

Decision 97-04-028 April 9, 1997

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Long Distance Direct, Inc., for a Certificate of Public Convenience and Necessity for Authorization as a Reseller of Interexchange Telecommunications Services.

Application 95-04-025
(Filed April 21, 1995)

INTERIM OPINION

Long Distance Direct, Inc., a New York corporation duly qualified to transact intrastate business in California (applicant), seeks a certificate of public convenience and necessity (CPCN) under Public Utilities (PU) Code § 1001 to permit it to resell interLATA telephone services in California and intraLATA telephone service.¹

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.

The Commission has established two major criteria for determining whether a CPCN should be granted. An applicant who is a switchless reseller² must demonstrate

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.

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 a local exchange carrier (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,

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that it has a minimum of \$25,000 of cash or cash equivalent (as described in D.91-10-041, 41 CPUC2d 505 at 520 (1991)), reasonably liquid and readily available to meet the firm's start-up expenses. Such applicants shall also document any deposits required by LECs or interexchange carriers (IECs) and demonstrate that they have additional resources to cover all such deposits. (D.93-05-010, 49 CPUC2d 197 at 208 (1993).) In addition, an applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business.

As part of its supplemental filed information, applicant provided an unaudited balance sheet dated November 30, 1996, demonstrating that applicant had cash in excess of \$2.2 million. This indicates that applicant has more than \$25,000 consisting of cash/cash equivalent. It satisfies our criteria for being reasonably liquid and readily available to meet the applicant's needs.

Applicant has provided information on its key managers/employees indicating their education, technical training, and experience. It can be summarized as follows:

Applicant's president, Steven L. Lampert, has 11 years' experience in telecommunications. Applicant's vice president, Michael D. Preston, has more than 20 years' experience in finance. Applicant's vice president, Clair Alpert, has 10 years' experience in accounting. Applicant's controller, Lori Colin, has 12 years' experience in accounting. Applicant's vice president, Andrea Grossman, has 10 years' experience in marketing.

The Commission's Consumer Services Division (CSD, formerly the Safety and Enforcement Division) filed a protest. A prehearing conference was held and an evidentiary hearing was scheduled for November 1996. The parties requested that the hearing date be vacated and filed a joint motion for approval of a settlement agreement, dismissal of protest, and issuance of a CPCN on December 10, 1996. The settlement

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.

agreement, attached as Appendix A, resolves a number of issues related to marketing of applicant's services in the past raised by the protest of CSD without the necessity for applicant to either admit or deny the allegations made in the protest. Applicant agrees to pay to the Commission for crediting to an escrow account a settlement amount of \$45,000, to be paid in quarterly installments and to make certain reports to CSD.

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.
2. A notice of the filing of the application appeared in the Daily Calendar on April 24, 1995.
3. CSD filed a protest, which it moves to dismiss on the basis of a proposed settlement agreement.
4. A hearing is not required with respect to the CPCN.
5. By prior Commission decisions, we authorized competition in providing interLATA telecommunications service but generally barred offering such service from holding out to the public the provision of intraLATA service.
6. By D.94-09-065, we authorized competitive intraLATA services effective January 1, 1995, for carriers meeting specified criteria.
7. Applicant has demonstrated that it has a minimum of \$25,000 of cash, reasonably liquid and readily available to meet its start-up expenses.
8. Applicant represents that it is not required to make any deposit with any LEC or IEC.
9. Applicant's technical experience consists of five employees with a combined experience of over 63 years in telecommunications and related industries.
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.

11. Applicant has represented that no one associated with or employed by applicant was previously associated with a NDIEC that filed for bankruptcy or went out of business.

12. 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.

13. The Commission has routinely granted NDIECs, 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.

14. 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.)

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 or in a related business.
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 § 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);

- 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% for 1997 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.94-02-050, 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. Because of the public interest in competitive interLATA and intraLATA services, the following order should be effective immediately.
 10. The settlement agreement should not be approved at this time.

