

Decision 96-09-058 September 20, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
WORLDTEL INTERACTIVE INCORPORATED)
For a Certificate of Public Convenience and Necessity to Operate)
as a Reseller of Telecommunications)
Services Within California.) Application 96-04-027
(Filed April 12, 1996)

ORIGINAL

NOTICE: This document contains confidential information. It is intended only for the use of the parties to the proceeding and is not to be disseminated to the public. If you receive this document in error, please notify the Commission immediately. NOTICE The applicant, WORLDTEL Interactive Incorporated (applicant), a Florida corporation, authorized to conduct business in California, seeks and certificate of public convenience and necessity (CPCN) under Public Utilities (PU) Code § 1001 to permit it to resell interLATA (and intraLATA) telephone services in California. Applicant proposes to offer its service through prepaid calling cards sold in \$25 increments of \$25. Applicant will provide service using a combination of its own switching facilities in Florida and the facilities of other carriers. Applicant does not seek to build new facilities. By Decision (D) 84901-0377 (14 CPUC2d 317a (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.

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.

Subsequently, 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: First, the applicant must demonstrate that it has a minimum of \$100,000 of cash or cash equivalent (as described in D.91-10-041, 41 CPUC2d 505 at 520 (1991) which is reasonably liquid and readily available to meet the firm's start-up expenses.

As part of this showing, an applicant must document any deposits required by local exchange companies (LECs) for interexchange carriers (IECs); and demonstrate that it has additional resources beyond the \$100,000 described previously to cover all such deposits.

Among the information included in the application (including amendments and supplements) to the application ordered by assigned Administrative Law Judge (Kenney) was an unaudited balance sheet dated April 30, 1996, which shows applicant has more than \$100,000 in cash. Applicant also provided information showing that deposits totaling \$50,400 were required by other LECs and IECs, and that applicant still had more than \$100,000 in cash after satisfying these deposit requirements. This showing satisfies our requirement that applicant possess \$100,000 in cash or cash equivalent that is reasonably liquid and readily available to meet the applicant's need.

The second major criterion for determining whether to grant a CPCN is that the applicant must demonstrate a reasonable level of technical expertise in telecommunications or a related business. To satisfy this criterion, applicant provided

information, summarized below, concerning the qualifications of its key personnel:

Brian Lee, Chairman. Mr. Lee is the primary funding source of capital for the applicant. Mr. Lee currently serves as the Chief Executive Officer (CEO) of five other companies engaged

in various computer hardware and software activities. He has a B.S. in electronic engineering, and a M.S. and Ph.D in Computer Science.

Stephen B. La Chapelle, President and CEO of Mr. La Chapelle has started several companies whose activities ranged from providing air limousine service to installing and maintaining tropical environments for corporate clients. Mr. La Chapelle attended the Massachusetts College of Pharmacy and Northeastern University.

Applicant has outsourced the management and operation of its switch. To further demonstrate its qualifications to operate as a NDIEC in California, applicant states it has received operating authority from the Federal Communications Commission and the State of Florida. This showing meets our requirement that an applicant possess a reasonable level of technical expertise in telecommunications or a related business.

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

Findings of Fact

1. Applicant has 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 April 16, 1996.

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.96-09-065, we authorized competitive intraLATA services effective January 1, 1995, for carriers meeting specified criteria.

that it requires applicant to provide a conformed copy of all

7. Applicant has represented that it has a minimum of \$100,000 of cash that is reasonably liquid and readily available to meet its start-up expenses.

8. Applicant has represented that local exchange carriers and interexchange carriers with whom the applicant transacts business have required deposits totaling \$50,000. Applicant asserts that it has paid the deposits and that after paying the deposits it has in excess of \$100,000 of cash that is reasonably liquid and readily available to meet its start-up expenses.

9. Applicant's two key personnel have little experience in the operations of a telephone corporation.

10. Each of applicant's two key personnel has many years of business experience.

11. Applicant asserts that it has received authority to operate from the Federal Communications Commission and the State of Florida.

12. Applicant 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.

13. 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.

14. 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.

