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Decision 92-08-002 August 6, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 International Pacific, Inc. To)
 Transfer, And of International)
 Pacific Holdings, Inc. To Acquire,)
 All Common Shares And Control Of)
 International Pacific, Inc.)

ORIGINAL

Application 92-06-017
(Filed June 9, 1992)

O P I N I O N

On June 9, 1992, International Pacific, Inc. (IPI) and International Pacific Holdings, Inc. (IP Holdings) filed a joint application seeking Commission approval, pursuant to Public Utilities Code Section 854, of a stock transfer whereby IP Holdings will acquire financial control of IPI through the purchase of 100 percent of the stock of IPI. The joint applicants also request that the application be granted ex parte by the Executive Director in accordance with Decision (D.) 86-08-057 (21 CPUC2d 549). Notice of the application appeared in the Commission's Daily Calendar of June 26, 1992.

IPI was authorized in D.90-08-012 to operate in California as a reseller of intrastate interLATA telecommunications services. It also provides intrastate service to customers in nine other states, and is authorized by the Federal Communications Commission to provide domestic interstate and international services. IPI presently provides telecommunications services that require the assistance of an operator, or which must be billed to a number other than the one on which the call originates.

Prior to the execution of the Stock Purchase Agreement, the majority stockholder of IPI was N.A. Degerstrom, Inc. (NADI). Neal A. Degerstrom (Degerstrom) is the majority shareholder of NADI. Since IPI's inception in 1987, NADI has been the source of

much of IPI's capital. According to the application, NADI's support of IPI has led to IPI's expansion of its operations and its ability to provide reliable, competitive interstate and intrastate telecommunications services.

In 1991, Degerstrom announced his intent to withdraw from IPI by selling his interests in the company. That left IPI in the position of having to seek out an alternate source of investment capital so as to maintain its established plan of steady and prudent expansion. This led to negotiations between Degerstrom, NADI, and the investors behind IP Holdings. IP Holdings is a recently formed Delaware corporation, whose controlling interest is jointly held by Richard S. Cusac (Cusac) and Bessemer Venture Partners II, L.P. (Bessemer). According to the application, Cusac has a background in investment lending related to telecommunications. Bessemer is a venture capital firm which typically invests between \$1 million and \$5 million in any one company.

On April 16, 1992, IP Holdings, Degerstrom and NADI entered into a Stock Purchase Agreement. The Stock Purchase Agreement was subsequently modified on April 28, 1992 and May 5, 1992. A copy of the modified Stock Purchase Agreement was attached to the joint application.

Under the Stock Purchase Agreement, IP Holdings agrees to acquire all of the outstanding common stock of IPI, except for the shares owned by Robert B. Saucier. The authorized capital stock of IPI consists of 20,000,000 shares, of which 15,000,000 shares are designated common stock, and 5,000,000 are designated preferred stock. Only 5,199,709 shares of the common stock have been issued and are outstanding. The proposed acquisition would make IP Holdings the majority shareholder of IPI.

IP Holdings' financial statement reflects that as of May 31, 1992, it has \$639,446 in cash, \$1,236,911 invested in IPI, and \$273,643 in organizational expenses. At the time the joint

application was filed, IP Holdings had acquired 3,618,737 of the outstanding shares of IPI, or 69.6%. Since that time, IP Holdings has acquired an additional 1,498,872 shares of common stock, for a total of 5,117,609 shares, or 98.4% of the outstanding shares.

No protests were filed in connection with this application. As the matter is not controversial, no hearing is necessary.

According to the application, the proposed acquisition of control of IPI by IP Holdings will not result in any changes to the daily operations of IPI. The management at IPI will remain the same, as will the nature of and the terms on which its services are offered. IPI's customers will continue to receive the same service without interruption, and at the same existing tariff rates and charges. The only change, which will not be apparent to its customers, is that the stock ownership of IPI will have shifted to IP Holdings.

The applicants envision that the proposed acquisition will provide IPI with continued financial backing to enable IPI to continue to provide high quality service to its existing customers, as well as to expand its customer base. The applicants believe that the expansion will reduce expenses through volume growth, and that such reduction will allow IPI to reduce rates and increase profitability over time. The acquisition will also allow IPI to enhance and expand its state-of-the-art operator service operations, which will in turn promote competition.

It does not appear that IPI's California customers will be harmed in any way by this proposed transaction. Accordingly, the relief sought by the joint applicants should be granted, and because this application is noncontroversial, this decision should be effective immediately.

In D.86-08-057, the Commission authorized and directed the Executive Director to sign orders granting noncontroversial applications by nondominant telecommunications carriers for

authority to transfer assets or control under Public Utilities Code Section 851-855 on the condition that no protests to the application have been filed or that any filed protest has been withdrawn or compromised by the parties. Since no protests were filed, and because IPI is a nondominant interexchange carrier,¹ the applicants' request for ex parte relief should be granted.

Findings of Fact

1. Notice of the filing of the application appeared in the June 26, 1992 Daily Calendar.
2. IPI is a nondominant interexchange carrier authorized by the Commission to operate in California as a reseller of intrastate interLATA telecommunications services.
3. On April 16, 1992, a Stock Purchase Agreement was entered into whereby IP Holdings was to acquire a majority of the outstanding shares of IPI.
4. At the time this application was filed, IP Holdings had acquired 69.6% of the outstanding shares of IPI.
5. IP Holdings has now acquired 98.4% of the outstanding shares of IPI.
6. No protests were filed in connection with the application.
7. A public hearing is not necessary.
8. No changes to the daily operations of IPI is contemplated as a result of the proposed acquisition of control of IPI by IP Holdings.
9. The proposed acquisition of control of IPI by IP Holdings is likely to provide IPI with a continued source of capital for its operations.
10. The new corporate owners are technically and financially able to support the service now provided by IPI.

¹ The distinction between dominant and nondominant carriers is discussed in D.84-06-113 (15 CPUC2d 426, 472-473, 476.).

11. It does not appear that IPI's California customers will be affected in any way by this proposed transaction.

12. The Commission should approve the proposed stock transfer.

Conclusions of Law

1. The application should be granted.

2. In D.86-08-057, the Commission authorized and directed the Executive Director to sign orders granting noncontroversial transfer or encumbrance applications by nondominant telecommunications carriers on the condition that no protests to the application have been filed or that any filed protest has been withdrawn or compromised by the parties.

3. Since the application is not controversial, the following order should be effective immediately.

ORDER

IT IS ORDERED that:

1. International Pacific Holdings, Inc. may acquire and control International Pacific, Inc. pursuant to the proposed transaction described in the application.

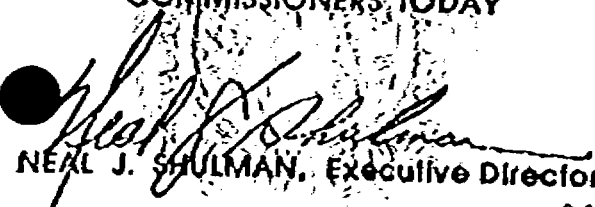
2. International Pacific Holdings, Inc. shall notify the Telecommunications Branch of the Commission Advisory and Compliance Division, in writing, of the amount of outstanding stock of International Pacific, Inc. which it controls, within 45 days of this order.

This order is effective today.

Dated August 6, 1992, at San Francisco, California.

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

/s/ WESLEY FRANKLIN for
NEAL J. SHULMAN
Executive Director


NEAL J. SHULMAN, Executive Director

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