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Decision 92-03-019 March 11, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
World Wide Communications Limited )  
Partnership for a Certificate of )  
Public Convenience and Necessity )  
to Operate Telecommunications )  
Services within California. )

**ORIGINAL**

Application 91-03-032  
(Filed March 14, 1991  
amended January 2, 1992)

OPINION

World Wide Communications Limited Partnership (applicant), a limited partnership organized under the laws of the State of Nevada and registered with the California Secretary of State, seeks a certificate of public convenience and necessity (CPCN) under Public Utilities (PU) Code § 1001 to permit it to resell interLATA telephone services in California.<sup>1</sup>

Protest

The Division of Ratepayer Advocates (DRA) filed a timely protest to the application, alleging lack of financial qualifications under Decision (D.) 90-08-032. In October 1991, the Commission issued D.91-10-041, reducing the financial threshold for "switchless resellers" from \$400,000 to \$75,000. In December 1991, applicant tendered its amendment to the application, showing that it had adequate financial resources to meet and exceed the new criterion. By letter of January 3, 1992, counsel for DRA withdrew its protest.

<sup>1</sup> California is divided into ten Local Access and Transport Areas (LATAs) of various sizes, each containing numerous local telephone exchanges. "InterLATA" describes services, revenues, and functions that relate to telecommunications originating in one LATA and terminating in another. "IntraLATA" describes services, revenues, and functions that relate to telecommunications originating and terminating within a single LATA.

Commission Standards

In D.90-08-032, as modified by D.91-10-041, the Commission established two major criteria for determining whether a CPCN should be granted. An applicant who does not own, control, operate, or manage telephone lines (switchless reseller) must demonstrate that it has a minimum of \$75,000 in uncommitted cash or equivalent financial resources. This minimum requirement increases 5% per year starting in 1992. Thus, for the year 1991, the minimum requirement is \$75,000. In addition, an applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business.

Financial Qualifications

It is abundantly clear from its allegations that applicant is a "switchless reseller", as defined by D.91-10-041. It does not now own, or plan to own, its own switching equipment or other equipment, nor does it have any plans to construct telecommunications facilities. It will resell telecommunications services using the facilities of other interexchange carriers. Calls will be switched, routed, and terminated over the resold facilities of the underlying carrier. Applicant will not need to construct or lease network facilities or switching equipment, because AT&T will provide all of these functions. All of its customers will be presubscribed to the Feature Group D circuits of AT&T, the designated underlying carrier. Since applicant does not now, and will not in the future, own, control, operate, or manage any telephone lines (PU Code § 233), it is a "switchless reseller". (D.91-10-041; cf. PU Code §234.)

As shown on the balance sheet of September 30, 1991, attached to the amendment to the application, applicant has cash on hand of \$114,660 and accounts receivable of \$412,837, less accounts payable of \$333,246. Its owners' net worth is \$209,068. Accordingly, applicant has financial resources exceeding the \$75,000 threshold required by D.91-10-041.

Technical Qualifications

Applicant relies on the technical expertise of its underlying carrier, which provides all aspects of the actual telecommunications services marketed by applicant. In addition, two of applicant's principal officers and managers have significant experience and training in telecommunications, as demonstrated by their business biographies attached to the application. Finally, applicant is already reselling interstate and international telecommunications services. Applicant has the necessary technical qualifications to be granted a CPCN under PU Code Section 1001.

We will authorize the interLATA service that applicant seeks to provide; but to the extent that the application seeks authority to provide intraLATA service, we will deny it.

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 on March 19, 1991.

3. DRA filed a protest, but it has been withdrawn.

4. A hearing is not required.

5. On June 29, 1983, the Commission issued Order Instituting Investigation (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 competitive service were consolidated with OII 83-06-01.

6. By interim Decision (D.) 84-01-037, and later decisions, we granted those applications, authorizing interLATA entry generally. However, we limited the authority conferred to interLATA service; and we subjected the applicants to the condition that they not hold out to the public the provision of intraLATA service, pending our final decision in OII 83-06-01.

7. By D.84-06-113 we denied the applications to the extent that they sought authority to provide competitive intraLATA

telecommunications service. We also directed those persons or corporations not authorized to provide intraLATA telecommunication service to refrain from holding out the availability of such service; and we required them to advise their subscribers that intraLATA calls should be placed over the facilities of the local exchange company.

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

9. 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.

10. 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.)

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

12. 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.

13. 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.)

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

15. Applicant is exempted from Rule 18(b) regarding service of the application on cities and counties.

#### Conclusions of Law

1. Applicant is a telephone corporation operating as a telecommunication service "switchless reseller".

2. Applicant is subject to:

- a. The current 3.0% surcharge applicable to service rates of intraLATA toll and

intrastate interLATA toll (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. Since no facilities are to be constructed, applicant should be exempted from the provision in Rule 18(b) requiring service of a copy of the application upon every city and county within which service will be rendered.

5. 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 World Wide Communications Limited Partnership (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-5259-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 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. Applicant is exempted from Rule 18(b) regarding service of the application on cities and counties.

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

Dated March 11, 1992, at San Francisco, California.

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

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

  
NEAL J. SHULMAN, Executive Director  
RB

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) 703-1961.

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 ATACHMENT A)