

JAN 10 1996

Decision 96-01-005 January 10, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of American Teletronics Long Distance, Inc., for a certificate of public convenience and necessity to operate as a switchless reseller of long distance telecommunications services within the State of California.

Application 92-06-033
(Filed June 22, 1992)

ORIGINAL

OPINION

Summary

American Teletronics Long Distance, Inc. (ATLD) petitioned the Commission to modify Decision D.92-09-007 to allow it to operate as a facilities-based reseller, instead of as a switchless reseller, is denied without prejudice. ATLD has failed to demonstrate that it has met the necessary financial requirement for facilities-based resellers as set forth in D.93-05-010.

Background

On May 5, 1995, ATLD filed a petition to modify D.92-09-007. D.92-09-007 granted ATLD's Application (A.92-06-033) for a certificate of public convenience and necessity (CPC&N) to operate as a switchless reseller of interLATA telecommunications services. ATLD's petition to modify seeks Commission authority to allow ATLD to lease and operate its own switch, that is, to operate as a facilities-based reseller. ATLD's petition did not contain any financial statements in support of its petition to modify. No one filed any responses to the petition to modify.

On May 17, 1995, shortly after ATLD filed its petition to modify D.92-09-007, ATLD filed A.95-05-036 for authority to provide intralATA toll telecommunications services. Exhibit A to that application contained an unaudited "tentative and preliminary" balance sheet as of December 31, 1994 and December 31, 1993. That

2001 01 MAR

balance sheet reflects approximately \$82,000 in cash as of December 31, 1994. The balance sheet also discloses that total current liabilities exceed total current assets by approximately a 3.5 to 1 ratio.

On June 20, 1995, the assigned Administrative Law Judge (ALJ) in A.95-05-036, Richard Careaga, requested ATLD to submit additional information as to how ATLD planned to meet the Commission's financial requirements. ATLD's response on July 17, 1995 stated that:

"American Teletronics is in the process of selling off a partition (sic) of its customer base which will substantially reduce its liability and increase the company's cash flow. American Teletronics will file supplemental financial statements to reflect this change once they become finalized."

In a follow-up letter dated October 3, 1995, ALJ Careaga requested ATLD to provide the supplemental financial statements by October 30, 1995. On October 20, 1995, the assigned ALJ in this proceeding, John S. Wong, issued a ruling stating that the balance sheet attached to A.95-05-036 had been reviewed, that the supplemental financial statements requested by ALJ Careaga for A.95-05-036 were also essential to resolving ATLD's petition to modify D.92-09-007, and that any supplemental financial statements filed in connection with A.95-05-036 should also be transmitted to ALJ Wong.

On November 2, 1995, Christina Weikner of ATLD telephoned ALJs Careaga and Wong to inform them that no supplemental financial statements would be forthcoming.

Discussion
In D.93-05-010, the Commission established a minimum financial requirement of \$100,000 in cash or the cash equivalent for facilities based resellers. These financial resources must be "reasonably liquid and readily available to meet the start-up costs of the business." (D.93-05-010 at p. 21.)

The Commission also stated in D.93-05-010 that the financial requirement was not rigid, and that three exceptions to this standard would be allowed. The first exception is if the applicant's projected losses for the first year of operation exceed \$100,000, then the applicant must demonstrate that it has sufficient resources to withstand those losses. The second exception applies if the applicant can demonstrate that it can cover its start-up costs with less than the required minimum. The third exception allows an applicant which has profitable interstate businesses to demonstrate that it has sufficient cash flow by submitting an audited balance sheet and income statement.

In order to ascertain whether ATLD met the financial requirement for facilities-based resellers, ALJ Wong examined the unaudited balance sheet that was attached to A.95-05-036. As of December 31, 1994, ATLD had approximately \$18,000 less than the required minimum for facilities-based resellers. Also, an analysis of the current assets to current liabilities as of December 31, 1994 reveals a lack of financial resources on the part of ATLD to meet its current liabilities. Although ATLD was given the opportunity to submit supplemental financial statements in light of an anticipated sale of some of ATLD's customer base, no additional financial statements were submitted. As a result, ATLD has not demonstrated that it has met the necessary financial requirement to become a facilities-based reseller. Accordingly, ATLD's petition to modify D.92-09-007 should be denied without prejudice.

Findings of Fact

1. On May 5, 1995, ATLD filed a petition to modify D.92-09-007, requesting that it be authorized to operate as a facilities-based reseller.

2. D.92-09-007 granted ATLD's CPC&N application to operate as a switchless reseller of interLATA telecommunications services.

3. ATLD's petition to modify did not contain any financial statements in support of its petition.

4. ATLD's application (A.95-05-036) for authority to provide intralATA toll telecommunications services contained an unaudited balance sheet for December 31, 1994 and December 31, 1993. The unaudited balance sheet reflects approximately \$82,000 in cash and total current liabilities exceeding total current assets by approximately a 3:5 ratio as of December 31, 1994. Additional financial information was requested of ATLD in A.95-05-036 as well as in this proceeding, which allows an applicant to demonstrate that it can cover its debt if the applicant can demonstrate that it can cover its debt.

6. Additional financial information was requested of ATLD in A.95-05-036 as well as in this proceeding, which allows an applicant to demonstrate that it can cover its debt if the applicant can demonstrate that it can cover its debt. On November 2, 1995, ATLD informed the assigned ALJ in A.95-05-036 and in this proceeding that no supplemental financial statements would be forthcoming.

8. D.93-05-010 established a minimum financial requirement of \$100,000 in cash or the cash equivalent for facilities-based resellers. ATLD had approximately \$18,000 less than the requirement. D.93-05-010 also announced that the \$100,000 financial requirement was not rigid and that three exceptions to the requirement exist: a lack of financial resources on the part of the applicant, a lack of financial resources on the part of the applicant, and a lack of financial resources on the part of the applicant.

10. The ALJ assigned to ATLD's petition to modify examined the unaudited balance sheet of ATLD and determined that ATLD lacked the necessary financial resources.

11. ATLD was given the opportunity to submit supplemental financial statements to demonstrate that it met the financial requirement established in D.93-05-010. Conclusions of Law

1. No hearing is necessary because no responses to the petition to modify were filed.

2. ATLD has not demonstrated that it has met the necessary financial requirement to become a facilities-based reseller.

3. ATLD's petition to modify should be denied without prejudice.

3. ATLD's petition to modify did not contain any financial statements in support of its petition.

ORDER

IT IS ORDERED that:

1. American Teletronics Long Distance, Inc.'s (ATLD) petition to modify Decision 92-09-007 by allowing ATLD to become a facilities-based reseller is denied without prejudice. ATLD may file a new petition for modification if its financial circumstances change.

2. This proceeding is closed.

This order is effective today.

Dated January 10, 1996, at San Francisco, California.

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