INTERIM ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN) is granted to Long Distance Direct, 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 one 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 617 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:

- "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. 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 and again within five 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.

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 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-5734-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 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.

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, Telecommunications Division shall prepare for Commission consideration a resolution that revokes the applicant's CPCN, unless the applicants have received the written permission of Telecommunications Division to file or remit late.

19. The settlement agreement attached to this order as Appendix A is remanded to the Administrative Law Judge for further development of the record on whether a sufficiently close correspondence exists between the conduct alleged, the proposed amount to be paid by applicant in settlement of the allegations, and the purposes to which the proposed amount are to be applied.

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

This order is effective today.

Dated April 9, 1997, at San Francisco, California.

P. GREGORY CONLON

President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

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 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)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
Long Distance Direct, Inc., for a)	
Certificate of Public Convenience)	
and Necessity for Authorization)	
as a Reseller of Interexchange)	Application 95-04-025
Telecommunications Services.)	(Filed April 21, 1995)
)	

STIPULATION FOR SETTLEMENT

This Stipulation for Settlement (settlement agreement or agreement) is entered into by and between the Consumer Services Division (CSD), a successor in this proceeding to the Safety and Enforcement Division (S&E Division), of the California Public Utilities Commission (Commission), and Long Distance Direct, Incorporated (LDDI), hereinafter referred to collectively as the "parties." The effective date of this agreement shall be the date of its approval and adoption by the Commission.

RECITALS

A. On April 21, 1995, LDDI filed an application for a certificate of public convenience and necessity (cpcn) for authorization as a reseller of interexchange telecommunications services (A.95-04-025).

B. The former S&E Division filed a protest to that application on May 3, 1996. That protest was accepted for filing on May 15, 1996 pursuant to a ruling of the presiding Administrative Law Judge (ALJ), Richard Careaga.

C. The former S&E Division alleged that LDDI has, since February 1993, been operating, as a reseller of interexchange telecommunications services within the State of California without valid authorization as required by the laws of the State of California, including, Public Utilities Code section 1001 et seq., and the rules and regulations of this Commission, and additionally

alleged that LDDI has engaged in acts of unfair business practices in violation of the laws of the State of California, including Public Utilities Code section 2889.5, and the rules and regulations of this Commission, by misrepresenting itself to residential and business consumers and as a result, switching such consumers to its long distance service, a practice commonly known as "slamming."

D. By this settlement, LDDI does not admit or deny the allegations raised by the former S&E Division.

E. The CSD and LDDI desire to resolve on a consensual basis the issues raised in the former S&E Division's protest of LDDI's application (A.95-04-025) for authorization as a reseller of interexchange telecommunications services. The parties have agreed to compromise, settle, and adjust all claims which have been or could have been asserted in the application proceeding on the terms and conditions set forth below in this agreement.

NOW, THEREFORE, for and in consideration of the mutual terms, covenants and conditions herein contained, the parties agree as follows:

1. Within 10 business days after execution of this agreement, the parties will notice a settlement conference, and within one business day of the conclusion of the settlement conference, will file a joint motion seeking approval of this agreement by the Commission, under rule 51 (Article 13.5) of the Commission's Rules of Practice and Procedure. The parties agree to use their best efforts and to cooperate to obtain the approval of this agreement by the Commission.

2. Ex parte contacts are prohibited upon submission of this proposed agreement to the Commission.

3. Each party acknowledges that it has had the benefit and advice of legal counsel in connection with this agreement and understands the meaning of each term of this agreement and the consequences of signing this agreement.

4. Each party to this agreement represents that the person executing this agreement on its behalf has been duly authorized by that party to execute this agreement on its behalf.

