

MAY 6 1997

Decision 97-05-007 May 6, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Americas Conex LLC for a certificate)
of public convenience and necessity)
to offer resold local and inter-)
exchange telecommunications services)
to the public in the State of)
California.)

Application 96-08-025
(Filed August 2, 1996)

ORIGINAL

**OPINION GRANTING AUTHORITY TO PROVIDE
SERVICE AS A COMPETITIVE LOCAL CARRIER**

On August 2, 1996, Americas Conex, LLC (applicant) filed an application with this Commission requesting a Certificate of Public Convenience and Necessity (CPCN) to provide resold local, intraLATA and interLATA interexchange telecommunications services in the State of California¹, as a nondominant interexchange carrier (NDIEC).

By Decision (D.) 97-02-028 issued February 19, 1997, we granted applicant a CPCN to operate as a reseller of interLATA and, to the extent authorized by D.94-09-065, intraLATA telecommunications services offered by communication common carriers in California, subject to certain stated conditions. Through inadvertence, applicant's request for authority to serve as

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.

a nonfacilities based Competitive Local Carrier² (CLC) was not granted. We therefore reopen this proceeding and by this decision grant that authority.

Background

By D.95-07-054 Rulemaking (R.) 95-04-043/Investigation (I.) 95-04-044, we established initial procedures for the filing for authority to offer competitive local 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 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 filings for CLC authority made after September 1, 1995, were to be treated as applications and processed in the normal course of the Commission's business. As noted above, applicant filed for CLC authority as part of its original application.

In order to obtain a CPCN under Public Utilities Code § 1001, a reseller must demonstrate that it has a minimum of \$25,000 cash or cash equivalent (as described in D.95-07-054), reasonably liquid and readily available to meet the firm's start-up expenses. In addition, an applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business. Both of these criteria were examined and found to have been satisfied in D.97-02-028 (pp. 1-2).

² A competitive local carrier is a common carrier that is issued a CPCN to provide local exchange telecommunications service for a geographic area specified by such carrier.

Proposed Tariff

As part of its original application, applicant provided a proposed tariff setting forth the terms and conditions of the service it intended to offer pursuant to the CPCN it sought. We have examined the proposed tariff and find it satisfies our requirements except as specified in Appendix B to this decision. Prior to exercising the authority granted, applicant is to file with the Commission a revised tariff in compliance with Appendix B to this decision.

Findings of Fact

1. In its original application in this proceeding, applicant sought a CPCN to provide resold local, intraLATA and interLATA interexchange telecommunications services in California as an NDIEC.

2. In D.97-02-028, applicant was granted authority to act as a reseller of intraLATA and interLATA telecommunications services within California.

3. Through inadvertence, applicant was not granted authority to provide competitive local exchange service as a CLC within the service territories of Pacific and GTEC.

4. Applicant meets all requirements to provide service as a CLC.

5. Tariffs filed with applicant's original application have been examined and except for the deficiencies noted in Appendix B, conform to Commission rules.

Conclusions of Law

1. Applicant satisfies the requirements for the issuance of a CPCN to act as a CLC.

2. Tariffs filed with applicant's original application, with the exceptions noted in Appendix B, conform to Commission rules.

3. A CPCN to act as a CLC should be issued to applicant.

4. Applicant is to file an annual report in compliance with Attachment A as required by General Order 104-A.

ORDER

IT IS HEREBY ORDERED that:

1. Applicant is granted a certificate of public convenience and necessity to provide service as a Competitive Local Carrier (CLC) within the service territories of Pacific Bell and GTE California Incorporated.

2. The conclusions of law and ordering paragraphs set forth in Decision (D.) 97-02-028 are applicable to service as a CLC as if they were repeated in this decision in full.

3. Applicant shall comply with the customer notification and education rules adopted in D.96-04-049 regarding passage of calling party number.

4. Applicant shall conform to the following financial requirement adopted in D.95-12-056: customer deposits collected by a CLC must be deposited in a protected, segregated interest-bearing escrow account subject to Commission oversight.

5. Prior to providing service pursuant to the authority granted herein, applicant is to file revised tariffs conforming to Appendix B.

6. Applicant is to file an annual report in compliance with Attachment A as required by General Order 104-A.

7. Application 96-08-025 is closed.

This order is effective today.

Dated May 6, 1997, at San Francisco, California.

