

Decision 97-09-022 September 3, 1997

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of The Phonco, Inc.  
d/b/a Network Services Long Distance for a  
Certificate of Public Convenience and Necessity to  
Provide InterLATA and IntraLATA  
Telecommunications Services Within the State of  
California.

Application 97-01-001  
(Filed January 6, 1997)

**ORIGINAL**

**OPINION**

On January 6, 1997, The Phonco, Inc. d/b/a Network Services Long Distance (applicant), a Pennsylvania corporation, sought a certificate of public convenience and necessity (CPCN) under Public Utilities (PU) Code § 1001 to permit it to resell interLocalAccess and Transport Area (LATA) and intraLATA telephone services in California.<sup>1</sup>

A review of the application disclosed that further information was necessary to meet the Commission's criteria for such applications and to answer questions raised during a background fitness check of applicant and two of its officers. Applicant was ordered to file a supplement to the application along with affidavits containing specific information regarding past associations of employees and past enforcement actions by regulatory Commissions in two states.

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<sup>1</sup> 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.

Applicant requested and was granted two extensions of time to comply. Applicant has failed to file the required affidavits and supplement and has not requested any further extensions. The application should be denied without prejudice for failure to prosecute it diligently. However, should applicant re-apply, it may not use the registration procedure set forth in Decision (D.) 97-06-107 due to the past regulatory actions taken against it and former associations of its key officers, Gregory E. Luff and David Gross. Instead, applicant must file an application and reference therein this docket and decision number. The application should contain the information requested in the Administrative Law Judge's (ALJ) Ruling of February 4, 1997.

**Findings of Fact**

1. Applicant filed its application on January 6, 1997.
2. Applicant has failed to diligently prosecute the application and to file affidavits arising out of a background fitness check, as required by the ALJ in her February 4, 1997 ruling.

**Conclusions of Law**

1. The application should be denied without prejudice.
2. Applicant should not be permitted to re-apply to this Commission using the registration process set forth in D.97-06-107 due to the results of the background fitness checks and the unanswered questions regarding those results.

**O R D E R**

**IT IS ORDERED that:**

1. Application 97-01-001 is denied without prejudice.
2. Should The Phonco, Inc. d/b/a Network Services Long Distance (applicant) or any successor-in-interest seek future certification from this Commission, it shall file an application, rather than follow the registration procedure set forth in Decision (D.) 97-06-107, and reference this docket and decision number. Any such future application shall furnish the information required by the Administrative Law Judge in her February 4, 1997, Ruling in this docket.

A.97-01-001 AIJ/ANW/sid

3. Application 97-01-001 is closed.

This order is effective today.

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

P. GREGORY CONLON  
President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUÉ

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners