

Mailed **ORIGINAL**
JUL 16 1997

Decision 97-07-032 July 16, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application and request for)
immediate ex parte authority by)
Accelerated Connections, Inc., a)
Delaware corporation, for a)
Certificate of Public Convenience and)
Necessity to resell intrastate)
switched and dedicated interexchange)
and local exchange communications)
services.)
_____)

Application 97-04-040
(Filed April 17, 1997;
Supplemented May 9, 1997)

O P I N I O N

Request

Accelerated Connections, Inc. (applicant), a Delaware corporation qualified to do business in California, seeks a certificate of public convenience and necessity (CPCN) under Public Utilities (PU) Code § 1001 to permit it to resell interLATA and intraLATA telephone services pursuant to Decision (D.) 94-09-065 and D.88-09-059,¹ and to provide resold local exchange service as a competitive local exchange carrier (CLC) to the full extent allowed by the Commission in D.95-07-054. Applicant also seeks an exemption from Rule 18(b) of the Commission's Rules of Practice and Procedure to the extent that this rule requires service of the application on cities and counties in the proposed service area.

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.

Protective Order

Concurrent with the filing of its application, applicant filed a motion for a limited protective order for authority to file its estimated customer information under seal with good cause. Subsequently, on May 9, 1997, applicant filed a motion for a limited protective order for authority to file supplemental financial information under seal with good cause. There is no opposition to the motions. Accordingly, the motions to place applicant's customer information and supplemental financial information under seal should be granted. Such data should remain under seal for one year from today unless applicant makes a timely request for an extension of the provisions of this protective order, for good cause shown.

Background

By 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 that it has a minimum of

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\$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 companies or interexchange carriers 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.

By D.95-07-054 (Rulemaking (R.) 95-04-043/Investigation 95-04-044), we established initial procedures for the filing for CPCN 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 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 filings for CLC CPCN authority made after September 1, 1995, were to be treated as applications and processed in the normal course of the Commission's business.

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Applicants who are granted authority to provide competitive local exchange service must comply with various rules established by the Commission, including: (1) the consumer protection rules set forth in Appendix B of D.95-07-054; (2) the rules for local exchange competition set forth in Appendix C of D.96-12-056; and (3) the customer notification and education rules adopted in D.96-04-049.

Financial Requirement

A CLC reseller must demonstrate that it has a minimum of \$25,000 of cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up expenses as prescribed in Rule 4.B(2) of D.95-07-054. CLCs must also 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.

Included in Exhibit E to the application is a copy of a March 19, 1997, financial commitment letter from Enterprise Partners Venture Capital, applicant's parent company, providing an irrevocable guarantee that a total of \$25,000 in unencumbered cash will be available to applicant for at least a 12-month period following the date when applicant receives its CPCN. Thus, it is clear that applicant is capable of financing and operating its proposed operations.

Technical Experience Requirement

Applicant must submit proposed tariffs which conform to the consumer protection rules set forth in Appendix B of D.95-07-054. Such tariffs are set forth in Exhibit H to the application. We have reviewed applicant's proposed tariff filing and conclude that it conforms to the adopted Commission rules including the Consumer Protection Rules set forth in Appendix B of D.95-07-054, except for the list of tariff deficiencies identified

in Appendix B of this order. In its compliance tariff filing, applicant is directed to correct the identified deficiencies as a condition of our granting approval of the tariffs.

In addition, applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business. In this regard, applicant provided information on its three key officers indicating their more than 66 years of combined technical experience in the telecommunications field. These key officers are President and Chief Executive Officer William Stensrud, Vice President of Operations Thomas Clancy, and Vice President Eric Geis. Thus, applicant has the technical expertise and qualifications to conduct its business.

Environmental Assessment

As applicant will not be constructing any facilities for the purpose of providing local exchange services, it can be seen with certainty that there is no possibility that the grant of this application will have an adverse impact upon the environment. For this reason, applicant submits that its proposed services are exempt from the California Environmental Quality Act. In accordance with Rule 17.1, applicant attached its Proponent's Environment Assessment as Exhibit 2 to the application.

Findings of Fact

1. Applicant filed its application and supplement on April 17, 1997, and May 9, 1997, respectively.
2. A notice of the filing of the application appeared in the Daily Calendar on April 24, 1997.
3. Applicant filed a motion for authority to file estimated customer information and a motion for authority to file supplemental financial data under seal with good cause shown.

