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Decision 96-10-021 October 9, 1996 BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of GTE Mobilnet Incorporated, Contel Cellular Inc., GTE Mobilnet of Oregon Limited Partnership, and GTE Mobilnet of Northwest Oregon Limited Partnership, as tenants in common (U-3048-C), doing business as GTE Mobilnet of San Diego, Inc., for a Certificate of Public Convenience and Necessity to Provide InterLATA and IntraLATA Telecommunications Services Within California.

ORIGINAL

Application 96-07-016 (Filed July 9, 1996)

By Decision (U-34-01-033 and later decisions) authorized interLATA entry generally. However, we limited the authority conferred to interLATA services and we subjected the

OPINION

Summary

GTE Mobilnet Incorporated, Contel Cellular Inc., GTE Mobilnet of Oregon Limited Partnership, and GTE Mobilnet of Northwest Oregon Limited Partnership, as tenants in common (collectively referred to as "Applicants"), doing business as GTE Mobilnet of San Diego, Inc., a California corporation, have applied pursuant to California Public Utilities (PU) Code § 1001 for a certificate of public convenience and necessity (CPCN) authorizing provision of interLATA and intraLATA telecommunications services on a resale basis within California, to the extent authorized by this Commission. In particular,

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.

of technical expertise in telecommunications for a related business. Regarding the financial criterion, Applicants represent that they collectively have engaged in the provision of cellular service since 1985. Exhibit C to the application contains financial statements for the San Diego system for the six months ended December 31, 1995. These statements support Applicants' assertion that they satisfy the Commission's liquidity requirements. Applicants also represent that no deposit will be required of them by any LECs or IECs to commence the proposed operations.

Regarding the technical criterion, Applicants note that two of their number (GTE Mobilnet, Inc. and Contel Cellular, Inc.) both headquartered in Atlanta, Georgia, have facilities-based cellular operations in 19 states. They represent that the combined management and technical strength of these operations would be available to Applicants.

Specific management of the proposed IEC operations would be under the direction of GTE Mobilnet of San Diego, Inc. Applicants provide profiles of two key personnel in the San Diego operations: Kurt May, area president of the San Diego company, has a long and varied engineering and business background; Bruce Nead, director of marketing at the San Diego company, has been with GTE since 1978, working in engineering and new product development. Applicants also indicate that no current employee was previously associated with a carrier that filed for bankruptcy or went out of business.

We conclude that Applicants have made an adequate showing of compliance with our financial and technical criteria. Applicants also intend to provide IEC services within the existing cellular service area using existing switch and leased transmission facilities. No construction or extension of

**CORRECTION !!**

*THE PREVIOUS DOCUMENT(S) MAY HAVE  
BEEN FILMED INCORRECTLY .....*

**RESHOOT FOLLOWS**

OCT 9 1996

Decision 96-10-021 - October 9, 1996

Application currently pending before the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of GTE Mobilnet Incorporated, Contel Cellular Inc., GTE Mobilnet of Oregon Limited Partnership, and GTE Mobilnet of Northwest Oregon Limited Partnership, as tenants in common (U-3048-C), doing business as GTE Mobilnet of San Diego, Inc., for a Certificate of Public Convenience and Necessity to Provide InterLATA and IntraLATA Telecommunications Services Within California.

ORIGINAL

Application 96-07-016 (Filed July 9, 1996)

Discussion below

OPINION

Summary

GTE Mobilnet Incorporated, Contel Cellular Inc., GTE Mobilnet of Oregon Limited Partnership, and GTE Mobilnet of Northwest Oregon Limited Partnership, as tenants in common (collectively referred to as "Applicants"), doing business as GTE Mobilnet of San Diego, Inc., a California corporation, have applied pursuant to California Public Utilities (PU) Code §1001 for a certificate of public convenience and necessity (CPCN) authorizing provision of interLATA and intraLATA telecommunications services on a resale basis within California, to the extent authorized by this Commission.<sup>1</sup> In particular,

<sup>1</sup> 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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Applicants currently provide facilities-based cellular telephone service in San Diego; they propose herein to establish their own tariffs for interLATA and intraLATA long distance service. In the latter capacity, they would operate as a nondominant interexchange carrier (NDIEC) providing long distance telephone service on a resale basis throughout California. Except for their existing cellular facilities, Applicants would use the switches and services of other carriers to provide the proposed interexchange services. The application is granted, as set forth below.

