

Decision 95-11-018 November 8, 1995

provide intralATA long distance services within California  
**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Federal Communications Group, Inc. for a Certificate of Public Convenience and Necessity to operate as a reseller of IntraLATA and interLATA telecommunications services within California. (Application 95-07-010) (Filed July 3, 1995)

**ORIGINAL**

that it has additional resources to cover deposits required by start-up expenses. (D.91-10-007, paragraph 2.1), and  
**O.P.I.N.I.O.N.**

**Summary**  
Federal Communications Group, Inc. (applicant), a Delaware corporation authorized to conduct business in California seeks a certificate of public convenience and necessity (CPCN) under Public Utilities Code (PU Code) s. 1001 et seq. to permit it to act as a nonfacilities based, nondominant reseller of intrastate, interLATA, and intraLATA long distance telephone services in California. **Granted.**

Notice of the filing of the application appeared in the Commission's Daily Calendar on August 2, 1995. No protests were filed, and no hearing on the application is necessary.

**Nature of Application**  
By Decision (D.) 84-01-037, 14 CPUC2d 317 (1984), and later decisions, we authorized interLATA entry generally. By D.94-09-065, we authorized competitive intraLATA services effective January 1, 1995. While the applicant did not request authority to

S. D.93-02-010 defines a switchless reseller as a nondominant California is divided into 10 local access and transport areas (LATAs) of various sizes; each containing numerous local telephone exchanges. InterLATA describes telecommunications services originating in one LATA and terminating in another. IntraLATA describes telecommunications services originating and terminating within a single LATA.

provide intralATA long distance services within California in its application, it requested such authority in a telephone conference with the assigned Administrative Law Judge (ALJ) on October 11, 1995; the intralATA authority is also granted herein.

Criteria for Approval of Application

The Commission has established two major criteria for determining whether a CPCN should be granted. An applicant that is a switchless reseller<sup>2</sup> must demonstrate that it has a minimum of \$25,000 in cash or cash equivalent available to meet the firm's start-up expenses (D.91-10-041, Appendix A, Paragraph 5.1), and that it has additional resources to cover deposits required by other telephone carriers (D.93-05-010). In addition, an applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business.

Financial Information

Applicant has provided, under seal, financial statements consisting of Profit and Loss Statement for the period January 1 through June 28, 1995 (Exh. H), and Balance Sheet for the period ending June 28, 1995 (Exh. I), accompanied by a motion for Protective Order and Protection of Proprietary Information covering those exhibits. By Ruling dated August 15, 1995, ALJ Jacqueline A. Reed, sitting as Law and Motion Judge, granted applicant's motion to the extent that Exhibits H and I shall remain under seal for a period of one year from the date of her Ruling, and shall not be made accessible or disclosed to anyone other than Commission staff except on the further order/ruling of the Commission, the Assigned

<sup>2</sup> D.93-05-010 defines a switchless reseller as a nondominant interexchange carrier with the following characteristics: it uses the switch of another carrier; it usually, but not always, uses AT&T access circuits that the underlying carrier purchases from a local exchange carrier; it provides service in its own name, and its primary customers view it as their telephone company for intralATA and interstate calls.

Commissioner; the Assigned ALJ; or the ALJ then designated as Law and Motion Judge.

Exhibits H and I indicate that while the company operated at a relatively small net loss for the period covered by the Profit and Loss Statement, it had sufficient financial resources to cover this loss and still have financial assets available in an amount exceeding the minimum requirements of the Commission for the issuance of a CPCN. We find from these exhibits that applicant possesses sufficient financial resources to meet the Commission's minimum financial requirements.

Technical Expertise of Personnel

Applicant has provided the following information on its key technical personnel (Exh. G as amended):

Moe Ghaffar serves as the Chief Financial Officer of the applicant. Ghaffar holds a Master of Business Administration degree from Roosevelt University, Chicago, and has 15 years' experience in finance and eight years' experience in telecommunications/voice telephony.

John B. Georges, Chief Technical Officer (CTO), holds a Ph.D. in Electrical Engineering which was granted by the University of California at Berkeley in 1994. He also holds a Master of Science in Electrical Engineering which was awarded by Columbia University, New York, in 1990, as well as a Bachelor of Science in Electrical Engineering with First Class Honors, conferred by Fairleigh Dickinson University in 1989.

From June, 1985 to June, 1989, he served as Senior Staff Technologist with Bell Communications Research, where his primary responsibilities involved high-speed RF prototyping, ECL design, microwave modulation of laser diodes for multiwave-length optical networks, and telecommunications systems. From December, 1990 to May, 1994, he served as a Graduate Student Researcher and Graduate Student Instructor at the University of California while pursuing his doctoral degree. According to his Curriculum Vitae, he is the author or co-author of several technical papers published in a

variety of technical journals published throughout the United States. He has served as CTO of the applicant since December 1994.

In addition to Georges, the following individuals are employed in technical positions with the applicant:

Gennady Shtirmer, M.S. in Computer Science, Princeton University, eight years' experience in telecommunications/voice telephony;

Tony Bogovic, M.S. in Electrical Engineering, Columbia University, Candidate for Ph.D. in Computer Science, University of Pennsylvania, ten years' experience in telecommunications/voice telephony.