4. No protests have been filed.
5. A hearing is not required.
6. 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.
7. By prior Commission decisions, we authorized competition in providing local exchange telecommunications service within the service territories of Pacific and GTEC.
8. By D.95-07-054, D.95-12-056, D.96-02-072, and D.96-03-020, we authorized facilities-based CLC services effective January 1, 1996, and CLC resale services effective March 31, 1996, for carriers meeting specified criteria.
9. 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.
10. Applicant's technical experience is demonstrated by the fact that its key officers have more than 66 years' combined experience in the telecommunications area.
11. Applicant has represented that no one associated with, or employed by, applicant was previously associated with an NDIEC that filed for bankruptcy or went out of business.
12. Applicant has submitted with its application a complete draft of applicant's initial tariff which complies with the requirements established by the Commission, except for the deficiencies identified in Appendix B.
13. 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.
14. By D.97-06-107, applicant for NDIEC/CLC authority is exempt from Rule 18(b).

15. 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.)

16. 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 interLATA and intraLATA services, and competitive local exchange services to be offered by applicant, subject to the terms and conditions set forth below.

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 Universal Lifeline Telephone Service Fund (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-16017, April 9, 1997);

- c. The user fee provided in PU Code §§ 431-435, which is 0.11% of gross intrastate revenue for the 1997-1998 fiscal year (Resolution M-4786);
 - 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.95-02-050, to fund the California Teleconnect Fund (D.96-10-066, P. 88, App. B, Rule 8.G.).
- 5. Applicant is exempt from Rule 18(b).
 - 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. Applicant's motions to place estimated customer information and supplemental financial data under seal should be granted.
 - 9. The application should be granted to the extent set forth below.

10. 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.

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

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Accelerated Connections, Inc. (applicant) to operate as a reseller of interLocal Access and Transport Area (interLATA), intraLocal Access and Transport Area (intraLATA), and competitive local exchange services, subject to the terms and conditions set forth below.

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, intraLATA, and competitive local exchange services. Applicant may not offer interLATA, intraLATA, or competitive local exchange services 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 must include a satisfactory correction of each deficiency listed in Appendix B in this decision. The tariff shall be effective not less than 1 day after tariff approval by Commission's Telecommunications Division. Applicant shall comply with the provisions in its tariffs.

b. Applicant is a competitive local carrier (CLC). The effectiveness of its future tariffs is subject to the schedules set forth in Appendix A, Section 4.E of Decision (D.) 95-07-054:

"E. CLCs shall be subject to the following tariff and contract filing, revision and service pricing standards [Contracts shall be subject to GO 96-A rules for NDIECs, except those for interconnection];

"(1) Uniform rate reductions for existing tariff services shall become effective on five (5) working days' notice to the Commission. Customer notification is not required for rate decreases.

"(2) Uniform major rate increases for existing tariff services shall become effective on thirty (30) days' notice to the Commission, and shall require bill inserts, or a message on the bill itself, or first class mail notice to customers at least 30 days in advance of the pending rate increase.

"(3) Uniform minor rate increases, as which defined in D.95-07-054, shall become effective on not less than five (5) working days' notice to the Commission. Customer notification is not required for such minor rate increases.

"(4) 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 to the Commission.

"(5) Advice letter filings revising the text or location of text material which do not result in an increase in any rate or charge shall become effective on not less than five (5) days' notice to the Commission."

c. 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. Applicant is also exempt from GO 96-A, paragraph III.G.(1) and (2) which requires service of advice letters on competing and adjacent utilities, unless such utilities have specifically requested such service.

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 Service 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 local exchange service is first rendered to the public within 5 days after local exchange service, interLATA, and intraLATA begin.

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 the 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-5813-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. If applicant is 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 the applicant's certificate of public convenience and necessity, unless the applicant has received the written permission of the Telecommunications Division to file or remit late.

18. Applicant shall comply with the consumer protection set forth in Appendix B of D.95-07-054.

19. Applicant shall comply with the Commission's rules for local exchange competition in California that are set forth in Appendix C of D.95-12-056, including the requirement that CLCs shall place customer deposits in a protected, segregated, interest-bearing escrow account subject to Commission oversight.

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

21. Applicant's estimated customer information and supplemental financial data shall be placed under seal for good cause shown and shall remain under seal for one year from today unless applicant makes a timely request for an extension of confidential treatment with good cause shown.

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

23. Application 97-04-040 is closed.

This order is effective today.

Dated July 16, 1997, at San Francisco, California.

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

APPENDIX A

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 Competitive Local Carriers in California. 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

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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. 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 APPENDIX A)

Accelerated Connections, Inc.