5. LDDI has promised to restore each and every customer who has complained of being switched to LDDI without authorization in

addition to each and every customer who was contacted by the former S&E Division and raised allegations of being switched without authorization to that customer's former long distance carrier and has promised not to pursue payment against each and every such customer for any and all services that customer did not authorize. LDDI agrees to request in writing, of any and all collection services that it engages or engaged for collection against any such customer, that such collection services cease all attempts to collect from all such customers. LDDI agrees to make a diligent and best effort to direct all such collections agencies in writing to cause any and all credit reporting agencies to purge their records of any reference to any past or present outstanding debt to LDDI, so that such customers' credit reports/ratings are not impacted in any way for nonpayment of any rates, charges, fees, etc., to LDDI, or any agent of LDDI. LDDI agrees to provide the CSD, within 90 days after the date upon which the Commission approves this agreement by formal decision or order, with a report detailing its compliance with the requirements contained in Paragraph No. 5 herein. This report shall include the names, addresses, and telephone numbers of all customers for whom any action described in this paragraph was taken by LDDI, and/or its agents, the specific action(s) taken, and any and all correspondence from or to LDDI or its agent(s) concerning or pertaining to such actions.

6. LDDI agrees to secure valid authorization to provide long distance telecommunications service, in accord with all relevant laws, including, but not limited to, Public Utilities Code section 2889.5, to all potential California customers before switching any and all such customers to LDDI's services.

7. LDDI agrees to conduct all of its long distance telecommunications operations in California in compliance with all relevant laws, rules and regulations.

8. LDDI promises that it has already discontinued all marketing actions in California and agrees to refrain from all such activity until it has received authorization from this Commission to operate as a reseller of interexchange telecommunications services in California.

9. LDDI has provided evidence that it already has undertaken to provide a billing service to its California customers that specifically informs and notifies such customers that the services they have purchased are being provided by LDDI and that the rates, charges or fees such customers are paying for such services are compensating LDDI. LDDI agrees to cause all of its California customers to be notified and receive periodic notification, including billing information, of LDDI's identity, address, telephone number and other available means of communicating with LDDI. Nothing herein shall prohibit LDDI from notifying its California customers and/or potential customers that it is a reseller of any other company's network services; however, this information should be conveyed in a manner that will not mislead such customers and/or potential customers as to the services and/or the identity of the provider of services provided or to be provided.

10. LDDI agrees to provide notice and information to all California customers and/or potential customers, that any services such customers agree to purchase from LDDI are being marketed for, and shall be provided by, LDDI, a separate entity from a network provider. No employee, agent and/or representative of LDDI shall state or imply that they are associated in any manner with any entity other than LDDI for purposes of a sale, lease or other transaction of telecommunications services. All employees, agents and/or representatives of LDDI, engaging in marketing, sales, advertising and/or other solicitation activities on behalf of LDDI, shall affirmatively provide to all California customers and/or potential customers that they are acting on behalf of LDDI.

11. LDDI agrees to mail a letter subject to the CSD's previous approval, to all of its current California customers within 30 business days of the execution of this agreement, notifying each California customer of LDDI's identity, address and telephone number, the type of services it is providing to each customer, the rate(s) charged for the service(s) and providing the customer with information concerning the regulatory role of the Commission, including the telephone number of a Commission staffperson designated by the CSD.

12. LDDI agrees to insure that all methods used by it, and any and all agents, employees, and representatives for marketing its services shall notify California customers and/or potential customers of the services provided or to be provided by LDDI, and shall not mislead customers and/or potential customers in any manner, as to the entity providing the services or the services provided.

13. LDDI agrees to pay to the Commission for crediting to an escrow account, a settlement amount of \$45,000, to be paid in quarterly installments of \$3000.00 per quarter beginning 90 days after the adoption of this agreement by formal Commission decision or order, and continuing on a quarterly basis thereafter until it fully satisfies the balance of the full \$45,000 sum. This amount is to be directed by the CSD Director to promote consumer education and awareness, which could include placing the funds with an appropriate trust to accomplish the intended result.

