

MAR 18 1997

Decision 97-03-041 March 18, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
Sasscom, Inc. for a Certificate of)	
Public Convenience and Necessity)	
Authorizing It to Provide)	Application 96-02-051
Competitive Local Exchange,)	(Filed February 27, 1996)
IntraLATA Local and Toll, and)	
InterLATA Toll Telecommunications)	
Services in California.)	

ORIGINALOPINION

Sasscom, Inc. (Sasscom or applicant) seeks authority for a certificate of public convenience and necessity (CPCN)¹ under Public Utilities (PU) Code § 1001 to permit it to operate as a competitive local carrier (CLC) reseller. Sasscom also seeks authority to operate as a reseller of intraLATA² and interLATA intrastate telecommunications services. By this decision, we grant the authority requested.

Background

By Decision (D.) 95-07-054 (Rulemaking (R.) 95-04-043/ Investigation (I.) 95-04-044), we established initial procedures for the filing for CPCN authority to offer competitive local

¹ A competitive local carrier is a common carrier other than an incumbent local exchange carrier that is issued a CPCN to provide local exchange telecommunications service for a geographic area specified by such carrier.

² 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.

exchange service within the service territories of Pacific Bell (Pacific) and GTE California Incorporated (GTEC). Prospective CLCs who filed petitions by September 1, 1995, for CPCN authority to enter the local exchange market and otherwise met eligibility requirements were authorized to offer local exchange service under the following schedule. Competitive local exchange service for facilities-based carriers was authorized effective January 1, 1996. Competitive resale of the bundled local exchange service of Pacific and GTEC was authorized effective March 31, 1996. Any subsequent filings for CLC CPCN authority after September 1, 1995, were to be treated as applications and processed in the normal course of the Commission's business.

Sasscom filed its application on February 27, 1996. In reviewing Sasscom's application, we identified various deficiencies. Sasscom was sent a deficiency letter on July 22, 1996, but did not respond in writing to the deficiency letter until November 8, 1996.

Results of Review

Applicant seeks statewide authority to operate as a nonfacilities-based CLC throughout the service territories of Pacific and GTEC and to provide intraLATA and interLATA intrastate telecommunications services. Applicant is a California corporation which currently operates two lines of business: (a) as a "shared tenant services," or "STS" provider and (b) as a data processing-services provider.

With respect to its current STS business, partnerships affiliated with applicant own two office buildings in which applicant has installed Private Branch Exchange (PBX) systems which are utilized in providing local telecommunications services to the commercial tenants in such office buildings. Initially, Sasscom's management of PBX systems was for the benefit of its corporate affiliates. However, applicant soon began providing shared tenant telecommunications services to other tenants of these buildings.

Applicant's STS business is operated in compliance with the guidelines set forth in Commission D.87-01-063 relating to STS providers, which exempt STS providers complying with such guidelines from regulation by the Commission. With respect to its data processing business, Sasscom provides time share data processing services throughout seven states.

Proposed Services

With respect to the provision of competitive local exchange services, applicant initially proposed to provide services either on a resale basis generally and/or over its existing PBX systems in the two office buildings in which it currently provides STS services. In a subsequent telephone inquiry, applicant clarified that it seeks only resale authority, and not facilities-based authority. Applicant will use its installed switches only to serve its STS customers. Initial marketing of its competitive local services beyond the two office buildings will be focused in the Southern California counties of Santa Barbara, Ventura, Los Angeles, Orange, San Diego, Riverside, and San Bernardino.

In addition to the CLC operating authority described above, Sasscom seeks to be classified and regulated by the Commission as a nondominant interexchange carrier (NDIEC), at least with respect to its proposed intraLATA and interLATA telecommunications services.

With respect to the provision of intraLATA and interLATA telecommunications services, applicant proposes to operate as a reseller of these services. Applicant plans to lease transmission capacity from existing certificated facilities-based carriers and resell such capacity to its customers.

While applicant initially plans to provide competitive local services and intraLATA and interLATA services to its existing STS customers and to expand initially into certain Southern California counties, applicant requests statewide authority for both types of services so that it may rapidly expand its provision

of these services to other parts of the State as demand for such services arises.

Because applicant initially will provide competitive local services on a resale basis, applicant will not be constructing any facilities for the purpose of providing local exchange services. In addition, because applicant will provide its intraLATA and interLATA services on a resale basis, applicant will not need to construct any facilities in connection with its provision of these services.

