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Decision 95-07-037 July 19, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application of Citizens Telecommunications Company of Tuolumne ("CTC-Tuolumne"), a subsidiary of Citizens Utilities Company of California (U 87 C), and Tuolumne Telephone Company (U 1018 C) ("Tuolumne") for authority under Section 851 for CTC-Tuolumne to become the owner of Tuolumne's property, in accordance with an Asset Exchange Agreement dated as of November 28, 1994.

Application 95-01-006 (Filed January 12, 1995; Supplemented June 15, 1995)

ORIGINAL

OPINION

By this application Citizens Telecommunications Company of Tuolumne (CTC-Tuolumne) and Tuolumne Telephone Company (Tuolumne) jointly seek Commission authority, on an expedited ex parte basis, for CTC-Tuolumne to acquire Tuolumne's California telephone property in accordance with an Asset Exchange Agreement (Agreement) dated as of November 28, 1994, and pursuant to Section 851 of the California Public Utilities Code.

CTC-Tuolumne, a California corporation, is a new corporation recently formed for the purpose of operating the telephone properties now owned by Tuolumne. CTC-Tuolumne will be a wholly owned subsidiary of Citizens, a Delaware corporation. CTC-California, an affiliate of CTC-Tuolumne, provides telecommunications service through six operating districts to about 85,000 customers in 27 exchanges in 11 northern California counties which include the communities of Elk Grove, Susanville, Ferndale, Alturas, Burney, and a newly acquired district with exchanges in Clarkesburg-Courtland, Isleton, Meadowview, and Walnut Grove. CTC-Tuolumne's and CTC-California's parent corporation, Citizens, is a diversified utility company that, through operating divisions

ORDER

and subsidiaries, provides electric, telecommunications, gas, water, and wastewater services in 18 states.

Tuolumne, a California corporation, provides local exchange telephone service to approximately 5,300 access lines in Shasta, Tehama, and Tuolumne counties. Tuolumne is a wholly owned subsidiary of ALLTEL Corporation (ALLTEL), a Delaware corporation which, among other things, provides telephone services to approximately 1.6 million customers in 22 states.

Notice of this application appeared in the Commission's Daily Calendar of January 17, 1995. A protest to the application was filed by the Commission's Division of Ratepayer Advocates (DRA) on March 21, 1995. By its protest, DRA objected to applicants' requested ex parte treatment of the application because DRA believed that the application was deficient in its discussion of regulatory issues related to the proposed corporate structure and customer rate impacts.

Subsequently, applicants filed a May 12, 1995, joint response to DRA's protest to more fully detail their proposed transfer and to assist in identifying issues for a Prehearing Conference (PHC). A PHC was held on June 1, 1995, at which time all of DRA's corporate structure and customer rate impact concerns were resolved, except for affiliated transaction costs. Applicants agreed to modify their proposed corporate structure from CTC-Tuolumne being a direct subsidiary of Citizens Utilities Company of California (Cucc) and an indirect subsidiary of Citizens Utilities Company (Citizens) to a direct subsidiary of Citizens. This change in corporate structure was first proposed in applicants' joint response to DRA's protest. A chart depicting the new corporate structure is attached to this order as Appendix A. Applicants and DRA further agreed to continue informal discussions on the issue of affiliated transaction costs.

On June 15, 1995, applicants supplemented their application. Among other matters, the supplement clarified

CTC-Tuolumne's subsidiary relationship with other affiliates of Citizens and confirmed the status-quo of customer rates pending any general rate case to be filed by December 31, 1995, and contingent on Pacific Bell exercising its pricing flexibility authority to change tariffed rates which have been adopted by Tuolumne.

Applicants also clarified another matter regarding corporate structure. In Decision 95-03-017, dated March 16, 1995, the Commission authorized CUCC to separate its California telephone and water operations, with its telephone operations being placed under a new corporate entity called Citizens Telecommunications Company of California (CTC-California) and its water operations remaining under CUCC. Accordingly, all reference to CUCC in its application is intended to refer to CTC-California.

Subsequently, by letter of June 15, 1995, DRA informed the assigned Administrative Law Judge (ALJ) that the concerns identified in its protest to the application have been adequately addressed in applicants' supplemental filing. However, DRA expressed a new concern in its letter to the ALJ: DRA's potential lack of ability to obtain access to Tuolumne's recorded data so that it may review and project CTC-Tuolumne's future expenditures in applicants' upcoming general rate case filing. This concern can be resolved by requiring CTC-Tuolumne to preserve such historic data and ensure access to such data for DRA's review as part of CTC-Tuolumne's anticipated general rate case.

