

Decision 96-09-078 September 20, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of Global Tel\*Link Corporation for )  
a Certificate of Convenience and )  
Necessity to Operate as a Reseller )  
of InterLATA and IntraLATA )  
Telecommunications Services Within )  
the State of California. )

**ORIGINAL**  
Application 96-05-017  
(Filed May 8, 1996)

O P I N I O N

1. Summary

Global Tel\*Link Corporation (applicant), a Delaware corporation authorized to do business in California, seeks a certificate of public convenience and necessity under Public Utilities (PU) Code § 1001 to permit it to resell interLATA and intraLATA telephone services in California.<sup>1</sup> Applicant has made a substantial showing that it has corrected unlawful billing practices of previous managers and that it has made a good-faith effort to reimburse consumers victimized by the billing practices. The application is granted.

2. Nature of Application

By Decision (D.) 84-01-037, 14 CPUC2d 317 (1984), and later decisions, we authorized interLATA entry generally. By D.94-09-065, 56 CPUC2d 117 (1994), we authorized competitive intraLATA services effective January 1, 1995. The Commission has

<sup>1</sup> 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.

established two major criteria for determining whether certification should be granted. An applicant that is a switchless reseller<sup>2</sup> must demonstrate that it has a minimum of \$25,000 in cash or cash equivalent available to meet the firm's start-up expenses (D.91-10-041, 41 CPUC2d 505 (1991), Appendix A, Paragraph 5.1), and that it has additional resources to cover deposits required by other telephone carriers (D.93-05-010, 49 CPUC2d 197 (1993)). In addition, an applicant is required to make a reasonable showing of technical expertise.

Applicant is a wholly owned subsidiary of Schlumberger Technologies, Inc., and has been qualified to do business in California since 1990. Applicant intends to provide resold telephone services and travel card service to small and medium-sized businesses, including hotels and motels. As it has done in other states, applicant also intends to provide inmate services to prisons on a collect-only basis or through pre-established inmate accounts. Applicant has filed consolidated financial statements of its parent company showing total assets of \$8.9 million at the end of 1995 and net income in that year of \$649,000. (Exhibit IV.) Applicant states that it is not required to post deposits or surety with its underlying carrier in conjunction with its California services.

Applicant also has provided information on its key executives. (Exhibit V.) William F. Shepard, president, is a former operations manager for General Electric and president and general manager of Schlumberger Technologies in Atlanta. Wilfred Walker, director of operations, is a former manager of industrial engineering services for ITT Telecommunications and a director of

<sup>2</sup> In simplified terms, a switchless reseller purchases wholesale telephone capacity from facilities-based carriers and resells these services at retail to its customers. (See Re Tariff Filing Rules for Telecommunications Utilities (1993) 49 CPUC2d 197.)

operations for Schlumberger Industries. Scott Kazem, controller, has nine years of experience in the telecommunications industry and is a former financial consultant for MCI Communications.

Proposed tariffs of applicant, comparable to those of competing carriers, are attached to the application as Exhibit VI. Applicant states that no employee of the company has been involved with a nondominant interexchange carrier that has filed for bankruptcy.

Applicant requests a partial waiver of Rule 18(b) of the Rules of Practice and Procedure in order that it need not serve a copy of the application on city and county planning agencies, since applicant will not be constructing any plant or network facilities in the state. Requests of this nature have been granted routinely in the past. (American Telephone Network, Inc. (1992) 43 CPUC2d 380.)

### 3. Further Representations

While no protests to the application have been filed, the Commission is aware that, prior to 1994, Global engaged in unlawful practices that resulted in millions of dollars in overcharges to those receiving calls from inmates using the Global telephone system. In response to inquiries, counsel for applicant has supplied the Commission with a detailed explanation of these matters, along with copies of all resulting court and state commission rulings.<sup>3</sup> A summary of that response follows.

Global, with headquarters in Mobile, Alabama, manufactures "smart" telephones, which rely on store-and-forward technology. It installs those telephones in prisons and other locations. Global also provides operator services for calls made

<sup>3</sup> Letter and attachments dated July 22, 1996, from Wilmer, Cutler & Pickering, counsel for applicant and Schlumberger Technologies. The letter and attachments are contained in the formal file for this application.

from its own telephones, from telephones it sells to third parties, and from telephones manufactured and owned by third parties. On April 1, 1993, Schlumberger acquired all of the outstanding shares of Global.

In the fall of 1993, Schlumberger discovered evidence of overcharging practices by Global. Schlumberger retained counsel, which in turn retained Price Waterhouse LLP, to conduct an audit. The audit disclosed that since 1990 or 1991 Global had been overcharging consumers by setting internal telephone clocks ahead to gain an additional minute of call time, and by adding an unauthorized 25 to 50 cents to calls made by prison inmates. The audit also disclosed that Global was operating in some states without authorization and without having filed tariffs.