In accordance with Rule 17.1, applicant attached its Proponent's Environmental Assessment (PEA) as Exhibit H. Because applicant contemplates no proposed construction or extension of facilities as a result of its request for operating authority, it can be seen with certainty that there is no possibility that the grant of this application will have any adverse impacts upon the environment.

The Commission adopted minimum financial requirements for competitive CLCs in D.95-07-054 (Rule 4.B(2)) and the minimum financial requirements for competitive intraLATA and interLATA carriers as set forth in D.93-04-010 and D.94-09-065. These decisions require demonstration of a minimum \$25,000 financial requirement for applicants seeking CPCNs for resale authority as NDIECs or CLCs.

As a demonstration of its possession of and/or its access to funds meeting the \$25,000 minimum financial requirement, Sasscom attached its balance sheet and income statement for the period ended December 31, 1995 (Exhibit F). In addition, Sasscom has obtained a revolving loan agreement and revolving loan promissory note for purposes of meeting the appropriate minimum financial requirement. As can be seen from its financial statement (Exhibit F) and from the revolving loan agreement it has secured (Exhibit G), Sasscom possesses the Commission-adopted minimum financial requirement of \$25,000 for CLC and NDIEC CPCN applicants.

Applicant considers its financial statements, other financing arrangements, and its estimated first year results of operations to be confidential and proprietary. Applicant therefore filed, concurrently with its application, a motion for limited protective order with respect to Exhibits E, F, and G, and submitted these exhibits to the Commission under seal. A ruling granting its motion for a limited protective order was issued March 22, 1996.

CLCs must also conform to the following financial requirements adopted in D.95-12-056. CLCs with no prior established credit record that order interconnection service from an incumbent LEC must also pay a deposit equal to an estimated two months of recurring flat-rated or usage-based interconnection charges based on the number and type of interconnection facilities ordered from the LEC. Customer deposits collected by a CLC must be deposited in a protected, segregated interest-bearing escrow account subject to Commission oversight.

Sasscom demonstrated its technical expertise to provide the services for which authority is requested by attaching Exhibit B, a sample tariff applicable to its proposed competitive local services and Exhibit C, a sample tariff applicable to its proposed intraLATA and interLATA services.

Applicant's proposed tariff contained service categories and interim placeholder rates since the Commission had not yet adopted wholesale rates for Pacific's or GTEC's local exchange service at the time of filing.

On July 22, 1996, the Commission staff notified applicant regarding deficiencies in its filed tariffs. On November 8, 1996, applicant submitted tariff corrections in response to the deficiency letter. While applicant's corrections resolve most of the deficiencies, certain tariff deficiencies still remain as identified in Attachment B of this order. We shall therefore grant conditional approval of the application contingent on the filing of

compliance tariffs which correct the deficiencies identified in Attachment B.

In addition as further evidence of technical expertise, Sasscom attached summary biographies of its management personnel (Exhibit D) describing their respective backgrounds and expertise in the telecommunications industry.

We have reviewed applicant's proposed filing and conclude that, subject to correction of deficiencies identified in Attachment B, it conforms to the adopted Commission rules including the Consumer Protection Rules set forth in Appendix B of D.95-07-054. We conclude the applicant satisfies the Commission's requirements for certification as a reseller subject to the terms and conditions set forth in the order below. Accordingly, we shall grant the application, as ordered below. As a condition of approval, however, we shall require applicant to keep its unregulated STS operations completely separate from its regulated reseller operations.

Findings of Fact

1. Applicant filed its application on February 27, 1996.
2. Applicant served a Notice of Availability in lieu of its petition on parties of record in R.95-04-043/I.95-04-044, indicating that copies of the petition would be served at the request of any party receiving the notice.
3. A notice of the filing of the application appeared in the Daily Calendar on February 29, 1996.
4. No protests have been filed.
5. A hearing is not required.
6. By prior Commission decisions, we authorized competition in providing local exchange telecommunications service within the service territories of Pacific and GTEC.
7. By D.95-07-054 and D.95-12-056, we authorized facilities-based CLC services effective January 1, 1996, and CLC resale

services effective March 31, 1996, for carriers meeting specified criteria.

8. Applicant has demonstrated that it has a minimum of \$25,000 of cash or cash equivalent reasonably liquid and readily available to meet its start-up expenses.