Nature and Extent of Service

Applicant is a non-facilities based reseller that will provide 24-hour interLATA and intralATA long distance telephone services between points within the State of California as well as nondominant interexchange carriers (NDIEC). In particular, applicant will operate as a "pure" or "switchless" reseller of intrastate, interLATA, and intralATA long distance toll service, and will resell telecommunications services under the Federal Communications Group, Inc. name, and will further provide prepaid phone cards under the name of Freedom Card. Applicant does not intend to own, install, or construct any facilities to implement the authority sought or granted in this proceeding.

Proposed Tariffs

Proposed tariffs of the company, comparable to those of competing carriers, are attached to the application as Exhibit F.

Applicant has served a copy of the application on 23 entities with which it may compete. Inasmuch as it has no plans to construct plant or transmission facilities within the State of California, applicant requests a waiver of Rule 18(b) to serve a copy of the application on all cities and counties affected by applicant's proposed construction. Such requests have been

author or co-author of several technical papers published in a

routinely granted in the past (American Telephone Network, Inc. (1992) 43 CPUC2d 380.)

We will authorize the interLATA and intraLATA services that applicant seeks to provide. Findings of Fact

Applicant served a copy of its application on 231 telecommunications corporations with which it may compete.

2. A notice of the filing of the application appeared in the Daily Calendar on August 2, 1995.

3. No protests have been filed.

4. 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 service.

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

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

7. Applicant has demonstrated that it can meet the level of deposits required for implementing its service.

8. Applicant has demonstrated that its management possesses the requisite technical experience to operate its service.

9. Applicant has submitted with its application a draft of its initial tariff, and this tariff complies with Commission requirements, including prohibitions on unreasonable deposit requirements.

10. 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.

11. The Commission has routinely granted NDIECS such as applicant an exemption from the Rule 18(b) requirement that the

application be served on cities and counties in the proposed service area.

12. The Commission has granted NDIECs an exemption from the Rule 18(b) requirement to permit applicant to serve its application on competitors without attaching exhibits to the application.

13. 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. No hearing is required.
- 2. Applicant has the financial ability to provide the proposed service.
- 3. Applicant has made a reasonable showing of technical expertise in telecommunications.
- 4. Public convenience and necessity require the interLATA and intraLATA services to be offered by applicant.
- 5. Applicant is subject to:

- a. The current 3.0% surcharge applicable to all intrastate services except for those excluded by D.94-09-065 to fund Universal Lifeline Telephone Service (PU Code § 879; D.94-09-065);

- b. The current 0.3% surcharge applicable to all intrastate services except for those excluded by D.94-09-065 to fund the California Relay Service and Communications Devices Fund (PU Code § 2881; D.94-09-065);

- c. The user fee provided in PU Code §§ 431-435, which is 0.1% of gross intrastate revenue for the 1995-1996 fiscal year (Resolution 4778); and,

- d. The current 0.5% surcharge applicable to all intrastate services except for those excluded by D.94-09-065 to fund the California High Cost Fund (PU Code § 739-130; D.94-09-065).

11. The Commission has no objection to the applicant's request for an exemption from the Rule 18(b) requirement that the

6. Applicant should be exempted from Rule 18(b)'s requirement of service of the application on cities and counties in the proposed service area and service of all exhibits attached to this application on potential competitors.

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

8. Because of the public interest in competitive (interLATA and) (intraLATA) service(s), the following order should be effective immediately.

**IT IS ORDERED that:**

1. A certificate of public convenience and necessity is granted to Federal Communications Group, Inc. (applicant), to operate as a reseller of Local Access and Transport Area (LATA) services, both interLATA and intraLATA, to the extent authorized by Decision (D.) 94-09-065, offered by communications common carriers in California.

2. Applicant shall within 10 days from the date of this order file a written acceptance of the certificate granted in this proceeding.

3. 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 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 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 and D:92-06-034:

(5) All INDIECs 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 tariffs 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 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.

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.

Advice letter filings for revising the text or location of text material which do not cause a change in rates shall become effective on forty (40) days' notice.



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 (CACD) of the Telecommunications Branch. Tariff filings shall reflect all fees and surcharges to which applicant is subject, as reflected in the Conclusion of Law.

5. Applicant shall file as part of its initial tariff matters 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. 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 office.

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-5538-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.

13. Within 60 days of the effective date of this order, applicant shall comply with PUC Code § 7087 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 PUC Code §§ 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 on the cities and counties it proposes to operate in and to the extent that the rule requires applicant to serve a copy of all exhibits attached to its application on potential competitors.

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, CACD shall prepare for Commission consideration a resolution that revokes the applicant's certificate of public convenience and

request for waiver. The information requested on a calendar-year basis using the information request form developed by the CACD Auditing and Compliance Branch and contained in Attachment A.

necessity, unless the applicant shall 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 November 8, 1995, at San Francisco, California.

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

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:

Commission

Branch, Room 3251

94102-3298

California Public Utilities

Auditing and Compliance

505 Van Ness Avenue  
San Francisco, CA

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)