According to counsel, Schlumberger put a stop to the unlawful practices, and it discharged and brought suit against the former Global managers responsible for the practices. Beginning in February 1994, the company met with the Federal Communications Commission and with public service commissions in the 10 states where Global did most of its business.<sup>4</sup> At each of these meetings, Global committed to make refunds, plus interest, to consumers who had been overcharged. Since those initial meetings, applicant and its parent company have refunded more than \$3.4 million, and they have filed tariffs and otherwise complied with regulatory requirements in each of the states in which Global operates.

On December 15, 1995, counsel for Global sent letters to the public utility commissions of 24 other states, including California, where consumers had been overcharged as a result of the

<sup>4</sup> Those states are Alabama, Florida, Georgia, Illinois, Louisiana, Minnesota, Mississippi, New York, Tennessee, and Wisconsin.

unlawful practices, explaining how the company planned to make restitution to consumers. None of the 24 commissions objected to Global's proposal for providing refunds, and the company was commended by our Commission Advisory and Compliance Division for its voluntary effort to make restitution. Global represents that it will not retain any overcharged amounts owed to consumers who cannot be located. Rather, those amounts, plus interest, will be distributed in the form of prospective rate reductions or through contributions to the states or to other organizations as directed by the state commissions.

Counsel for applicant concludes:

"The conduct of Global's new management over the past two and a half years demonstrates that it is appropriate for the Commission to grant Global's application..., as the regulatory authorities in other states have done. As detailed above, new Global management voluntarily disclosed to state and federal regulators the violations that occurred under prior management, took action to provide restitution to consumers, and brought itself into regulatory compliance. In taking these actions, Global has incurred significant costs, agreeing to provide over \$6 million in refunds and interest to overcharged consumers and paying substantial legal and accounting fees necessary to investigate the prior unlawful practices and to provide full refunds to consumers.

"Global does not dispute that its prior management engaged in unlawful practices. However, under its new management the company has demonstrated that it is a good corporate citizen that takes very seriously its responsibility to make restitution for former management's misfeasance and to comply with all regulatory requirements. By granting Global's application, the Commission will be allowing a strong and responsible company to provide a valuable service to consumers in California."  
(Letter dated July 22, 1996, p. 12.)

The authorization granted today to applicant to perform reseller services in California is based upon the representations of applicant and its counsel, and upon its continued good-faith efforts to make restitution to consumers and others victimized by the unlawful practices in the past.

4. Discussion

Applicant has demonstrated that it has the financial and business skills necessary to operate reseller services in California. No protests to the application have been filed. Applicant has made a substantial showing that it has corrected prior unlawful practices and has made good-faith efforts to refund overcharges, plus interest, to affected consumers. We will authorize the interLATA and intraLATA services that applicant seeks to provide, as set forth in our order below.

Findings of Fact

1. Applicant served a copy of its application on 94 telecommunications companies with which it may compete in providing 1-plus and operator services.
2. A notice of the filing of the application appeared in the Daily Calendar on May 9, 1996.
3. No protests have been filed.
4. 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.
5. By D.94-09-065, 56 CPUC2d 117 (1994), 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.
7. Applicant has demonstrated that its management possesses the requisite business experience to operate its service.

8. Applicant has submitted with its application a draft of its initial tariff, and this tariff complies with Commission requirements, including prohibitions on unreasonable deposit 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. (See, e.g., D.86-10-007, 22 CPUC2d 42 (1986) and D.88-12-076, 30 CPUC2d 145 (1988).)

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

13. 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.85-07-081, 18 CPUC2d 381 (1985), as modified by D.85-11-044, 19 CPUC2d 206 (1985).)

14. Applicant has made a substantial showing that it has corrected prior unlawful practices and has made good-faith efforts to refund overcharges, plus interest, to affected consumers.

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 interLATA and 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 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 § 2081; 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 D.95-02-050 to fund the California High Cost Fund (PU Code § 739.30; Resolution T-15826, December 20, 1995).

6. Applicant should be exempted from the Rule 18(b) requirement of service of the application on cities and counties.

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

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

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

10. 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 Global Tel\*Link Corporation (applicant) to operate as a reseller of interLocal Access and Transport Area (interLATA) services and, to the extent authorized by Decision (D.) 94-09-065, intraLocal Access and Transport Area (intraLATA) services offered by communications 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 or intraLATA service until tariffs are on file. Applicant's initial filing shall be made in accordance with General Order 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 of its tariffs.

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 (37 CPUC2d 130, 158), as modified by D.91-12-013 (42 CPUC2d 220, 231) and D.92-06-034 (44 CPUC2d 617, 618):

"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 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 Telecommunications Division. Tariff filings shall reflect all fees and surcharges to which applicant is subject, as reflected in Conclusion of Law 5.

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 Commission staff 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. 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.

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-5680-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. 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.

18. If applicant is 90 days or more late in filing an annual report or in remitting the fees listed in Conclusion of Law 5, 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. This proceeding is closed.

This order is effective today.

Dated September 20, 1996, at San Francisco, California.

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

A.96-05-017 ALJ/GEW/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.
  - 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)