APPENDIX B

Page 1

List of Deficiencies in tariffs filed by Accelerated Connections, Inc. A. 97-04-040

1. Numbering system used in tariffs: The company used 1-T and 2-T as its proposed Interexchange tariff and Competitive Local Exchange tariff. You need to renumber Competitive Local Exchange tariff 3-T to 5-T to distinguish it from the IEC tariffs and to fit the numbering system used in the tariff schedules. Also the tariff pages are not numbered.
2. Table of Contents: Need to assign page numbers to each table of contents and give each tariff sheet a page number corresponding to those provided in the table of contents.
3. CLC 1-T, Rule 7: Minimum service period of one month violates customer's right to give notice of discontinuance on or before the date of disconnection.
4. CLC 1-T, Rule 8, states that customers must enter into written Service Orders. Rule 2 of Appendix B of D. 95-07-054 provides that service may be initiated based on a 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 will provide a confirmation letter setting forth a brief description of the services and itemizing all charges which will appear on the customer's bill.
5. CLC 1-T, Rule 10.B, Deposits: Modify the language in the proposed tariff to fully comply with Rule 5 in Appendix B of D. 95-07-054. Deposits are based on twice the average monthly bill for the class of service requested, not on an estimate of two months service.
6. CLC 1-T, Rule 14 is in conflict with Rule 10 A & B in Appendix B. Service may be discontinued for nonpayment of bills and fraud, not for violation of the tariff. Also to discontinue or suspend service due to customer insolvency is discriminatory and violates the Company's obligation to serve. This clause may be replaced with a requirement for, or increase in, a deposit in the case of a customer's filing of bankruptcy.
7. CLC 1-T, Rule 19: Credit for interruptions: cannot deviate from Pacific Bell or GTEC's limitations of Liability which are appended to D. 95-12-057.

APPENDIX B

Page 2

8. CLC 1-T, Rule 23.C : Notice from the company to the customer must be in writing, however per Rule 6 of Appendix B, customers can give notice of intent to discontinue service to the company verbally or in writing.

9. CLC 2-T: Per D. 95-12-057 and D. 96-11-045, the tariffs must be revised to state which provider the company will use to administer the Deaf and Disabled Distribution Program. Since the company is not providing service directly to its disabled customers the tariff section titled "Services and Products for Disabled Customers" should be deleted.

9. CLC 2-T, Service Orders and Directory Charges: does the company intend to offer the same rates in Pacific Bell and GTEC's service territories?

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4. No protests have been filed.
5. A hearing is not required.
6. 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.
7. By prior Commission decisions, we authorized competition in providing local exchange telecommunications service within the service territories of Pacific and GTEC.
8. By D.95-07-054, D.95-12-056, D.96-02-072, and D.96-03-020, we authorized facilities-based CLC services effective January 1, 1996, and CLC resale services effective March 31, 1996, for carriers meeting specified criteria.
9. 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.
10. Applicant's technical experience is demonstrated by the fact that its key officers have more than 66 years' combined experience in the telecommunications area.
11. Applicant has represented that no one associated with, or employed by, applicant was previously associated with an NDIEC that filed for bankruptcy or went out of business.
12. Applicant has submitted with its application a complete draft of applicant's initial tariff which complies with the requirements established by the Commission, except for the deficiencies identified in Appendix B.
13. 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.
14. By D.97-06-107, applicant for NDIEC/CLC authority is exempt from Rule 18(b).

15. 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.)

16. 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 interLATA and intraLATA services, and competitive local exchange services to be offered by applicant, subject to the terms and conditions set forth below.

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 Universal Lifeline Telephone Service Fund (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-16017, April 9, 1997);

- c. The user fee provided in PU Code §§ 431-435, which is 0.11% of gross intrastate revenue for the 1997-1998 fiscal year (Resolution M-4786);
 - 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.95-02-050, to fund the California Teleconnect Fund (D.96-10-066, P. 88, App. B, Rule 8.G.).
- 5. Applicant is exempt from Rule 18(b).
 - 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. Applicant's motions to place estimated customer information and supplemental financial data under seal should be granted.
 - 9. The application should be granted to the extent set forth below.

10. 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.

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

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Accelerated Connections, Inc. (applicant) to operate as a reseller of interLocal Access and Transport Area (interLATA), intraLocal Access and Transport Area (intraLATA), and competitive local exchange services, subject to the terms and conditions set forth below.