Discussion

By Decision (D.) 84-01-037 and later decisions, we authorized interLATA entry generally. However, we limited the authority conferred to interLATA service, and we subjected the new entrants 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.

The Commission has established two major criteria, one financial and one technical, for determining whether a CPCN should be granted to a carrier, such as the Applicants, that is a reseller. As to the first criterion, such a carrier must demonstrate that it has a minimum of \$100,000 of cash or cash equivalent, as described in D.91-10-041, reasonably liquid and readily available to meet the firm's start-up expenses. Also, pursuant to D.93-05-010, such a carrier must document any deposits required by local exchange companies (LECs) or interexchange carriers (IECs) and demonstrate that it has additional resources to cover all such deposits. As to the second criterion, such a carrier must make a reasonable showing

of technical expertise in telecommunications or a related public utility business. Regarding the financial criterion, Applicants represent that they collectively have engaged in the provision of cellular service since 1985. Exhibit C to the application contains financial statements for the San Diego system for the six months ended December 31, 1995. These statements support Applicants' assertion that they satisfy the Commission's liquidity measurement requirements. Applicants also represent that no deposit will be required of them by any LECs or IECs to commence the proposed operations. Regarding the technical criterion, Applicants note that two of their number (GTE Mobilnet, Inc. and Contel Cellular, Inc.) both headquartered in Atlanta, Georgia, have facilities-based cellular operations in 19 states. They represent that the combined management and technical strength of these operations would be available to Applicants. Specific management of the proposed IEC operations would be under the direction of GTE Mobilnet of San Diego, Inc. Applicants provide profiles of two key personnel in the San Diego operations: Kurt May, area president of the San Diego company, has a long and varied engineering and business background; Bruce Nead, director of marketing at the San Diego company, has been with GTE since 1978 (working in engineering and new product development). Applicants also indicate that no current employee was previously associated with a carrier that filed for bankruptcy or went out of business. We conclude that Applicants have made an adequate showing of compliance with our financial and technical criteria. Applicants also intend to provide IEC services within the existing cellular service area using existing switch and leased transmission facilities. No construction or extension of telephone

existing facilities in California would be needed to provide the proposed services. Thus, we conclude it can be said with reasonable certainty that the proposed operation will not have a significant adverse effect on the environment.

Applicants have not served their application on cities and counties within the proposed service area, but since no new construction or extension of facilities is proposed, such service requirements should be waived. See D.92-03-032 and D.94-05-016. Pursuant to Rule 5(c) of our Rules of Practice and Procedure, Applicants have served some 362 potential competitors with a notice of availability of this application. Notice of the application was also duly published on July 19, 1996 in the Commission's Daily Calendar. The protest period has expired and no protest to the application has been filed. No hearing is necessary.

Exhibit E to the application is a set of draft tariff rules and rates. These rules appear to conform to the Commission's standards and requirements. In particular, we note that while we have had some concern over the level of the customer deposits some carriers have proposed, Applicants do not intend at this time to collect deposits or advance payments. Regarding any required tariff filings, Applicants seek exemption from the requirements of Paragraph II.C.(1)(b) and Paragraph II.C.(4) of General Order 96-A respecting tariff pagination with reuse of sheet numbers, and the use of separate sheets for each tariff rule. We have granted such exemption to similarly situated carriers and we should do so here.

In conclusion, we will authorize the interLATA and intraLATA services that Applicants seek to provide. Findings of Fact

Applicants served a copy of the application upon 362 existing telephone corporations with which they are likely to compete.

2. A notice of the filing of the application appeared in the Commission's Daily Calendar on July 19, 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. By D.94-09-065, we authorized competitive intraLATA services effective January 1, 1995, for carriers meeting specified criteria.

6. Applicants have demonstrated that they have a minimum of \$100,000 of cash, reasonably liquid and readily available to meet start-up expenses.