The proposed transaction has been entered into to conform with Citizens' long-term business objective of expanding Citizens' operating territory to meet the challenges of an increasingly competitive environment in small and medium-sized communities that it believes will experience above-average population and job growth. The proposed transaction also conforms with ALLTELL's long-term business strategy to consolidate its operations out of the Western states, including California, and into states in which it owns a substantial number of access lines.

The Agreement provides for a "like-kind" exchange of OTC properties between Tuolumne and Citizens of Pennsylvania, a Pennsylvania corporation, qualified to do business in California. Citizens of Pennsylvania will transfer its Pennsylvania telephone property, as well as specified cash consideration to Tuolumne. In exchange, Tuolumne will transfer its California telephone property to Citizens of Pennsylvania. In turn, Citizens of Pennsylvania will assign all interest in the California telephone property to the OTC-Tuolumne, and its operations, with its telephone operations and water operations.

The Agreement is structured to be a seamless transaction transparent to the telephone customers. Such customers will not face unexpected changes in either charges, services provided, or quality of service. This is because OTC-Tuolumne will employ all Tuolumne employees pursuant to an Employee Transfer Agreement and will adopt and provide telephone service pursuant to the tariffs in effect for Tuolumne in effect at the time the transfer is completed.

Several support functions that Tuolumne currently receives primarily from Little Rock, Arkansas, will be handled by Citizens Western Region Telephone Operations located in Elk Grove, California, and by Citizens other administrative support operations in Dallas, Texas.

This application involves only a proposed change in control and operation of existing telecommunications facilities. No new construction is being proposed. Accordingly, there is no possibility that the transaction contemplated herein may have any significant effect on the environment. The application should be approved.

Findings of Fact

Notice of this application appeared in the Commission's Daily Calendar on January 17, 1995. The proposed transaction...

On 2/10 DRA filed a protest to the application. The long-term business of the Applicants' supplement to the application resolved the issues identified in DRA's protest.

4. A public hearing is not necessary. It can be seen with certainty that the proposed transfer will not have an adverse impact on the environment.

6. Public convenience and necessity require the granting of this application to be effective on the date signed.

7. Upon consummation of the proposed transfer, Tuolumne will have no further need for its assigned corporate identification number.

Conclusion of Law

The application for transfer of California telephone property should be granted as provided in the following order.

2. This authority is not a finding of the value of the rights and property to be transferred.

As a condition of the transfer, CTC-Tuolumne shall obtain all records of the construction and fixed assets of the system.

OR DER shall have access to CTC-Tuolumne's records. IT IS ORDERED that:

1. Applicants Citizens Telecommunications Company of Tuolumne (CTC-Tuolumne) and Tuolumne Telephone Company (Tuolumne) are authorized to receive and to sell, respectively, the California telephone system in accordance with the terms of their November 28, 1994 Asset Exchange Agreement.

2. CTC-Tuolumne and Tuolumne shall jointly notify the Commission Advisory and Compliance Division (CACD), Director in writing of the actual transfer date as authorized herein and file tariffs under CTC-Tuolumne's name adopting Tuolumne's filed tariffs within 10 days after the transfer.

In addition, a true and correct copy of the instrument of transfer shall be attached to the written notification of transfer for the transferred telephone public utility obligations.

3. CTC-Tuolumne and its affiliated companies which transact business with CTC-Tuolumne shall, upon Commission staff request, make all books and records available for review and inspection. In the event such books and records are required for inspection by the

Commission or its staff, applicants or at another location in California shall either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs or fees incurred in having the Commission staff travel out of state to the offices where the books and records are maintained.

The Corporate identification number assigned to CTC-Tuolumne is U#1023-0 which shall be included in the caption of all original filings with the Commission, and in the titles of other pleadings filed in existing cases.

5. CTC-Tuolumne shall record the acquisition of the Tuolumne Telephone Company at original cost in accordance with the Uniform System of Accounts for Telephone Companies.

6. As a condition of approval of transfer, CTC-Tuolumne shall obtain all records of the construction and fixed assets of Tuolumne. CTC-Tuolumne shall also obtain access from Tuolumne and make available to Commission staff for review in CTC-Tuolumne's pending general rate case Tuolumne's recorded operating revenue and expense data from 1991 to date of transfer.

7. The authority granted in Ordering Paragraph 1 shall expire if not exercised within 12 months after the effective date of this order.

