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Decision 95-12-017 December 6, 1995

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 Century Telecommunications, Inc. )  
 for a Certificate of Public )  
 Convenience and Necessity to )  
 Operate as a Reseller of Telecom- )  
 munications Services Within the )  
 State of California. )

Application 95-08-049  
 (Filed August 21, 1995)

**ORIGINAL**OPINION

Century Telecommunications, Inc. (Century or applicant), requests authority to conduct business as a resale interexchange carrier within California. Century requests authority to handle both interLocal Access and Transport Area (InterLATA) and intraLocal Access and Transport Area (intraLATA) traffic as a facilities-based reseller.

Century is organized as a corporation under the laws of Texas, and is authorized to do business in California. Century is a wholly owned subsidiary of SM Telecorp, which is a wholly owned subsidiary of Century Telephone Enterprises, Inc. Century Telephone Enterprises, Inc. is a publicly held corporation trading on the New York Stock Exchange under the symbol "CTL."

Century proposes to operate in California as a resale long distance provider offering outbound direct dialed (1+) message telecommunications service, operator assisted "0+" calling, inbound 800 service and travel card service to its customers. Service is provided seven days a week, twenty-four hours a day. Century will

resell the transmission services of existing telecommunications service transmission facility providers in California. Call will route over the resold transmission network to the company's switch in San Marcos, Texas. Customers using Century's service are billed on their monthly telephone bill rendered by their local exchange telephone company. Calls are billed at the rates specified in Century's tariff.

Century provides resold telecommunications services using transmission facilities of other interexchange carriers. It does not have any plans to construct telecommunications routes.

Century Telephone Enterprises, Inc.'s December 1994 balance sheet indicates the company's cash equivalents at \$7,154,000 which is more than sufficient to cover the Commission's financial requirements for facilities-based resellers.

Applicant asserts that it has the technical experience and ability to offer its services in California. Century employs an experienced team of managers and technicians with a great deal of telecommunications expertise.

Century believes that public convenience and necessity require approval of its application because:

- a. Empirical evidence has shown that increased competition in a market results in benefits to the consumers including improved variety of product options, innovative technological advances, and better quality service.
- b. Century offers a high-quality, competitively priced long distance service designed to meet the needs of California consumers. Century's products are designed to be cost effective to consumers.

Applicant states that it will not be required to pay a deposit to its underlying carrier for entry into the California market. Although Century switches its calls through its own switch in Texas, transmission services will be purchased from another long distance carrier. Century will not purchase access directly from

local exchange carriers, therefore no local exchange company (LEC) deposit will be required, either.

None of the applicant's officers or directors or key employees was associated with an interexchange carrier that has filed for bankruptcy or went out of business.

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 criteria for determining whether a certificate of public convenience and necessity (CPCN) should be granted. An applicant who is a facilities-based reseller must demonstrate that it has a minimum of \$100,000 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. (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 financial information demonstrating that it satisfies our criteria for being reasonably liquid and has readily available funds to meet its needs.

We will authorize the interLATA and intraLATA service that applicant seeks to provide.

#### Findings of Fact

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

2. A notice of the filing of the application appeared in the Daily Calendar on August 31, 1995.

3. No protests have been filed.

4. A hearing is not required.

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 service.

6. By D.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 \$100,000 of cash readily available to meet its start-up expenses.

8. 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.

9. 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.

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 NDIEC, such as applicant, an exemption from Rule 18(b), where no construction is involved, to the extent that the rule requires applicant to serve a copy of its application on cities and counties in the proposed service area and to the extent that it requires applicant to provide a conformed copy of all exhibits attached to applicant's filed application to potential competitors.

12. 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.)

Conclusions of Law

1. Applicant has the financial ability to provide the proposed service.
2. Applicant has made a reasonable showing of technical expertise in telecommunications or in a related business.
3. Public convenience and necessity require the interLATA and intraLATA service be offered by applicant.
4. 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 § 739.30; D.94-09-065).
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 and service of all exhibits attached to this application on potential competitors.
6. The application should be granted to the extent set forth below.
7. Because of the public interest in competitive interLATA and intraLATA service, the following order should be effective immediately.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN) is granted to Century Telecommunications, Inc. (applicant) to operate as a reseller of interLocal Access and Transport Area (interLATA) and, to the extent authorized by Decision (D.) 94-09-065, intraLocal Access and Transport Area (intraLATA) telecommunication service offered by communication common carriers in California.

2. Within 30 days after the effective date of this order, 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 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 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 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.

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 Code (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-5540-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 PU Code § 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 PU 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 CPCN, unless applicant has 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 December 6, 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:

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)