

Decision 96-02-042 February 23, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Network Plus, Inc. (U-5280-C) for Expanded IntralATA Authority Within California

ORIGINAL

O.P.I.N.I.O.N

1. Summary

Network Plus, Inc. (applicant), a reseller of telephone services in California, pursuant to Public Utilities (PU) Code § 1001, seeks expanded authority under its certificate of public convenience and necessity to permit it to resell intralATA as well as interLATA telephone services in California.

2. Nature of Application

Applicant is a Massachusetts corporation authorized to do business in California. It was granted authority to provide intrastate interLATA telephone services within California in Decision (D.) 92-07-063, issued on July 22, 1992, after a showing of financial stability and management experience. Based on financial statements attached to the application as Exhibit 4, applicant continues to exceed the Commission's financial requirements for reseller certification.

California is divided into 10 Local Access and Transport Areas (LATAs) of various sizes, each containing numerous local telephone exchanges. "InterLATA" describes telecommunications service originating in one LATA and terminating in another. "IntralATA" describes telecommunications service originating and terminating within a single LATA.

2 Applicant on September 28, 1995, moved to file its financial statements under seal; citing competitive concerns. The motion was granted on October 17, 1995.

By Decision (D.) 84-01-037 (14 CPUC2d 317 (1984)) and later decisions, the Commission authorized interLATA entry generally. By D.94-09-065, we authorized competitive intralATA services effective January 1, 1995. The Commission has established two major criteria for determining whether an operating certificate should be granted to a switchless reseller, that is, a reseller of telephone services that uses the switch of another interexchange carrier. First, the applicant must demonstrate that it has at least \$25,000 in uncommitted cash or the equivalent to handle start-up costs. Second, it must show technical expertise in telecommunications or a related business. (D.91-10-041 (41 CPUC2d 505 (1991)); D.93-05-010.) Applicant here has made the requisite showings.

Applicant has attached proposed intralATA revisions to its tariffs now on file with the Commission. The tariffs are comparable to those of competing carriers. Applicant requests a partial waiver of Rule 18(b) to the extent that the rule requires service of the application on city and county planning agencies. The Rule 18(b) request has been granted routinely in the past. (American Telephone Network, Inc. (1992) 43 CPUC2d 380.)

**3. Discussion**

Applicant has demonstrated that it has the financial resources and technical skill to operate reseller services in California. No officer of applicant has been involved in any other telecommunications company that has gone out of business or has filed for bankruptcy. No protests to the application have been filed. We will authorize the intralATA authority that applicant seeks to add to its existing interLATA authority.

**Findings of Fact**

1. Applicant served a copy of its application to 198 telecommunications corporations with which it may compete.

2. A notice of the filing of the application appeared in the Daily Calendar on October 6, 1995.

3. No protests have been filed.

4. By prior Commission decisions, we authorized competition in providing interLATA telecommunications services but generally barred those offering such service from holding out to the public the provision of intralATA services.

5. 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 a minimum of \$25,000 in cash available to meet its start-up expenses, and that it has sufficient resources to cover required deposits, if any.

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

8. Applicant has submitted with its application a draft of its initial tariff revisions, and this tariff complies with Commission requirements.

9. 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.

10. The Commission has routinely granted nondominant interexchange carriers 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.

11. Exemption from the provisions of PU Code §§ 816-830 has been granted to other resellers.

12. No officer of applicant has been involved in any other telecommunications company that has gone out of business or has filed for bankruptcy.

8. Because of the public interest in competitive intralATA and intralATA services, the following order should be effective immediately.

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 additional intralATA services to be offered by applicant.
5. 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 S 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 S 2881; Resolution T-15801);
  - c. The user fee provided in PU Code §§431,435, which is 0.1% of gross intrastate revenue for the 1995-96 fiscal year (Resolution 4778); and
  - d. The current 0.27% 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 High Cost Fund (PU Code S 739.30; Resolution T-15826).
6. Applicant should be exempted from the Rule 18(b) requirement of service of the application on cities and counties.
7. The application should be granted to the extent set forth below.
8. Because of the public interest in competitive interLATA and intralATA services, the following order should be effective immediately.

Uniform rate increases for  
initially for increases for  
no effective on  
thirty (30) days (03) until  
It is ORDERED that

**ORDER**

1. The certificate of public convenience and necessity granted to Network Plus, Inc. (U-5280-C) (applicant) in Decision (D.) 92-07-063 to operate as a reseller of interLocal Access and Transport Area (LATA) services is hereby amended to also include intraLATA authority, to the extent authorized by D.94-09-065.

2. Applicant shall file a written acceptance of the additional authority 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 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 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 the (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.



14. Applicant is exempted from the provisions of PU Code §§ 816+830, and has no other obligations after the effective date of this order.

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 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 5, 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 95-09-042 is closed.  
This order is effective today.  
Dated February 23, 1996, at San Francisco, California.

10. Applicant shall ensure that its employees comply with the provisions of Public Utilities (PU) Code § 2889.2 regarding solicitation of employees.

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

11. The authority granted and the authority to render service, charges, and rates authorized with this order shall expire if not renewed within 18 months after the effective date of this order.

12. The corporate identification number assigned to applicant shall continue to be U-5280-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 § 208, Employee Identification Cards, and notify the Chief of CACD's Telecommunications Branch in writing of its compliance.



A.95-09-024 ALJ/GEW/gab

**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)