

FEB 26 1996

Decision 96-02-034 February 23, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Intelicom International Corp. for certificate of public convenience and necessity to provide interLATA and intralATA telecommunications services throughout California.

ORIGINAL

Application 95-09-044 (Filed September 18, 1995)

OPINION

Intelicom International Corp. (applicant), a Florida 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 interlocal access and transport area (LATA) and intralATA telephone services in California as a switchless reseller. 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. By

1 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 95-05-034 February 23, 1995
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 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 January 9, 1996 facsimile letter, applicant provided an October 31, 1995 financial statement which shows that applicant had approximately \$41,000 and \$49,000 in cash and equity, respectively, at October 31, 1995. This indicates that applicant has more than \$25,000 minimum cash requirement and satisfies our financial criteria for a reseller CPCN.

Applicant has provided information on its three key officers indicating their education, technical training and experience, as detailed in Exhibit G to the application. These key officers are President and Chief Financial Officer David Spezza,

we limited the authority conferred to intralATA services, and we subjected the applicants to the condition that they not hold themselves out to the public to provide intralATA services.

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 plant which is owned, controlled, operated and/or managed, in order to facilitate communication by telephone.

Chief Executive Officer David Kanstoroom, and "SNSD" William R. Olive, Jr. and Jon Hill notations because the proposed services with certain

Applicant possesses the necessary financial and technical expertise to operate as a nondominant telecommunications carrier. We will authorize the interLATA and intralATA services that applicant seeks to provide.

Findings of Fact

1. Applicant served a copy of the application upon 183 telephone corporations with which it is likely to compete.

2. A notice of the filing of the application appeared in the Daily Calendar on October 24, 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 \$25,000 of cash equivalent reasonably liquid and readily available to meet its start-up expenses.

8. Applicant's technical experience consists of three key officers with a combined experience of over 8 years in the telecommunications industry.

9. Applicant has submitted with its application a complete draft of applicant's initial tariff which complies with the requirements established by the Commission.

10. Applicant has represented that no one associated with or employed by applicant was previously associated with a nondominant interexchange carrier that filed for bankruptcy or went out of business.

11. 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.

12. The Commission has routinely granted nondominant interexchange carriers, 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.

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. Applicant has the financial ability to provide the proposed service.

2. Applicant has made a reasonable showing of technical expertise in telecommunications business.

3. Public convenience and necessity require the interLATA and intralATA services to be offered by applicant.

4. Applicant is subject to:

- a. The current 3.2% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the Universal Lifeline Telephone Service (PU Code § 879; Resolution T-15799);
- b. The current 0.36% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Relay Service and Communications Devices Fund (PU Code § 2881; Resolution T-15801);
- 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 0.27% surcharge applicable to all intrastate services except for those

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

a) (d) 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 are 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 rates or charges 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 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 in response to the application.

6. Applicant shall notify this Commission in writing of the date interLATA and intraLATA services are first rendered to the public within 5 days after the services 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 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

JOSEPH L. NEPPER
Commissioner

if not exercised within 12 months after the effective date of this order.

12. The corporate identification number assigned to applicant is U75578-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, the 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.

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

18. Application 95-09-044 is closed.

This order is effective today.

Dated February 23, 1996 at San Francisco, California.

DANIEL Wm. FESSLER
President

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)