

Decision 96-10-014 October 9, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Ameritech Communications International, Inc. for a Certificate of Public Convenience and Necessity to Offer Interexchange Telecommunications Services to the Public in the State of California

ORIGINAL

Application 96-06-014
(Filed June 6, 1996)

OPINION

Ameritech Communications International, Inc. (applicant), a Delaware corporation qualified to transact business in California, seeks a 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. 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. Subsequently, by D.94-09-065, we authorized competitive intraLATA services effective January 1, 1995, for carriers meeting specified criteria.

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.

Applicant proposes to operate as a switchless reseller.² The Commission has established two major criteria for determining whether a CPCN should be granted. First, an applicant who is a switchless reseller must demonstrate that it has a minimum of \$25,000 of cash or cash equivalents (as described in D.91-10-041, 41 CPUC2d 505 at 520 (1991)) that is 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 and demonstrate that they have additional resources to cover all such deposits. (D.93-05-010, 49 CPUC2d 197 at 208 (1993).)

As part of its application (including amendments to the application ordered by assigned Administrative Law Judge Kenney) applicant provided a copy of a standby letter of credit for the benefit of the applicant in the amount of \$25,000 that is irrevocable through January 25, 1998. Applicant also represented that no deposits are required by an underlying carrier in order for applicant to provide the requested service. This satisfies our criterion that applicant possess sufficient financial resources that are reasonably liquid and readily available to meet the applicant's needs.

The second major criterion for determining whether a CPCN should be granted is whether the applicant has made a reasonable

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 or 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.

showing of technical expertise in telecommunications or a related business. To satisfy this criterion, applicant provided information on its key managers indicating their experience. It can be summarized as follows:

Steven P. Nowick, President: Mr. Nowick has 18 years of previous experience in the telecommunications field, including serving as head of the telecommunications industry consulting practice for BOOZ, Allen and Hamilton; and heading Scientific Atlanta's private networks business.

William Kohl, Vice President - Network Engineering/Operations: Mr. Kohl has over 30 years of experience in the telecommunications industry. Examples of previous experience include General Manager of the network in Wisconsin, Director for Central Office Engineering, and General Manager for Service Order Provisioning.

John C. Gockley, Vice President External Affairs and General Counsel: Mr. Gockley has more than 13 years of experience in the telecommunications field. He previously served as Vice President and General Counsel for the telephone services business unit at Ameritech, senior attorney for Ameritech Cellular, and senior attorney for Illinois Bell Telephone Company.

As additional evidence of its technical expertise,

applicant states that it is a wholly-owned subsidiary of Ameritech Communications, Inc., which in turn is a wholly-owned subsidiary of Ameritech Corporation, one of the Regional Bell Operating Companies "baby bells."

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 telephone corporations with which it is likely to compete.

1. A notice of the filing of the application appeared in the Daily Calendar on June 18, 1996.

2. No protests have been filed.

3. A hearing is not required.

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 D794-0910657 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 of cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.

7. Applicant has represented that no deposits are required by the underlying carriers in order for the applicant to provide the services it seeks to offer.

8. Applicant's technical experience consists of three employees with a combined experience of over 60 years in the telecommunications business.

9. 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.

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 applicant does not propose to construct any facilities, 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.

14. 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.)

15. 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 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:

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 §1879; Resolution T-15799, November 21, 1995);

b. The current 10.36% 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

D.95-02-050, to fund the California High Cost Fund (PU Code S 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.

6. Applicant should be exempted from PU Code SS 816-830.

7. Applicant should be exempted from PU Code S 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.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Ameritech Communications International, Inc. (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 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 at 158), as modified by D.91-12-013 (42 CPUC2d 220 at 231) and D.92-06-034 (44 CPUC2d 517 at 618);

5. All NDIECs are hereby placed on notice that their California tariff filings will be processed in accordance with the following effectiveness schedule: inclusion of FCC approved rates for interstate services in California public utilities tariff schedules shall become effective on one (1) day's notice.

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.

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 shall either produce such records at the Commission's offices or

schedules, shall become effective
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's 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 of 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. 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.

11. Applicant shall ensure that its employees comply with the provisions of Public Utilities (PU) Code § 2889.5 regarding solicitation of customers.

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-5688-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.

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, the

Telecommunications Division 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 the Telecommunications Division to file or remit late.

19. The application is granted, as set forth above.
20. Application 96-06-014 is closed.

This order is effective today.

Dated October 9, 1996, at San Francisco, California.

12. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 18 months after the effective date of this order.

P. GREGORY CONLON
President

DANIEL Wm. FESSLER
JESSIE J. KNIGHT, JR.

HENRY M. DUQUE
JOSIAH L. NEPPER
Commissioners

14. Within 60 days of the effective date of this order, applicant shall comply with BU Code 2.708, Employee Identification Cards, and notify the Director of the Telecommunications Division in writing of its compliance.

15. Applicant is exempted from the provisions of BU Code

22 818-830.

16. Applicant is exempted from BU Code 2.881 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.

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, the

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)