.

We will authorize applicant to file tariff schedules unconnected with its proposed AOS-related services five days after the effective date of this order. Applicant may not offer such service until these tariffs are on file.

This application is granted to authorize interLATA service, including interLATA AOS services, subject to the same terms and conditions as those we have imposed on similar applications. A minor amendment has been made in order to reflect our requirement that applicant's operators must clearly identify themselves as a Teletrust, Inc. operator to the caller. Decision (D.) 88-12-043.) This notice is a reasonable way to alert the caller that operator services are not provided by the dominant carrier or local exchange carrier and that charges may vary from those assessed by these carriers. Operator identification will also facilitate the resolution of customer complaints, if any occur.

Applicant is placed on notice that this Commission has reviewed issues affecting the AOS industry in Order Instituting Investigation (OII) 88-04-029, our investigation of pay telephones, and has issued D.90-06-018, dated June 6, 1991.

Findings of Fact

1. Applicant served a copy of the application upon 87 telephone corporations with which it is likely to compete.
2. A notice of the filing of the application appeared in the Daily Calendar on September 20, 1990.
3. No protests have been filed.
4. A hearing is not required.
5. On June 29, 1983, the Commission issued OII 83-06-01 to determine whether competition should be allowed in the provision of telecommunication transmission service within the state. Many applications to provide service were consolidated with OII 83-06-01.
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 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.
8. By D.88-12-043 the Commission required that alternate operators clearly identify the company providing this service to the caller.
9. There is no basis for treating this applicant differently than previous applicants seeking to provide interLATA telecommunications and AOS within California. Conditions applied to applicant in this proceeding are the standard conditions of approval for such applications.
10. Applicant has a minimum of \$400,000 in uncommitted cash or equivalent financial resources, as required by D.90-08-032, pp. 34, 52, 56 - 57, in R.85-08-042.

11. Applicant has made a reasonable showing of technical expertise in telecommunications (or in a related business), as required by D.90-08-032, pp. 34 - 35, 52, 57, in R.85-08-042. This showing includes a complete draft of applicant's initial tariff. (Id., p. 34.)

12. Applicant is technically and financially able to provide the proposed services.

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

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

15. Public convenience and necessity require the service to be offered by applicant.

Conclusion of Law

1. Applicant is a telephone corporation operating as a telecommunication service supplier.

2. Applicant is subject to:

- a. The current 3.4% surcharge applicable to service rates of intraLATA toll and intrastate interLATA toll (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 in PU Code §§ 431 - 435, which is 0.1% of gross intrastate revenue for the 1990 - 91 fiscal year (Resolution M-4754).

3. The application should be granted to the extent set forth below.

4. Because of the public interest in competitive interLATA service, the following order should be effective immediately.

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 Teltrust, Inc. (applicant), to operate as a reseller of the interLATA and alternate operator assisted 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. To the extent that the application requested authorization to provide intraLATA telecommunications service, the application is denied.

3. In connection with the provision of alternate operator services (AOS), applicant shall adhere to the following conditions:

- a. All intraLATA calling shall be directed by applicant to the local exchange company for completion by the local exchange company as intraLATA calling. As used herein "intraLATA calling" shall mean all calls that originate and terminate within the same LATA. The routing of intraLATA calls to the local exchange carrier requires that

(1) all such calls, as dialed by the end user customer, be routed as dialed to the local exchange carrier and may not be routed to any person or entity for call processing, billing, transmission, or completion, and (2) all such routing be accomplished in a manner that permits application of the local exchange carrier's charges for intraLATA calling by the local exchange carrier from the central office where the call originates to the central office or wire center serving the device where the call terminates. In addition, the routing of intraLATA calls to the local exchange carrier shall be done in a manner which permits the performance by the local exchange carrier of functions for which a local exchange carrier charge applies (including, without limitation, all intraLATA operator and operator surcharge functions). By way of example, and without limitation, applicant shall not, by itself or in conjunction with any other entity or person, permit, allow, or hold out the availability of any routing arrangement that directs intraLATA calls as dialed by an end user customer to any person or entity other than the local exchange carrier.