7. Applicants have represented that they will not be required to pay any deposits to underlying carriers.

8. Applicants have substantial managerial and technical experience in telecommunications and related service industries.

9. Applicants have submitted a complete draft of their initial tariff which complies with the Commission's standards for such tariffs, e.g., the prohibition on unreasonable deposit requirements.

10. Applicants have represented that no one associated with or employed by Applicants was previously associated with a NDIEC that filed for bankruptcy or went out of business.

11. Since no facilities are to be extended or constructed, it can be seen with certainty that the proposed operation will not have a significant effect upon the environment.

12. We have routinely granted NDIECs, such as Applicants, an exemption from Rule 18(b) where no construction is involved, to the extent that the rule would require Applicants to serve a copy of their application on cities and counties in the proposed service area.



Conclusions of Law

1. Applicants have the financial ability to provide the proposed service.
  2. Applicants have made a reasonable showing of technical expertise in telecommunications.
- Public convenience and necessity require the interLATA and intralATA services to be offered by Applicants.
- Applicants are 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 D.95-02-050, to fund the California High Cost Fund (PU Code §1739.30; Resolution T-15826, December 20, 1995).
- Applicants should be exempted as described in Findings of Fact from the requirement of service of the application on cities and counties in the proposed service area.

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

7. 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 (CPCN) is granted to GTE Mobilnet Incorporated, Contel Cellular Inc., GTE Mobilnet of Oregon Limited Partnership, and GTE Mobilnet of Northwest Oregon Limited Partnership, as tenants in common (Applicants) doing business as GTE Mobilnet of San Diego, Inc., 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. Applicants shall file a written acceptance of the CPCN granted in this proceeding. Applicants shall also serve a copy of their written acceptance on the Director of the Telecommunications Division. The CPCN, 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.

3. a. Applicants are authorized to file with this Commission tariff schedules for the provision of interLATA and intraLATA services. Applicants may not offer interLATA and/or intraLATA services until tariffs are on file. Applicants' initial filing shall be made in accordance with General Order

(GO) 96-App excluding Sections IV, IV, and VI, and shall be effective not less than 1 day after filing. Applicants shall comply with the provisions in their tariffs.

b. Applicants are a nondominant interexchange carriers (NDIEC). The effectiveness of their 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 five (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.

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. Applicants may deviate from the following provisions of GO 96-A: paragraph II.C (1)(b), which requires consecutive sheet numbering and prohibits the reuse of sheet numbers; and 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 Applicants are subject, as set forth in Conclusion of Law 4.

5. Applicants shall file as part of their initial tariff, after the effective date of this order and consistent with Ordering Paragraph 3, a service area map.

6. Prior to initiating service, Applicants shall provide the Commission's Consumer Services Division with Applicants' designated contact person(s) for purposes of resolving consumer complaints and the corresponding telephone number(s). This information shall be updated at least annually and whenever there is a change of name or telephone number.

7. Applicants shall notify the Director of the Telecommunications Division 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.

Commission consideration a resolution that revokes Applicants.

8. Applicants shall keep their 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 Applicants are required for inspection by the Commission or its staff, Applicants 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 Applicants' office.

10. Applicants shall file an annual report, in compliance with GO 104-A, on a calendar-year basis using the information request form developed by Commission staff and contained in Attachment A.

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

12. The corporate identification number assigned to Applicants is U-5689-C. Applicants shall include this number 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, Applicants shall comply with PU Code § 708, Employee Identification Cards, and notify the Director of the Telecommunications Division in writing of their compliance.

14. Applicants are exempted from Rule 18(b) of the Commission's Rules of Practice and Procedure to the extent that the rule requires Applicants to serve a copy of their application on the cities and counties in which they propose to operate.

15. If Applicants are 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 Applicants'

CPCN, unless Applicants have received the written permission of the Telecommunications Division to file or remit late.

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

17. Application 96-07-016 is closed.

This order is effective today.

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

P. GREGORY CONLON

President

DANIEL Wm. FESSLER

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners

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 31<sup>st</sup> 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)