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Decision 92-02-055 February 20, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Shared Communications Services, Inc. for a Certificate of Public Convenience and Necessity to Operate as a Reseller of InterLATA Telecommunications Services Within California.

ORIGINAL

Application 91-12-006 (Filed December 2, 1991)

O P I N I O N

Shared Communications Services, Inc. (applicant) seeks a certificate of public convenience and necessity to operate as an interexchange carrier providing resale long distance interLATA telecommunications service within California. Applicant will offer interLATA long distance telecommunications service through the use of facilities leased from other interexchange carriers registered in California. As a switchless nonfacilities-based provider of interLATA long distance telecommunications service, applicant does not require construction of its own facilities nor has it plans to construct telecommunications facilities.

Applicant seeks to provide long distance service at rates that are competitive with those of other interexchange carriers such as American Telephone and Telegraph Company (AT&T), US Sprint (Sprint), and MCI Communications Corporation (MCI). Applicant is a privately held corporation and therefore has not filed an annual report with the Securities and Exchange Commission. Applicant has never filed an annual report with the California Commission.

Applicant asserts that its three senior managers have extensive telecommunications industry experience comprising 83 years of combined managerial experience in the pre-divestiture Bell System and post-divestiture US West Communications. Applicant's

senior management's experience includes assignments with Pacific Northwest Bell, Northwestern Bell, New Jersey Bell, and AT&T's sales, engineering and operations organizations. Other managers also have long-term telecommunications experience through AT&T, Bellcore, and Pacific Northwest Bell. Applicant has the managerial ability to provide its services in California.

Applicant alleges that:

- a. Applicant's proposed intrastate telecommunications services are developed to serve the long distance needs of subscribers who cannot otherwise realize the cost savings through major carriers.
- b. An increase in the traffic generated through provision of applicant's proposed intrastate services over existing major carriers' communications facilities will improve the efficiency and reduce major carriers' costs in provision of these services.
- c. The public will benefit from greater consumer choice created through the broadening of innovative telecommunications service alternatives and ongoing affordable rates maintained by the additional competitive pressure placed on other competitors.
- d. Applicant has the financial viability to provide intrastate interLATA long distance services in California. Applicant is a switchless nonfacilities-based reseller of interexchange network services provided by other registered interexchange carriers in California. As a switchless nonfacilities-based carrier, applicant does not require local network access directly from the local exchange carrier, but instead receives local access as part of the network services it purchases from its underlying carriers. Applicant is billed for actual usage by carriers whose facilities are used to transport traffic generated by applicant's subscribers. Applicant receives volume discounted rates,

based on nationwide volume commitments that have been far exceeded by applicant for well over two years.

- e. Applicant has been operating successfully on an interstate basis under payment agreements with AT&T, MCI, and US Sprint since its inception, and has proven its financial viability to public utility commissions requiring financial showings in the states applicant serves, including Oregon which comprises well over 90% of applicant's subscriber base.
- f. Applicant meets the minimum \$75,000 uncommitted financial requirement established in Decision (D.) 91-10-041 for applications filed in 1991 through its existing cash deposits held in the Ladd and Bush Branch of the US National Bank, Salem, Oregon. Applicant maintains a minimum monthly balance of well in excess of \$75,000 in cash.

Findings of Fact

1. Applicant served a copy of the application upon telephone corporations with which it is likely to compete.
2. A notice of the filing of the application appeared in the Daily Calendar.
3. A hearing is not required.
4. Applicant has a minimum of \$75,000 in uncommitted cash or equivalent financial resources, as required by D.90-08-032, as modified by D.91-10-041.
5. Applicant has made a reasonable showing of technical expertise in telecommunications, as required by D.90-08-032. This showing includes a complete draft of applicant's initial tariff.
6. Applicant is technically and financially able to provide the proposed service.
7. 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.

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

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

Conclusions of Law

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

2. Applicant is subject to:

- a. The current 3.0% surcharge applicable to service rates of intraLATA toll and intrastate interLATA toll to fund Universal Lifeline Telephone Service (ULTS) (PU Code § 879; Resolution T-14400);
- 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 1991-92 fiscal year (Resolution M-4757).

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.

The State may grant any number of operative rights and may cancel or modify the monopoly feature of those rights at any time.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Shared Communications Services, Inc. (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. To the extent that applicant requests authority to provide intraLATA telecommunication service, it is denied.

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

4. a. 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. 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.

b. Applicant is a non-dominant 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 modified by D.91-12-013:

- *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 for interstate services 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, except for minor rate increases, for existing services shall become effective on thirty (30) days' notice, and shall require bill inserts, a message on the bill itself, or first class mail notice to customers of the pending increased rates.
- "d. Uniform minor rate increases, as defined in D.90-11-029 for existing services shall become effective on not less than 5 working days' notice, and shall require bill inserts or a notice on the bill itself to inform customers of the increased rates.
- "e. Advice letter filings for new services and for all other types of tariff revisions, except changes in text not affecting rates or relocations of text in the tariff schedules, shall become effective on forty (40) days' notice.
- "f. Advice letter filings merely revising the text or location of text material which do not cause an increase in any rate or charge shall become effective on not less than five (5) days' notice."

5. 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 Commission Advisory and Compliance Division's (CACD) Telecommunications Branch. Tariff filings shall reflect all fees and surcharges to which applicant is subject, as reflected in Conclusion of Law 2.

6. 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.

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

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

9. 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.

10. 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.

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

12. The corporate identification number assigned to applicant is U-5256-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.

13. Within 60 days of the effective date of this order, applicant shall comply with Public Utilities (PU) Code § 708,

Employee Identification Cards, and notify the Chief of CACD's Telecommunications Branch in writing of its compliance.

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

15. The application is granted, as set forth above. This order is effective today.

Dated February 20, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
NORMAN D. SHUMWAY
Commissioners

Commissioner Patricia M. Eckert,
being necessarily absent, did
not participate.

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


NEAL J. SHULMAN, Executive Director

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:

- 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)