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Decision 95-09-043 September 7, 1995

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 BRITTAN COMMUNICATIONS
 INTERNATIONAL, INC. ("BCI") for a
 Certificate of Public Convenience
 and Necessity to Provide Resold
 InterLATA Telecommunications
 Services and IntralATA Services
 Within All LATAs in California And
 Also to Provide IntralATA Services
 Within the State of California to
 the Extent Authorized by the
 Commission in I.87-11-033.

Application 95-03-059
 (Filed March 29, 1995,
 amended July 3, 1995)

ORIGINAL

Appendix A, Paragraph 2.1), reasonably liquid and readily available
 to meet the firm's start-up needs. Such applications shall also
 document any deposits required by BCI or interexchange carrier
 Brittan Communications International, Inc. (applicant), a
 Texas corporation qualified to do business in California, 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 and to resell intralATA telephone
 service as intralATA competition is permitted by this order. The
 Commission's Applicant will provide direct-dialed message and
 telecommunications services, 800 service, and postpaid travel cards.
 Operator services will be provided by the underlying carrier at
 its tariffed rates.

D. 95-09-010 defines a switched reseller as a nondominant
 interexchange carrier (IEC) 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 a
 local exchange company (LECO); it provides service in its own name;
 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.

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Decision 92-09-043 September 7, 1992
 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. By D. 94-09-065, we authorized competitive intralATA 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 reseller² must demonstrate that it has a minimum of \$25,000 of cash or cash equivalent (as described in D. 91-10-041, Appendix A, Paragraph 5.1), reasonably liquid and readily available to meet the firm's start-up expenses. (Such applicants shall also document any deposits required by LECs or interexchange carriers (IECs) 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 or a related business. As part of its application, applicant provided an unaudited balance sheet as of January 15, 1995 demonstrating that it has \$97,000 in cash with only \$300 of liabilities. On March 24, 1995, its certified public accountants also provided documentation of a \$500,000 line of credit from Zero Plus Dialing, Inc.

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 a local exchange company (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 plant which is owned, controlled, operated, and/or managed in order to facilitate communication by telephone.

finance receivables and which is secured by applicant's receivables, and \$50,500 of unsecured loans from shareholders. Applicant currently provides interstate services pursuant to a tariff on file with the Federal Communications Commission. Applicant also is certificated for and provides intrastate services in Washington and Oregon. This indicates that applicant has more than \$25,000 in unencumbered cash. It satisfies our criteria for being reasonably liquid and readily available to meet the applicant's needs. In its amendment, applicant stated that it is not required to make any deposits with LECs or IRCS. In lieu of a deposit, applicant has an arrangement with its underlying carrier and its billing agent to permit the carrier to access applicant's funds held by the billing agent.

Applicant has provided information on its key managers, indicating their education, technical training, and experience. It can be summarized as follows:

Jim G. Edwards, chairperson, president and CEO, founded applicant in late 1994. Previously, he served as president and CEO of Telcam Telecommunications Company of the Americas, Inc. (Telcam), a long distance telephone service provider founded by him earlier in 1994. Prior to founding Telcam, he served as general manager and director of marketing and sales for Heartline Communications, Inc. (Heartline), a long distance telephone service

In an amendment to the application, required by the administrative law judge, Edwards acknowledged that Heartline had been charged with alarming by Texas, Louisiana and several other states in late 1992 and early 1993. In an affidavit filed with the amendment, Edwards stated that he was employed by Heartline on August 1, 1993 as director of marketing and sales and general manager "with the specific mission of curing the problem that had led to their prior difficulties with the above-referenced authorities." He also stated, "I know of no other alarming complaints that were lodged or prosecuted during my tenure at Heartline, which ended in May of 1994." (Affidavit of Jim Edwards at p. 2.)

5. 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.

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

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

8. Applicant has also represented that no deposits will be required from LECs or IECs.

9. Applicant's technical experience consists of 5 employees with a combined experience of over 5 years in telecommunications and related fields.

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 an NDIEC that filed for bankruptcy or went out of business.

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. The Commission has routinely granted NDIECs, such as applicant, an exemption from Rule 18(b) to the extent that the rule requires applicant to serve a copy of its application and amendment on cities and counties in the proposed service area.