15. 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 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.

16. Exemption from the provisions of PU Code §§ 816-830 has been granted to other resellers. (See, for example, D.86-10-007 and D.88-12-076.)

17. The transfer or encumbrance of property of nondominant carriers has been exempted from the requirements of PU Code § 851 whenever such transfer or encumbrance serves to secure debt. (See D.85-11-044.)

Conclusions of Law

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

2. Applicant has made a reasonable showing that it possess sufficient expertise and competence to operate as a reseller of interLATA and intraLATA telephone service in California.

3. Public convenience and necessity require the interLATA and intraLATA service(s) 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, 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, October 5, 1995);

c. The user fee provided in PU Code §§ 431-435, which is 0.11% of gross intrastate revenue for the 1996-1997 fiscal year (Resolution M-4782); and

d. The current 0.27% surcharge applicable to all intrastate services (except for those excluded by D.94-09-065, as modified by

(1957-02-05) to fund the California High-Speed Rail Authority Cost Fund (PU Code § 739.30; Resolution T-15826, December 20, 1995).

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. Applicant should be exempted from PU Code §§ 816-830.

7. Applicant should be exempted from PU Code § 851 when the transfer or encumbrance serves to secure debt.

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

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

O. R. D. E. R.

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to WorldTel Interactive Incorporated, (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 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. Applicant shall comply with the provisions in its tariffs.

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 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 of text not affecting rates or relocations of text in the tariff schedules, shall become effective on forty (40) days' notice.

Advice letter filings merely revising the text or location of text material which do not cause an increase in any rate 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 series of sheets should be used for each rule." Tariff filings incorporating these deviations shall be subject to the approval of the Commission/Telecommunications Division. 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. Prior to initiating service, applicant shall provide the Commission's Consumer Services Division with the applicant's designated contact person(s) for purposes of resolving consumer complaints and the corresponding telephone number. This information shall be updated if the name or telephone number changes or at least annually.

7. 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.

8. 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.

9. 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, it is proper

10. 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 Commission Staff and contained in the Attachment A and in accordance with the information received

11. Applicant shall ensure that its employees comply with the provisions of Public Utilities (PU) Code § 2889-5 regarding the solicitation of customers. based on VSO-40-00 application 105

12. 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.

13. The corporate identification number assigned to applicant is U-5676-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.

14. Within 60 days of the effective date of this order, applicant shall comply with PU Code § 708, Employee Identification Cards, and notify the Director of the Telecommunications Division in writing of its compliance.

15. Applicant is exempted from the provisions of PU Code §§ 816-830.

16. Applicant is exempted from PU Code § 851 for the transfer or encumbrance of property, whenever such transfer or encumbrance serves to secure debt.

17. 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 and to the extent that the rule requires applicant to serve a copy of all exhibits attached to its application on potential competitors.

18. If applicant is 90 days or more late in filing an annual report or in remitting the fees listed in Conclusion of Law 4 in the Telecommunications Division shall prepare for Commission consideration a resolution that revokes the applicant's certificate of public convenience and necessity, unless the applicant has received the written permission of the Telecommunications Division to file or remit late.

19. The application is granted, as set forth above.

20. Application 96-04-027 is closed.

This order is effective today. The certificate expires on September 20, 1996, at San Francisco, California. If not exercised within 12 months after the effective date of this order.

13. The identification number assigned to applicant is U-528-830.

14. A copy of this order shall be filed in the original files with the following persons and in the files of other persons:

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

15. Applicant shall copy with BU Code 8 V08, Employee Identification Cards, and notify the Director of the Telecommunications Division in writing of its compliance.

16. Applicant is exempt from the provisions of BU Code 88 818-830.

17. Applicant is exempt from BU Code 8 851 for the transfer or encumbrance of property, whenever such transfer or encumbrance serves to secure debt.

18. In response to the applicant's request for waiver, applicant is exempt from Rule 18(d) 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 and to the extent that the rule requires applicant to serve a copy of all exhibits attached to its application on potential competitors.

A.96-04-027 ALJ/TIM/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)