

APR 10 1997

Decision 97-04-045 April 9, 1997

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Digital Dial Communications, Inc.)
 for a Certificate of Public)
 Convenience and Necessity to provide)
 telecommunications services in the)
 State of California.)

Application 94-09-034
 (Filed September 21, 1994)

O P I N I O N

Digital Dial Communications, Inc. (applicant), a Texas 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 long distance telephone services in California.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.

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.

The Commission has established two major criteria for determining whether a CPCN should be granted. An applicant who is a switchless reseller² must demonstrate 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 local exchange carriers 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 application, applicant provided a balance sheet and income statement for the five months ended May 31, 1994. Based upon our review of applicant's balance sheet, it is unclear whether the applicant satisfies the \$25,000 cash or cash equivalent requirement. Applicant has failed to respond to inquiries from the assigned administrative law judge (ALJ) seeking further clarification regarding the nature of the current asset balance shown for "Reserves Due From Factor." Without further clarification regarding the nature of this balance or further

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, 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.

evidence which can satisfy the \$25,000 requirement, we cannot conclude that applicant has met the financial conditions for CPCN approval.

Because the applicant has failed to satisfy either the minimum financial requirement, we conclude that the applicant should not be granted a CPCN. Accordingly, the application is denied without prejudice. Applicant may file a new application at such time that can demonstrate it meets our criteria for market entry.

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 September 21, 1994.
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.
6. By D.94-09-065, we authorized competitive intraLATA services effective January 1, 1995, for carriers meeting specified criteria.
7. Applicant has not satisfactorily 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.
8. Applicant has not presented documentation from the showing the level of deposits required or applicant's ability to provide those deposits.

Conclusions of Law

1. Applicant has not satisfactorily demonstrated that it has the financial ability to provide the proposed service.
2. Applicant has not made a reasonable showing of expertise in telecommunications management.

3. The application should be denied on the basis that minimum entry requirements regarding financial and technical expertise have not been met.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity to Digital Dial Communications, Inc. (applicant) to operate as a reseller of long distance telecommunication services offered by communication common carriers in California is denied without prejudice to filing a new application at some later time.
2. The application is denied, as set forth above.
3. Application 94-09-034 is closed.

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