14. LDDI agrees to provide the CSD with quarterly reports beginning 90 days after the date this agreement is adopted by a formal decision or order of the Commission and continuing 12 months after the submission of the first report, of all complaints received by it, its agents and/or representatives, and all complaints of which it has knowledge and/or could readily obtain knowledge, concerning allegations of misrepresentation or unfair business practices, including allegations of "slamming," concerning LDDI, its agents, employees, and/or representatives. This report shall contain, but not be limited to, copies of all letters of complaint, and all other written or electronic contacts regarding long distance switching, billing and service complaints concerning LDDI's California customers. The CSD may, upon its discretion and upon notice to LDDI 60 days prior to the end of the first annual reporting period, require LDDI to continue to provide the above described reports, on a annual basis, for an additional 12 month period.

15. The CSD agrees to withdraw the protest of the former S&B Division to Application 95-04-025, with prejudice, contingent upon the Commission's formal approval of this agreement.

16. This agreement contains the entire agreement between the parties to this agreement, and all previous understandings, agreements, and communications prior to the date hereof, whether express or implied, oral or written, relating to the subject matter of this agreement are fully and completely extinguished and superseded by this agreement. This agreement shall not be altered, amended, modified, or otherwise changed except by a writing duly signed by all the parties hereto.

17. This agreement cannot be modified or altered in any manner unless both of the parties agree at or subsequent to the settlement conference and before submission of this agreement to the Commission for approval. The CSD and LDDI promise to file this agreement with the Commission within one business day of the close of the settlement conference in this proceeding, along with a joint motion that the former S&E Division protest be withdrawn, contingent upon the Commission's approval of this agreement. The parties agree to jointly request that the Commission grant speedy approval of this agreement and LDDI's application (A.95-04-025).

18. LDDI and CSD acknowledge and stipulate that this agreement is fair and is not the result of any fraud, duress, or undue influence exercised by either party upon the other, or by any other person or persons upon either; that the provisions herein made are adequate, reasonable, and satisfactory to each of them; that they have reviewed the applicable factual allegations and legal authorities; that they have arrived at the compromise that forms the basis of their settlement agreement after thorough bargaining and negotiation; and this settlement agreement represents a final and mutually agreeable compromise of the matters set forth in this agreement.

19. In the event LDDI transfers corporate control or all assets to another entity, all amounts owing, pursuant to the provisions of Paragraph No. 13 herein, under this agreement shall be fully paid by LDDI prior to any such transfer. The parties jointly request the Commission to retain jurisdiction of this case and over the parties personally until final performance of the settlement agreement stated herein.

20. This agreement may be executed in counterparts, each of which shall constitute and original.

21. This agreement shall be governed by the laws of the State of California and the Commission's Rules of Practice and Procedure. The parties are the only parties to this proceeding, and jointly request that the Commission waive the comment and reply period set forth in rule 51.4 of the Commission's Rules of Practice and Procedure.

22. In the event of any violation of this agreement, the CSD reserves its rights to initiate a proceeding and to seek whatever remedies that it deems necessary. Likewise, LDDI reserves all of its rights and remedies in defending against such actions. If any provision of this agreement is found by a court or administrative body to be prohibited by federal or state law or regulation, such provision shall not be enforceable and any such non-enforceability will not vitiate any other severable provision of this agreement.

Dated: 11/7/96

Long Distance Direct Incorporated

By: Michael Preston
Michael Preston
Vice President of LDDI

Dated: 11/7/96

Commission Consumer Services Division

By: William R. Schulte
William R. Schulte, Director
Consumer Services Division 11/8/96

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document entitled "JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT, DISMISSAL OF PROTEST, AND ISSUANCE OF CPCN; STIPULATION FOR SETTLEMENT" upon all known parties of record in this proceeding, by mailing by first-class a copy thereof properly addressed to each party.

Dated at San Francisco, California, this 10th day of December, 1996.


Cindy Philapil