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

A.96-08-025 ALJ/RLR/jac *

INFORMATION REQUESTED OF COMPETITIVE LOCAL CARRIERS

TO: ALL COMPETITIVE LOCAL CARRIERS

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 Staff
505 Van Ness Avenue, Rom 3251
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 COMPETITIVE LOCAL CARRIERS

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)

APPENDIX B

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List of Deficiencies in Tariffs filed by Americas Conex LLC in A. 96-08-025 to be corrected in Tariff Compliance Filing.

1. Add the words " Competitive Local Carrier" on each tariff sheet above the horizontal line.
2. On each tariff sheet move "Resolution No" over to the left to leave longer line for entering the resolution number.
3. The second line in the upper right corner of the form must show revision numbers, e.g., " _____ Revised Canceling Original Sheet _____."
4. Sample forms must be included with the tariffs.
5. Sheet 3-T, Preliminary Statement should indicate the intent to provide local exchange service in Pacific Bell and GTEC's service areas. Other areas of California are not yet open to competition.
6. Sheet 5-T: Applicability needs to more specific as to services provided.
7. Sheet 6-T: Rates and Charges: Indicate rates for local exchange service and indicate if the company intends to offer residential or business service or both and clarify if the same rates apply in both Pacific and GTEC's territories. If the company intends to offer residential service, then ULTS service must be provided. The ULTS service must be tariffed.
8. Sheet 7-T: Need to amend the tariff to change California High Cost Fund-A surcharge to 0.0% and add two new surcharges effective February 1, 1997.
California High Cost Fund-B..... 2.87%
California Teleconnect Fund Surcharge..... 0.41%
9. Sheet 9-T, Application for Service, states that customers wishing to obtain service are required to sign a completed service application. Company cannot require a written Service Application because Rule 2 of Appendix B of D. 95-07-054 provides that service may be initiated based on written or oral agreement between the CLC and the customer. If the agreement is oral, within 10 days of initiating the service order, the CLC must provide a confirmation letter setting forth a brief description of the services and itemizing all charges which will appear on the customer's bill. Also customers cannot be required to provide their social security number.
10. Sheet 9-T, Rule 4, Contracts and Agreements: add a note stating that this rule does not apply to contracts involving local service.

APPENDIX B

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11. Sheet 9-T, Rule 5, Special Information Required on Forms: All of the information in Rule 3 of Appendix B must be included on customer bills.
12. Sheet 10-T, Rule 7, Deposits: Need to add "However, deposits may not receive interest if the customer has received a minimum of two notices of discontinuance of service for nonpayment of bills in a 12-month period." (Rule 3.B. of Appendix B of D. 95-07-054.) Also Rule 9 says payment is due by the 15th day of the month but does not indicate when the bills will be sent to the customer. There must be a minimum of 15 days between presentation date and due date.
13. Sheet 11-T, Rule 10, Disputed Bills: You cannot limit customers to 30 days to report billing disputes or to 60 days to initiate a billing dispute; the minimum is 2 years.
14. Sheet 12-T, Rule 11, Discontinuance and Restoration of Service indicates that there is a minimum service period. This violates customer's right to give notice of discontinuance on or before the date of disconnection. Moreover customers cannot be required to give written notice of cancellation of service, per Rule 6 of Appendix B of D. 95-07-054. Rule 11.2.(b) is in conflict with Rule 10 A & B in Appendix B. Services may be discontinued for nonpayment of bills and fraud, not for violation of the tariff.
15. Sheet 14-T: Liability, and all other sections in the tariff relating to limitations of liability must be replaced with Pacific Bell or GTEC's limitations of liability tariffs as found in appendices to D. 95-12-057.
16. 17-T, Overpayment: You cannot require customers to submit a claim in the case of a carrier discovered error. Change "and" to "or" in Rule 19, the second item 4. Also Rule 19 subsections are incorrectly numbered.
17. Tariffs must include information on the provisions of directories to customers.
18. Per D. 95-12-057, the tariff must be revised to state which provider the company will use to administer the Deaf and Disabled Distribution Program Equipment.

The following items are missing from the tariff and must be included.

- You must include a demarcation tariff or concur in another carrier's demarcation tariff.
- Blocking of 976/900 calls as required in Rule 15 of Appendix B.

APPENDIX B

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- Include information on Change of Service Provider per Appendix B, Rule 11.
- Include statement on customer privacy per Appendix B, Rule 14.
- Tariffs must state availability of 9-1-1 service and maintain 9-1-1 access for residential customers disconnected for non-payment.

(END OF APPENDIX B)