

FEB 26 1996

Decision 96-02-044 February 23, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Harvey Hotel Management Corporation d/b/a Hospitality Telecom Solutions for a Certificate of Public Convenience and Necessity to Provide IntralATA and InterLATA Telecommunications Services within California.

Application 95-04-020 (Filed April 6, 1995) ORIGINAL

OPINION

Harvey Hotel Management Corporation d/b/a Hospitality Telecom Solutions (HTS or applicant), a Texas 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 interLATA telephone services in California and to resell intralATA telephone service under the terms for intralATA competition permitted by this Commission. Applicant wishes to offer standard operator services as well as a variety of enhanced features such as voice messaging, conference calling, and foreign language assistance. In addition, HTS will assist hotel properties in the design and management of telecommunications systems.

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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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 two major criteria for determining whether a CPCN should be granted. An applicant who is a switchless reseller² must demonstrate that it has a minimum of \$25,000 of cash or cash equivalent (as described in D.91-10-041, Appendix A, Paragraph 5.1; 41 CPUC2d 505 at 519), 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.) Further, 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 its comparative balance sheet as of November 30, 1994, and its statement of income and expense for fiscal year 1994. A review of this financial information indicates that applicant has available to it unencumbered cash of substantially more than \$25,000. It

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.

satisfied our criteria for being reasonably liquid and readily available to meet the applicant's needs. In its August 25, 1995 supplement, applicant stated that it has not been required by any local exchange company or interexchange carrier to secure and to the agreement for services with deposits for letters of credit.

Applicant has provided information on its key managers indicating their education, technical training, and experience which can be summarized as follows:

Richard N. Beckert, vice president of telephone management contracts and development, has been at Harvey Hotel Company since 1983. He is responsible for the pursuit of expansion opportunities, the supervision of selected management contract hotels and the solicitation of systems and telecommunications consulting opportunities. Beckert has extensive hotel management experience, and graduated from Cornell University in 1978 with a B.S. in hotel administration.

Robert C. Romero, HTS's director of operations, has been responsible for the daily operation of Harvey Hotel's telecommunications division since 1992. He develops products for outside sales, including operator services, long distance, telecommunications consulting and telephone department optimization services. Prior to this position, Romero was corporate director of management information systems for Harvey Hotel Company from 1989 to 1992. He has a Masters of Professional Studies degree from Cornell University School of Hotel Administration.

Terence J. Greenhall, operations manager for HTS, has assisted in the daily operations of the telecommunications division of Harvey Hotel Company since January 1993. He also assists the director of operations in the outside sales products' development and implementation. Greenhall is responsible for the telecommunications and telephone department optimization for 10 outside hotel clients. He has a B.S. degree from the University of Houston.

In the supplement, applicant also represented that no one associated with or employed by it was previously associated with a nondominant interexchange carrier that filed for bankruptcy or went out of business.

We will authorize the interLATA and intraLATA services that applicant seeks to provide if provided as provided.

Findings of Fact

1. Applicant served a copy of the application upon 231 telephone corporations with which it is likely to compete.
2. A notice of the filing of the application appeared in the Daily Calendar on April 21, 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, reasonably liquid and readily available to meet its start-up expenses.
8. Applicant's technical experience consists of 2 employees, in particular, with a combined experience of over 9 years in telecommunications' operation and management.
9. 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.
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) 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.

13. Exemption from the provisions of PU Code §§ 816-830 has been granted to other resellers (See, e.g., D.86-10A007 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.

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

4. Applicant is subject to 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, November 21, 1995);

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, November 21, 1995);

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 excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund (PU Code § 739.30) Resolution T-15826, December 20, 1995.

Applicant should be exempted from Rule 18(b) requirements 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.

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

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

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Harvey Hotel Management Corporation d/b/a Hospitality Telecom Solutions (applicant) to operate as a reseller of the interLocal Access and Transport Area (interLATA) and to the extent authorized by Decision (D.) 94-09-065, Local Access and Transport Area (intraLATA) telecommunication services offered by communication common carriers in California.

2. 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.

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 notification 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.

Advice letter filings merely a
 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 (PU) Code § 2889.15 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-5564 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 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 95-04-020 is closed.

This order is effective today.

Dated February 23, 1996, at San Francisco, California.

The certificate granted and the authority to render service charges, and rules authorized will expire 12 months after the effective date of this order.

DANIEL W. FESSLER
President

GREGORY CONLON

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEPPER

19. The Commission shall include in the caption of all original filings with this Commission, and in the title of other pleadings filed in existing cases.

20. Within 60 days of the effective date of this order, applicant shall copy with BU Code 2 708, Employee Identification Cards, and notify the Chief of CACD's Telecommunications Branch in writing of its compliance.

21. Applicant is exempted from the provisions of BU Code 22 816-830.

22. 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 other 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.

23. If applicant is 90 days or more late in filing an annual report or in remitting the fees listed in Conclusion of Law 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.

A.95-04-020 ALJ/JAR/sid

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. 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)