

SEP 11 1995

Decision 95-09-014 September 7, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Preferred Long Distance, a California Corporation, for a certificate of public convenience and necessity to provide InterLATA and IntraLATA telecommunications services within the State of California.

ORIGINAL

OPINION

any deposits required by local exchange carriers (LECs) and demonstrate that they have additional resources to cover all such deposits. In addition, an applicant is required to make a reasonable showing of technical expertise in telecommunications of a related business. As part of its application, applicant provided a balance sheet dated May 1995 reflecting that it had \$25,000 in cash on hand and \$25,000 in cash on deposit. Applicant also seeks exemption from the requirements of Rule 18(b) of the Commission's Rules of Practice and Procedure to the extent that this rule requires the service of this application on cities and counties in the proposed service area.

By Decision (D:) 84-01-037 (14 CPUC2d 317 (1984)) and later decisions we authorized interLATA entry generally. However, we limited the authority conferred to interLATA service; and we subjected the applicants to the condition that they not hold themselves out to the public to provide intraLATA service.

Subsequently, by D.94-09-065, we authorized competitive intraLATA interexchange carrier (IXEC) with the following characteristics: it uses the switch of another carrier; it usually, but not always, uses access circuits that the underlying carrier purchases from an LEC; it provides service in its own name, and the customer view of it is as the carrier's service.

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

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services effective January 1, 1995, for carriers meeting specified criteria.

The Commission has established two major criteria for determining whether a CPCN should be granted. An applicant who is a switchless reseller must demonstrate that it has a minimum of \$25,000 of cash or cash equivalent, as described in D.91-10-041, 41 CPUC2d 520 (1991), reasonably liquid and readily available to meet the firm's start-up expenses. Such applicants shall also document any deposits required by local exchange companies or interexchange carriers (IECs) and demonstrate that they have additional resources to cover all such deposits. (D.93-05-010.) In addition, an applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business.

As part of its application, applicant provided a balance sheet dated May 1995 demonstrating that it had \$25,000 in cash on the date formed. It satisfies our criteria for being reasonably liquid and readily available to meet the applicant's needs.

Applicant has also provided information on its two key officers indicating their technical training and experience. These key officers are President and Chief Executive Officer Jerome Nussbaum and Vice-President Larry Orlov, as detailed in the application on page 4. In addition, applicant has attached a complete draft of its initial California tariff schedule as

2 D.93-05-010 defines a switchless reseller as a nondominant interexchange carrier (NDIEC) with the following characteristics: it uses the switch of another carrier; it usually, but not always, uses access circuits that the underlying carrier purchases from an LEC; it provides service in its own name, and its customers view it as their telephone company for interLATA and interstate calls. D.92-06-069 noted that it is possible to control, operate, or manage telephone lines without owning them. The decision also notes that resellers which do not own or directly operate their own telephone wires may still have plants which are owned, controlled, and/or managed in order to facilitate communication by telephone.

Exhibit B to the application, to substantiate that it has the technical expertise to provide resale services within California.

We will authorize the interLATA and intralATA services that applicant seeks to provide.

Findings of Fact

Applicant served a copy of the application upon 153 telephone corporations with which it is likely to compete.

A notice of the filing of the application appeared in the Daily Calendar on June 22, 1995.

- 3. No protests have been filed.
- 4. A hearing is not required.

By prior Commission decisions, we authorized competition in providing interLATA telecommunications service but generally barred those offering such service from holding out to the public the provision of intralATA services.

By DA 94-09-065, we authorized competitive intralATA services effective January 1, 1995, for carriers meeting specified criteria.

7. Applicant has demonstrated that it has a minimum of \$25,000 of cash readily available to meet its start-up expenses.

8. Applicant notes that it is not required to submit any deposits to its underlying carriers.

9. Applicant's technical experience consists of two key employees with a combined experience of over 15 years in the telecommunications area.

10. Applicant has submitted with its application a complete draft of applicant's initial tariff which complies with the requirements established by the Commission, including prohibitions on unreasonable deposit requirements.

11. Applicant has represented that no one associated with or employed by applicant was previously associated with a NDIEC that filed for bankruptcy or went out of business.

5. Applicant should be exempted from Rule 18(b)'s requirement of service of the application on cities and counties in the proposed service area.

6. The application should be granted to the extent set forth below.

7. Because of the public interest in competitive interLATA and intraLATA services, the following order should be effective immediately:

ORDER
IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Preferred Long Distance (applicant) to operate as a reseller of the interLocal Access and Transport Area (LATA) and, to the extent authorized in Decision (D.) 94-09-065, intraLocal Access and Transport Area (LATA) telecommunication services offered by communication common carriers in California.

2. Applicant shall file a written acceptance of the certificate granted in this proceeding.

3. a. Applicant is authorized to file with this Commission tariff schedules for the provision of interLATA and intraLATA service. Applicant may not offer interLATA or intraLATA services 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 nondominant 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 and D.92-06-034.

5. All NDIECs are hereby placed on notice that their California tariff filings

(d) 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. Customer notifications is not required for such minor rate 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."

4. 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 a 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 applicants is subject as reflected in the Conclusion of Law.

5. Applicant shall file as part of its initial tariff, after the effective date of this order and consistent with Ordering Paragraph 3, a service area map.

6. Applicant shall notify this Commission in writing of the date interLATA service is first rendered to the public within 5 days after service begins and again within 5 days of when intraLATA service begins.

7. Applicant shall keep its books and records in accordance with the Uniform System of Accounts specified in Title 47, Code of Federal Regulations, Part 32.

8. 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.

9. Applicant shall ensure that its employees comply with the provisions of PU Code § 2889.5 regarding solicitation of customers.

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. The corporate identification number assigned to applicant is 5502, 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.

12. Within 60 days of the effective date of this order, applicant shall comply with PU Code § 708, Employee Identification

Acting Executive Director

Cards, and notify the Chief of CACD's Telecommunications Branch in writing of its compliance with each of the above.

13. Applicant is exempted from the provisions of PU Code sections 816-830. (CACD) and Compliance and Enforcement Division's (CACD) 14.

In response to the applicant's request for waiver, applicant is exempted from Rule 18(b) of the Commission's rules of Practice and Procedure to the extent that the rule requires an applicant to serve a copy of its application on the cities and counties it proposes to operate in.

The effective date of this order shall be the date of filing of the annual report or in remitting the fees listed in Conclusion of Law 4, CACD shall prepare for Commission consideration a resolution that in 30 days revokes the applicant's certificate of public convenience and necessity, unless the applicants have received the written permission of CACD to file or remit late.

15. If applicant is 90 days or more late in filing an annual report or in remitting the fees listed in Conclusion of Law 4, CACD shall prepare for Commission consideration a resolution that in 30 days revokes the applicant's certificate of public convenience and necessity, unless the applicants have received the written permission of CACD to file or remit late.

16. The application is granted as set forth above with the understanding that the applicant shall file or remit late fees as set forth above.

17. Application A.95-05-073 is closed. This order is effective today.

Dated September 7, 1995 at Los Angeles, California.

Commissioners

DANIEL Wm. FESSLER, President

P. GREGORY CONLON, Commissioner

JESSIE J. KNIGHT, JR., Commissioner

HENRY M. DUQUE, Commissioner

I certify that this decision was approved by the above commissioners today.

Wesley Franklin, Acting Executive Director

I certify that this decision was approved by the above commissioners today.

Wesley Franklin, Acting Executive Director

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 ATTACHMENT A)