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Decision 92-10-037 October 21, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ConQuest Operator Services Corp. for)
 a Certificate of Public Convenience)
 and Necessity to Operate as a)
 Reseller of Telecommunication)
 Services within the State of)
 California.)

ORIGINAL

Application 92-05-039
(Filed May 15, 1992)

OPINION

ConQuest Operator Services Corp. (ConQuest or applicant) seeks a certificate of public convenience and necessity (CPCN) to provide intrastate interLATA long distance and operator-assisted telecommunication services throughout California.

ConQuest alleges that it is a privately held corporation incorporated in Ohio on May 2, 1988, qualified to do business in California, formed for the sole purpose of providing operator services in the long distance telecommunications industry to: governments, hotel/motels, hospitals, universities, prisons, public and private pay stations, commercial accounts, and other telecommunications and data processing companies. ConQuest is a wholly owned subsidiary of ConQuest Telecommunication Services Corp., and a sister company to ConQuest Long Distance Corp., which presently holds a Certificate of Territorial Authority for long distance resale in the states of Indiana and Ohio, and ConQuest Communications Corp., a telecommunication services firm based in Ohio. ConQuest also holds authority from various public service commissions in Ohio, Indiana, Illinois, Kentucky, Wisconsin, New York, New Jersey, Maryland, Florida, South Carolina, Georgia, Massachusetts, and West Virginia. In addition, ConQuest has pending applications for authority in Nebraska and Alabama.

ConQuest seeks to sell operator-assisted telecommunications services. Such authority would include 24-hour service support, seven days a week. The basis of ConQuest's offering is a network with easy access, 0+, 0-, or 1+ dialing and terminating circuits that, it alleges, provide the highest quality transmission.

ConQuest is a nonfacilities-based carrier and at this time does not plan to construct any facilities.

ConQuest seeks to provide operator-assisted services at rates which are competitive with the services of other telecommunications operators. A statement of ConQuest's proposed rates is set forth in Exhibit IV to its application.

ConQuest submits that public convenience and necessity require approval of its application because new entrants into the operator services market will benefit the public and enhance competition. Such services and benefits include the ability for the consumer to use credit card billing, thereby providing them with a choice to bill their long distance calls; emergency services; to provide customer service to hotels, motels, hospitals, universities, and pay phones by handling complaints and public relations, such as thanking the guest for staying at a particular hotel or handling refund requests from vendor pay phones and providing teleconferencing services. Such benefits also provide direct sources of revenue to subscribers to recover an expense which must otherwise be absorbed in the room rate, tuition, or in the rates charged for other services at that location, thereby providing a cost savings to the consumer. Operator service commissions have enabled private coin telephone vendors to maintain equipment at locations which might otherwise have been disregarded due to low returns. ConQuest asserts that it is also efficiently using existing communication facilities, thereby increasing diversity and reliability of communication services that result in new revenues for local exchange companies, and new tax revenues for California.

In Decision (D.) 90-08-032, the Commission established two major criteria for determining whether a CPCN should be granted. The applicant must demonstrate that it has a minimum of \$400,000 in uncommitted cash or equivalent financial resources. This minimum requirement increases 5% per year starting in 1991. Thus, for the year 1992, the minimum requirement is \$441,000. Any applicant who can demonstrate that \$441,000 of cash is not needed for its first year of operation, in absence of revenues during that period, may be granted a CPCN with a lesser amount, based on the sufficiency requirements set forth in Ordering Paragraph 1.a of D.91-10-041. In addition, an applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business.

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.

This application is granted to authorize the interLATA service, including interLATA Alternate Operator Service (AOS), subject to the same terms and conditions as those we have imposed on similar applications. The four conditions on service previously applied to approvals of CPCN for AOS and interLATA reseller services appear in Ordering Paragraph 3. A minor amendment has been made to the subparagraph. However, as in prior Commission decisions, (D.88-12-043, Intellicall, et al.), applicant may provide interLATA operator-handled calls. This decision requires that the persons who provide operator service on behalf of applicant clearly identify themselves as a Conquest communications operator to the caller. This notice to the end user is a reasonable way of alerting the consumer to the fact that operator services are not being provided by the dominant carrier or the local exchange carrier (LEC) and that charges may vary from those assessed by the dominant carrier/LEC. Significant differences in rates are quite possible when the caller is not using a pay phone, such as when the call is placed from a hotel room, since the

Commission has only limited the rates charged for AOS services provided at pay telephones. Operator identification will also facilitate the resolution of customer complaints, if any occur.