14. 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.)

Conclusions of Law

1. Applicant has the financial ability to provide the proposed services.

2. Applicant has made a reasonable showing of technical expertise in telecommunications and public convenience and necessity require the interLATA and intraLATA services to be offered by applicant.

3. Applicant's subject to the current 3.0% surcharge applicable to service rates of intraLATA toll and intrastate interLATA toll to fund the Universal Lifeline Telephone Service (PU Code S 879; D.94-09-065);

4. The current 0.3% surcharge on gross intrastate interLATA revenues to fund the California Relay Service and communications devices fund (PU Code S 2881; Resolution T-15254);

5. The user fee provided in PU Code §§ 431-435, which is 0.1% of gross intrastate revenue for the 1995-96 fiscal year (Resolution M-4777);

6. The California High Cost Fund fee of 0.5% (D/94-09-065);

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

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

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

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

D.88-12-076.)

UNITED STATES OF AMERICA
COMMUNICATIONS COMMISSION
ORDER

1. A certificate of public convenience and necessity is granted to Brittan Communications International, Inc. (applicant) to operate as a reseller of the InterLocal Access and Transport Area (LATA) and, to the extent authorized by Decision (D.) 94-09-065, intralATA 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 and/or intralATA 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 Decision (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 will be processed in accordance with the following effectiveness schedule:
Inclusion of [Federal Communications Commission] FCC-approved rates for interstate services in California public utilities tariff schedules shall become effective on one (1) day notice and surcharges to which applicant is subject, as reflected in

"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.

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 in this process.

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 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 4.

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 to be filed with the Commission and notify the Commission of the date of filing.

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. Applicant shall provide a copy of its books and records to the Commission upon request.

8. In the event the books and records of the applicant are required for inspection by the Commission or its staff, applicant shall either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs incurred in field having Commission staff travel to applicant's offices and recover the costs.

9. Applicant shall file an annual report in compliance with GO 104-A, on a calendar-year basis using the information requested on form developed by the CACD Auditing and Compliance Branch and contained in Attachment A.

10. Applicant shall ensure that its employees comply with the provisions of Public Utilities (PU) Code § 2889.5 regarding solicitation of customers.

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. The corporate identification number assigned to applicant is U-5506-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.

Handwritten signature and stamp: "Walter J. ... Executive Director" and "COMMISSIONERS TODAY".

A.95-03-059 ALJ/ANW/vdl

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.

CORRECTION !!

*THE PREVIOUS DOCUMENT(S) MAY HAVE
BEEN FILMED INCORRECTLY*

RESHOOT FOLLOWS

5. Applicant shall file as part of its initial tariff after the effective date of this order and consistent with ordering Paragraph 3, service area map to the Chief of the Office of the Commission and notify the Chief of the Office of the Commission.

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. In the event the books and records of the applicant are required for inspection by the Commission or its staff, applicant shall either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to applicant's offices.

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. Applicant shall ensure that its employees comply with the provisions of Public Utilities (PU) Code § 2889.5 regarding solicitation of customers.

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. The corporate identification number assigned to applicant is U-5506-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.

Handwritten signature: *Wesley Frank...*
Title: *Acting Executive Director*

13. Within 60 days of the effective date of this order, applicant shall comply with PU Code S 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 APU Code S 816-830.

15. 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 applicant to serve a copy of its application and amendment on the cities and counties in which it proposes to operate.

16. If applicant is 90 days or more late in filing an annual report or in remitting the fees listed in Conclusion of Law 4 / ICACD shall prepare for Commission consideration a resolution that either 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.

17. The application is granted as set forth above.

This order is effective today.

Dated September 7, 1995, at Los Angeles, California.

provisions of Public Utilities (PU) Code S 3889.2 regarding solicitation of customers.

The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not renewed after the effective date of this order.

DANIEL Wm. FESSLER, President
P. GREGORY CONLON

JESSIE J. KNIGHT, JR.
HENRY M. DUQUE, Commissioners

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

Wesley Frankles
Acting Executive Director

A.95-03-059 ALJ/ANW/vdl

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)