9. Applicant's technical experience is demonstrated by Exhibit D which provides summary biographies of its management personnel.

10. 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, subject to correction of deficiencies identified in Attachment B.

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 telecommunications 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.

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

14. 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 competitive local exchange 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 § 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 0.1% of gross intrastate revenue for the 1996-1997 fiscal year (Resolution M-4782);
 - d. The current 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-A (PU Code § 739.30; D.96-10-066, pp. 3-4, App. B, Rule 1.C.); set by Resolution T-15987 at 0.0% effective February 1, 1997;
 - e. The current 2.87% 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-B (D.96-10-066, p. 191, App. B, Rule 6.F.); and

- f. The current 0.41% 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 Teleconnect Fund (D.96-10-066, p. 88, App. B, Rule 8.G.).

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. Any CLC which does not comply with our rules for local exchange competition adopted in R.95-04-043 shall be subject to sanctions including, but not limited to, revocation of its CLC certificate.

10. Because of the public interest in competitive local exchange services, the following order should be effective immediately.

ORDER

IT IS ORDERED that:

1. Authority is granted to Sasscom, Inc. (applicant) for a certificate of public convenience and necessity to permit it to operate as a reseller of competitive local exchange services and as a reseller of intraLATA, intrastate and interLATA, intrastate telecommunications services. As a condition of approval, applicant shall keep its unregulated shared tenant services operations completely separate from its regulated reseller operations.

2. Applicant shall file a written acceptance of the certificate authority granted in this proceeding.

3. a. Applicant is authorized to file with this Commission's two tariff schedules: one for the provision of competitive local exchange services, and another for interLATA/intraLATA toll services. Applicant may not offer either 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. Applicant's filed tariffs shall correct the deficiencies set forth in Attachment B.

b. Applicant is a competitive local carrier (CLC) and nondominant interexchange carrier (NDIEC). The effectiveness of its future tariffs is subject to the schedules set forth in Ordering Paragraph 5 of Decision (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 617 at 618):

"5. All NDIECs and CLCs 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. Customer notification is not required for CLC rate decreases.

"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.
- "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 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 five days after service begins, within five days of when intraLATA service begins, and again within five days of when local exchange 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. 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 Public Utilities (PU) Code § 2889.5 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-5731-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.

13. 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.

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

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

16. 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.

17. If applicant is 90 days or more late in filing an annual report or in remitting the fees listed in Conclusion of Law 4, 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.

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

19. Application 96-02-051 is closed.

This order is effective today.

Dated March 18, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners

A.96-02-051 ALJ/TRP/rmn

TO: ALL COMPETITIVE LOCAL CARRIERS AND 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 Competitive Local Carriers and 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)

ATTACHMENT B

Following are the remaining deficiencies in the tariffs filed by Sasscom:

1. "Competitive Local Carrier" should be centered immediately above the horizontal line at the top of each tariff sheet.
2. Sheet 11-T: Moves, adds, and changes do not generally require site visits. Should they be charged the same as a site visit?
3. Sheet 12-T: Interim number portability is a carrier to carrier relationship. If a customer leaves Sasscom's service, that customer's new carrier will arrange for call forwarding.
4. Sheet 15-T: Change "company" at the end of the first paragraph to "customer."
5. Sheet 17-T, Rule 3: Customers can not be required to complete a service agreement. Service may be initiated by oral agreement per Rule 2 of Appendix B of D.95-07-054.
6. Sheets 18-T and 21-T are inconsistent regarding when payment is due. Is it 30 or 22 days?
7. Sheet 20-T: Cancellation of service may be made orally, and the customer does not have to deliver that notice in person at the company's business office.
8. Sheets 21-T and 22-T: Rules 9.2 and 9.4 are duplicative. The two rules should be combined.
9. Sheet 32-T: Rules 17.2 and 17.4 would not apply to resellers.
10. Schedule 2, Sheet 5-T: Map was omitted.
11. Schedule 2, Sheets 6-T and 7-T: It is unclear how Sasscom is treating calls in the 13 to 16-mile (Zone 3) range. Are those considered local or toll calls? What is the tariff rate for Zone 3 calls?
12. Schedule 2, Sheets 15-T and 16-T: Rules 9.2 and 9.4 are duplicative. The two rules should be combined.
13. Sample forms should be included in the company's compliance filing.

(END OF ATTACHMENT B)