Upon receipt of a letter from the Chief of the Telecommunications Branch indicating CACD's approval of the AOS-related tariff schedules, applicant will be authorized to file with this Commission its tariff schedules for the provision of such services. Applicant may not offer AOS-related service until these tariffs are on file.

On the other hand, applicant is authorized to file with this Commission, five days after the effective date of this order, tariff schedules for the provision of other interLATA service, unconnected with its proposed AOS-related service. The applicant may not offer such service until tariffs are on file.

Findings of Fact

1. Applicant served a copy of the application upon the telephone corporations with which it is likely to compete.
2. A notice of the filing of the application appeared in the Daily Calendar on May 21, 1992.
3. No protests have been filed.
4. A hearing is not required.
5. Applicant has a minimum of \$441,000 in uncommitted cash or equivalent financial resources, as required by D.90-08-032, as modified by D.91-10-041.
6. 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.
7. Applicant is technically and financially able to provide the proposed services.
8. 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.

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

10. 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 4.0% surcharge applicable to service rates of intraLATA toll and intrastate interLATA toll (PU Code § 879; Resolution T-14960);
- 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 1992-93 fiscal year (Resolution M-4760).

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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to ConQuest Operator Services Corp. (ConQuest or 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 its services only on an interLATA basis;
- b. Applicant shall not offer 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. In connection with its provision of Alternate Operator Service, applicant shall adhere to the following four conditions:

- a. All intraLATA calling shall be directed by applicant to the local exchange carrier (LEC) for completion by the LEC 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 LEC requires that:
 - (1) All such calls be routed either directly or indirectly as dialed by the end user customer to the LEC and may not be routed to any other 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 LEC's charges for intraLATA calling by the LEC 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 LEC shall be done in a

manner which permits the performance by the LEC of functions for which a LEC 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 over its network of any routing arrangement that directs the intraLATA calls as dialed by an end user customer to any person or entity other than the LEC.

- 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 "nonsent paid calls"), whether handled mechanically or manually, include 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 (nonsent paid calls) by the LEC requires that:
- (1) All such calls as dialed by the end user customer be routed to the LEC and to no other person or entity, including applicant;
 - (2) Routing shall be accomplished in a manner that permits application of the LEC's operator charge; and
 - (3) Such nonsent paid calls shall be billed by the LEC to the number or account designated by the calling person and acceptable by the LEC. InterLATA operator-handled calls may be provided by applicant, so long as those who provide operator service on behalf of applicant clearly identify themselves as applicant operators when first connected to the caller.
- c. Applicant shall inform all customers who inquire that intraLATA calls and intraLATA

operator-handled calls are to be provided by the LEC. In addition, applicant shall take all necessary action to ensure that such calls are returned to the LEC's central office serving the calling party for completion and billing by the LEC as an intraLATA call.

- d. For completion of calls from nonutility pay phones, applicant will charge end users no more for interLATA intrastate calling than the tariffed rates of AT&T Communications, Inc., plus any additional amounts permitted by the Commission.

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

5. a. Applicant shall provide tariff schedules for the provisions 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.

b. In connection with non-AOS related interLATA telecommunication services 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.

c. 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 Decision (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 Federal Communications Commission (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. Customer notice is not required for such minor increases.
 - *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."

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

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 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.

7. 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.

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

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

10. 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.

11. 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.

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

13. The corporate identification number assigned to applicant is U-5294-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.

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

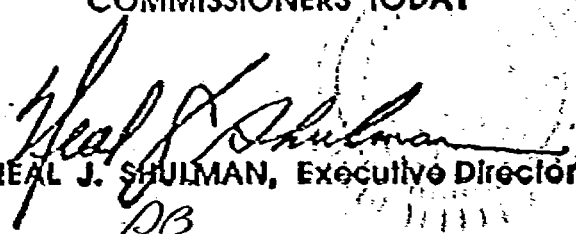
15. Applicant is exempted from the provisions of PU Code §§ 816-830.

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

Dated October 21, 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
PB

A.92-05-039 ALJ/RAB/p.c

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 at:
 - 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)