- b. Applicant shall not offer, hold out, provide, or otherwise make available intraLATA operator-handled calls. As used herein intraLATA operator-handled calls (also referred to as "non-sent paid calls"), whether handled mechanically or manually, includes all intraLATA credit card, bill third number, collect, Station-to-Station, Person-to-Person, conference calls, or any combination thereof. The routing of intraLATA operator-handled calls (non-sent paid calls) by the local exchange company requires that (1) all such calls as dialed by the end user customer be routed to the local exchange company and to no other person or entity, including applicant, (2) routing shall be accomplished in a manner that permits application of the local exchange company's operator charges, and (3) such non-sent

paid calls shall be billed by the local exchange company to the number or account designated by the calling person and acceptable by the local exchange company. InterLATA operator-handled calls may be provided by applicant.

- c. Applicant shall inform all customers who inquire that intraLATA calls and intraLATA operator-handled calls are to be provided by the local exchange company. In addition, applicant shall take all necessary action to ensure that such calls are returned to the local exchange company central office serving the calling party for completion and billing by the local exchange company as an intraLATA call.
- d. For completion of calls from non-utility pay phones, applicant will charge customers no more for interLATA intrastate calling than the tariffed rates of AT&T-Communications, Inc., plus any additional amounts permitted by the Commission.

4. Applicant shall provide tariff schedules for the provision of interLATA AOS to the Commission Advisory and Compliance Division (CACD) for its review. Upon review of these tariff schedules and the written approval of them by the Chief of CACD's Telecommunications Branch, applicant is authorized to file with this Commission tariff schedules for the provision of interLATA AOS. Applicant may not offer such services until these tariffs are on file. Applicant's filed tariff schedules for interLATA AOS shall be effective not less than 1 day after filing.

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

6. 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.

7. Applicant's preliminary statement in its tariff shall include the following:

Applicant has been granted authority by the California Public Utilities Commission to provide interLATA service within the State of California.

Applicant does not hold itself out as offering intraLATA service.

IntraLATA communications should be placed over the facilities of the local exchange company.

8. Applicant may not offer service until these tariffs are on file. If applicant has an effective Federal Communications Commission (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 IV, V, and VI, and shall be effective not less than 1 day after filing.

9. Applicant is a nondominant interexchange carrier (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 [Commission] 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's notice."

10. 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 should be used for each rule." Tariff filings incorporating these deviations shall be subject to the approval of the CACD's Telecommunications Branch. Tariff filings shall reflect the surcharges set forth in the Conclusions of Law.

10. 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.

11. Applicant shall file as part of its individual tariff, after the effective date of this order and consistent with Ordering Paragraph 4, a service area map.

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

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

14. 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.

15. 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.

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

17. The corporate identification number assigned to applicant is U-5230-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.

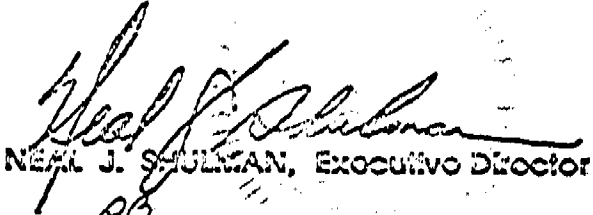
18. Within 60 days of the effective date of this order, applicant shall comply with Public Utilities Code § 708, Employee Identification Cards, and notify the Chief of CACD's Telecommunications Branch in writing of its compliance.

This order is effective today.

Dated April 10, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SHULMAN, Executive Director

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 regarding Romney & Johnson Company 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 2151
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 Romney & Johnson Company, please call (415) 557-2484.

Very truly yours,

/s/ KENNETH K. LOUIE
Kenneth K. Louie
Auditing and Compliance Branch

ATTACHMENT A

Information regarding Romney & Johnson Company 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)