8. Tuolumne shall file with the CACD Director within 90 days after actual transfer of the telephone system to CTC-Tuolumne, an annual report on its operations of the telephone system from the first day of the current year through date of transfer.

9. Upon compliance with all of the conditions of this order, including the payment of all fees due under Public Utilities Code § 431 to the date of transfer, Tuolumne shall stand relieved of its public utility obligations for the transferred telephone system and its corporate identification U#1018 shall be revoked.

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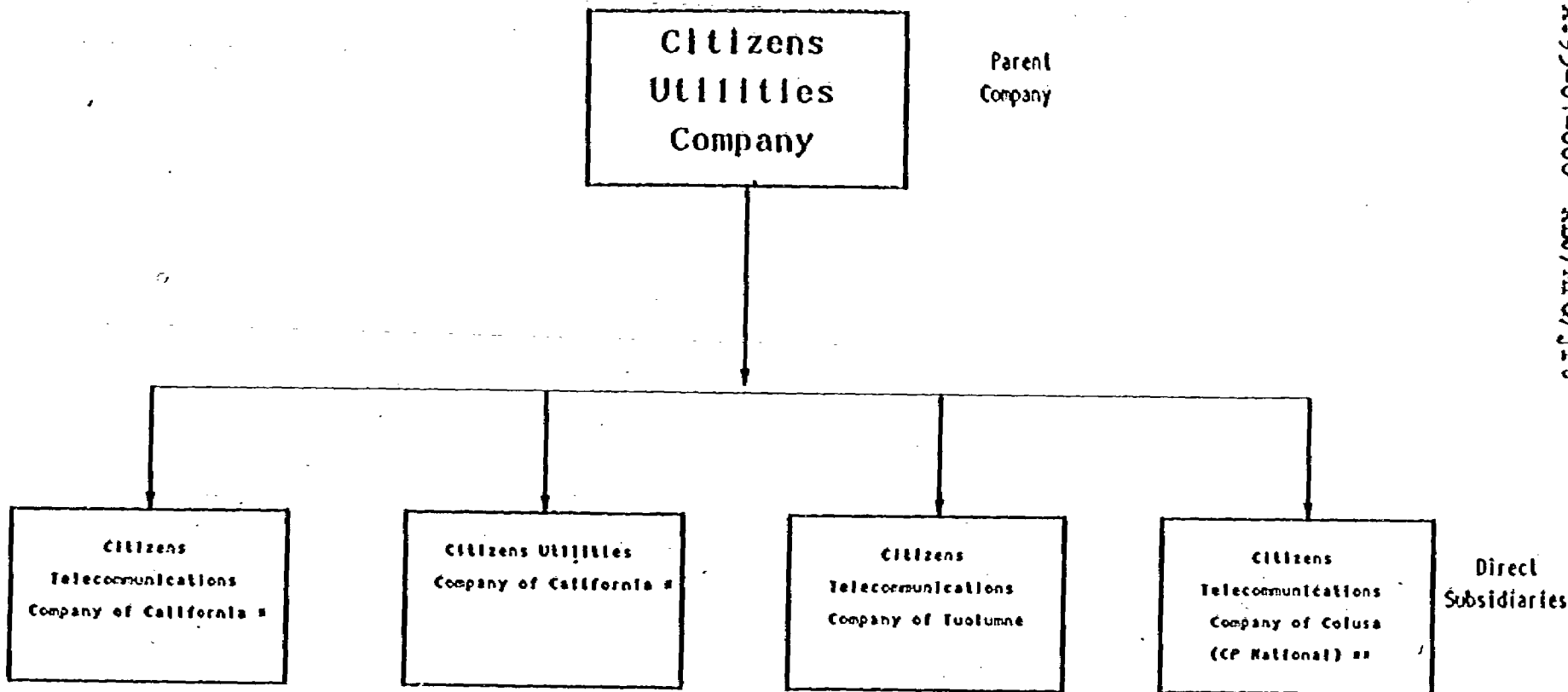
10. Application 95-01-006 is closed.
This order is effective today.
Dated July 19, 1995, at San Francisco, California.

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
Commissioners

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

Weeley Franklin

Acting Executive Director



* - In D.95-03-017, the Commission granted A.94-07-039, pursuant to which Citizens Utilities Company of California ("CUC") will separate its telephone and water properties. CUC will remain the name for the water properties, and the existing California telephone properties will operate under the name of Citizens Telecommunications Company of California.

** - This is the entity that will operate the CP National properties. The CTC - Colusa name is not finalized at this time.