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, intraLATA, and competitive local exchange services. Applicant may not offer interLATA, intraLATA, or competitive local exchange services 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 must include a satisfactory correction of each deficiency listed in Appendix B in this decision. The tariff shall be effective not less than 1 day after tariff approval by Commission's Telecommunications Division. Applicant shall comply with the provisions in its tariffs.

b. Applicant is a competitive local carrier (CLC). The effectiveness of its future tariffs is subject to the schedules set forth in Appendix A, Section 4.E of Decision (D.) 95-07-054:

"E. CLCs shall be subject to the following tariff and contract filing, revision and service pricing standards [Contracts shall be subject to GO 96-A rules for NDIECs, except those for interconnection]:

- "(1) Uniform rate reductions for existing tariff services shall become effective on five (5) working days' notice to the Commission. Customer notification is not required for rate decreases.
- "(2) Uniform major rate increases for existing tariff services shall become effective on thirty (30) days' notice to the Commission, and shall require bill inserts, or a message on the bill itself, or first class mail notice to customers at least 30 days in advance of the pending rate increase.
- "(3) Uniform minor rate increases, as which defined in D.95-07-054, shall become effective on not less than five (5) working days' notice to the Commission. Customer notification is not required for such minor rate increases.
- "(4) 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 to the Commission.

"(5) Advice letter filings revising the text or location of text material which do not result in an increase in any rate or charge shall become effective on not less than five (5) days' notice to the Commission."

c. 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. Applicant is also exempt from GO 96-A, paragraph III.G.(1) and (2) which requires service of advice letters on competing and adjacent utilities, unless such utilities have specifically requested such service.

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 Service 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 local exchange service is first rendered to the public within 5 days after local exchange service, interLATA, and intraLATA begin.

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 the 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-5813-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. If applicant is 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 the applicant's certificate of public convenience and necessity, unless the applicant has received the written permission of the Telecommunications Division to file or remit late.

18. Applicant shall comply with the consumer protection set forth in Appendix B of D.95-07-054.

19. Applicant shall comply with the Commission's rules for local exchange competition in California that are set forth in Appendix C of D.95-12-056, including the requirement that CLCs shall place customer deposits in a protected, segregated, interest-bearing escrow account subject to Commission oversight.

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

21. Applicant's estimated customer information and supplemental financial data shall be placed under seal for good cause shown and shall remain under seal for one year from today unless applicant makes a timely request for an extension of confidential treatment with good cause shown.

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

23. Application 97-04-040 is closed.

This order is effective today.

Dated July 16, 1997, at San Francisco, California.

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

APPENDIX A

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 Competitive Local Carriers in California. 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 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. 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 APPENDIX A)

Accelerated Connections, Inc.

APPENDIX B

Page 1

List of Deficiencies in tariffs filed by Accelerated Connections, Inc. A. 97-04-040

1. Numbering system used in tariffs: The company used 1-T and 2-T as its proposed Interexchange tariff and Competitive Local Exchange tariff. You need to renumber Competitive Local Exchange tariff 3-T to 5-T to distinguish it from the IEC tariffs and to fit the numbering system used in the tariff schedules. Also the tariff pages are not numbered.
2. Table of Contents: Need to assign page numbers to each table of contents and give each tariff sheet a page number corresponding to those provided in the table of contents.
3. CLC 1-T, Rule 7: Minimum service period of one month violates customer's right to give notice of discontinuance on or before the date of disconnection.
4. CLC 1-T, Rule 8, states that customers must enter into written Service Orders. Rule 2 of Appendix B of D. 95-07-054 provides that service may be initiated based on a 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 will provide a confirmation letter setting forth a brief description of the services and itemizing all charges which will appear on the customer's bill.
5. CLC 1-T, Rule 10.B, Deposits: Modify the language in the proposed tariff to fully comply with Rule 5 in Appendix B of D. 95-07-054. Deposits are based on twice the average monthly bill for the class of service requested, not on an estimate of two months service.
6. CLC 1-T, Rule 14 is in conflict with Rule 10 A & B in Appendix B. Service may be discontinued for nonpayment of bills and fraud, not for violation of the tariff. Also to discontinue or suspend service due to customer insolvency is discriminatory and violates the Company's obligation to serve. This clause may be replaced with a requirement for, or increase in, a deposit in the case of a customer's filing of bankruptcy.
7. CLC 1-T, Rule 19: Credit for interruptions: cannot deviate from Pacific Bell or GTEC's limitations of Liability which are appended to D. 95-12-057.

APPENDIX B

Page 2

8. CLC 1-T, Rule 23.C : Notice from the company to the customer must be in writing, however per Rule 6 of Appendix B, customers can give notice of intent to discontinue service to the company verbally or in writing.

9. CLC 2-T: Per D. 95-12-057 and D. 96-11-045, the tariffs must be revised to state which provider the company will use to administer the Deaf and Disabled Distribution Program. Since the company is not providing service directly to its disabled customers the tariff section titled "Services and Products for Disabled Customers" should be deleted.

9. CLC 2-T, Service Orders and Directory Charges: does the company intend to offer the same rates in Pacific Bell and GTEC's service territories?

(END OF APPENDIX B)