

ALJ/TRP/bwg

Mailed

SEP 3 1997

Decision 97-09-015 September 3, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Petition of Communications
TeleSystems International for a Certificate of Public
Convenience and Necessity to Operate as a
Competitive Local Carrier.

ORIGINAL

1.95-04-044

Petition No. 4

(Petition filed August 30, 1995)

O P I N I O N

By this decision, we deny the petition of Communications TeleSystems International (CTS) to operate as both a facilities-based and resale-based competitive local carrier (CLC) offering competitive local exchange services within California.

Commission Decision (D.) 95-07-054 and D.95-12-056 adopted interim rules for local exchange competition within Pacific Bell's and GTE California Incorporated's service territories. In D.95-07-054, the Commission directed prospective CLCs to file petitions for a certificate of public convenience and necessity to provide local exchange service under the adopted rules by September 1, 1995, if the carriers wanted their petitions acted upon prior to the dates the Commission scheduled local competition to begin.

CTS filed its petition for CLC operating authority on August 30, 1995 and submitted supplemental information on November 27, 1995, in response to the Commission staff's notification of deficiencies. CTS was previously granted operating authority in D.92-06-007, 44 CPUC2d 470, to provide interLocal Access and Transport Area (LATA) long distance and operator services within California and in D.93-04-063, 49 CPUC2d 146, to provide intraLATA telecommunications service.

A protest to the petition was filed by the Commission's Safety and Enforcement (S&E) Division¹ on January 4, 1996. Although the protest was filed after the end of the protest period prescribed by Commission rules, S&E sought acceptance of its late-filed protest.

S&E had learned after the conclusion of the protest period that the Commission's Consumer Services Division had received over 440 consumer complaints alleging that CTS was switching customers' primary interexchange carriers without customers' authorization² and alleging that CTS was using misleading marketing practices to sell its services. S&E's initial investigation disclosed that CTS marketing methods appeared to violate Public Utilities (PU) Code § 2889.5. S&E requested additional time to conduct a full investigation of CTS' marketing practices.

On February 23, 1996, the Commission issued an Order Instituting Investigation and Order to Show Cause Why Communications TeleSystems International's Certificate of Public Convenience and Necessity Should Not Be Revoked, 1.96-02-043 (OII). In the OII, the Commission summarized evidence presented by S&E staff which alleged that CTS transferred customers to its service without authorization.

Following hearings in the OII, the Commission issued D.97-05-089 on May 21, 1997 finding that CTS had engaged in widespread violations of PU Code § 2889.5. D.97-05-089 suspended CTS' previously granted authority to provide California intrastate telecommunications service, presubscribed or otherwise, for a period of three calendar years from the date of the order. After the suspension period is concluded, CTS may apply for reactivation of its intrastate authority and will be required to make the showings then-required for new applicants.

¹ The staff unit participating in this proceeding was then known as the Safety and Enforcement Division and will be referred to as such in this decision. By action of the Executive Director on September 10, 1996, the responsibilities performed by S&E in this proceeding were transferred to the newly formed Consumer Services Division.

² This practice is commonly referred to as "slamming."

Consistent with our suspension of CTS' previously granted authority to provide interLATA and intralATA telecommunications services, we hereby deny the petition of CTS to provide local exchange service. CTS may file a new petition for local exchange authority after the three-year suspension period is concluded.

Findings of Fact

1. CTS filed its petition to offer facilities-based and resale local exchange service on August 30, 1995.

2. A protest to the petition was filed by the Commission's S&E on January 4, 1996, alleging CTS appeared to be engaging in misleading marketing practices in violation of PU Code § 2889.5.

3. The Commission issued an Order Instituting Investigation, I.96-02-043, to consider the allegations of wrongdoing by CTS.

4. By D.97-05-089, the Commission found CTS had engaged in widespread violations of PU Code § 2889.5 and suspended CTS' previously granted intrastate telecommunications operating authority.

Conclusions of Law

1. In light of the Commission's three-year suspension of CTS' previously authorized intrastate operating authority, CTS' pending petition seeking authority to offer facilities- and resale-based local exchange service should be denied.

2. CTS should be permitted to file a new petition to offer local exchange service after the three-year suspension period ordered in D.97-05-089 has expired.

O R D E R

IT IS ORDERED that the petition of Communications TeleSystems International for authority to offer facilities- and resale-based local exchange service is denied.

This order is effective today.

Dated September 3, 1997, at San Francisco, California.

P. GREGORY CONLON

President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners