

Decision 97-09-030 September 3, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Global Link Teleco Corporation for a Certificate of Public Convenience and Necessity to Provide Inter- and Intra-LATA Telecommunications Services as a Facilities Based Non-Dominant Interexchange Carrier in California.

Application 97-07-001
(Filed July 7, 1997)

ORIGINAL

OPINION

1. Summary

Global Link Teleco Corporation (applicant), a Delaware corporation qualified to do business in California, seeks a certificate of public convenience and necessity under Public Utilities Code (PU Code) § 1001 to permit it to resell interLATA and intraLATA telephone service in California.¹ Applicant also seeks authority to operate as a facilities-based reseller. The application is granted.

2. Background

By Decision (D.) 84-01-037, 14 CPUC2d 317 (1984), and later decisions, we authorized interLATA entry generally. By D.94-09-065, 56 CPUC2d 117 (1994), we authorized competitive intraLATA services effective January 1, 1995.

The Commission has established two major criteria for determining whether certification should be granted when applicant seeks to provide its services through its own switches and other facilities. The applicant must demonstrate that it has a minimum of \$100,000 in cash or cash equivalent (as described in D.91-01-041,

¹ California is divided into 10 Local Access and Transport Areas (LATAs) of various sizes, each containing numerous local telephone exchanges. "InterLATA" describes telecommunications service originating in one LATA and terminating in another. "IntraLATA" describes telecommunications service originating and terminating within a single LATA.

Appendix A, paragraph 5.1 (41 CPUC 2d 505 at 520)), reasonably liquid and readily available to meet the firm's start-up expenses. In addition, an applicant must make a reasonable showing of technical expertise. (D.90-08-032, 37 CPUC2d 130.)

Applicant is a wholly owned subsidiary of Global Telecommunication Solutions, Inc. (GTSI), which provides traditional and specialized prepaid phone cards for domestic and international telecommunications. Applicant states that it will offer similar services as a reseller of inter- and intraLATA telecommunications services in California. It states that it will engage in no construction, but that it intends to purchase existing switches, trunks, lines and other facilities that either are already installed or will be installed in existing buildings and locations.

As part of its application, applicant has provided financial statements for its parent corporation for the years 1995 and 1996, and it represents that applicant will have cash assets of \$1 million with which to meet start-up expenses in California.

Applicant states that its management team has a wide range of experience in telecommunications, data processing and related fields of business. Gary J. Wasserson was president of applicant from 1994 until applicant's merger with GTSI, and Wasserson now is chief executive officer of GTSI. Lon Torman, a vice president of applicant, spent five years in the cellular phone industry before joining applicant in 1995. David S. Tobin, general counsel of applicant since 1995, has practiced law in the telecommunications field for several years.

Applicant's proposed tariffs are set forth in the application as Exhibit F. Pursuant to the Commission's recent order in D.97-06-107, applicants for non-dominant interexchange authority are exempt from the filing requirements of Rule 18(b) of the Rules of Practice and Procedure. Hence, copies of the application need not be served on competitors or on cities and counties

3. Disclosures

The Commission has directed certificate applicants to disclose whether any person associated with an applicant has previously been connected with another telecommunications provider or other business that has (a) declared bankruptcy or been

the subject of involuntary bankruptcy proceedings, (b) been the subject of a state or federal investigation of alleged "slamming," or (c) otherwise been the subject of regulatory disciplinary proceedings.

Applicant discloses that Tobin, its general counsel and secretary, was previously assistant general counsel of Peoples Telephone Company, Inc., of Miami, Florida. Applicant in 1995 acquired substantially all of Peoples' prepaid calling card assets. Peoples is a creditor of applicant, and it owns about 11% of the outstanding common shares of GTSI.

In 1992, Peoples entered into a settlement agreement with the Florida Public Service Commission, agreeing to pay close to \$1 million in refunds and penalties, for alleged overcharges on payphones operated at various prisons. This Commission in D.93-05-057, 49 CPUC2d 267 (1993), rejected Peoples' application for reseller certification in California pending resolution of the Florida settlement. In D.94-02-041, 53 CPUC2d 215 (1994), we granted a certificate to Peoples on a finding that the Florida investigation had been resolved. In view of this, the disciplinary action involving Peoples no longer constitutes a reason to deny applicant's request for certification.

Applicant also discloses that Wasserson, its former president, previously was chairman and chief executive officer of Sterling Supply Corporation, a cleaning supply company serving laundry and textile industries, which in 1992 filed for voluntary bankruptcy under Chapter 11 of the Bankruptcy Code. This fact does not constitute a reason to deny applicant the certificate that it seeks.

4. Discussion

Applicant has demonstrated that it has the financial and business skills necessary to operate as a facilities-based reseller of telecommunications services in California. Its disclosures of a prior investigation involving one of its executives and a bankruptcy proceeding involving another executive do not constitute a disqualification for this application. No protests to the application have been filed. We will authorize the interLATA and intraLATA services that applicant seeks to provide, as set forth in our order below.

Findings of Fact

1. A notice of the filing of the application appeared in the Daily Calendar on July 9, 1997.
2. No protests have been filed.
3. 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.
4. By D.94-09-065, 56 CPUC2d 117 (1994), we authorized competitive intraLATA services effective January 1, 1995, for carriers meeting specified criteria.
5. Applicant has demonstrated that it has a minimum of \$100,000 in cash available to meet its start-up expenses and any deposits required by other telephone carriers.
6. Applicant has demonstrated that its management possesses the requisite technical experience to operate its service.
7. Applicant has submitted a draft of its initial tariffs which complies with the requirements established by the Commission.
8. 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.
9. By D.97-06-107, applicants for nondominant interexchange authority are exempt from the filing requirements of Rule 18(b) of the Rules of Practice and Procedure.
10. Exemption from the provisions of PU Code §§ 816-830 has been granted to other resellers. (See, e.g., D.86-10-007, 22 CPUC2d 42 (1986) and D.88-12-076, 30 CPUC2d 145 (1988).)
11. 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, 19 CPUC2d 206 (1985).)

Conclusions of Law

1. No hearing is required.
2. Applicant has the financial ability to provide the proposed service.

3. Applicant has made a reasonable showing of technical expertise in telecommunications.

4. Public convenience and necessity require the interLATA and intraLATA services to be offered by applicant.

5. 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 the Universal Lifeline Telephone Service (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 Teleconnect Fund (D.96-10-066, p. 88, App. B, Rule 8.G.).
- 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.).

6. Applicant is exempt from Rule 18(b).

7. Applicant should be exempted from PU Code §§ 816-830.
8. Applicant should be exempted from PU Code § 851 when the transfer or encumbrance serves to secure debt.
9. The application should be granted to the extent set forth below.
10. Because of the public interest in competitive interLATA and intraLATA 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 (CPCN) is granted to Global Link Teleco Corporation (applicant) to operate as a facilities-based reseller of interLocal Access and Transport Area (interLATA) and, to the extent authorized by Decision (D.) 94-09-065, intraLocal Access and Transport Area (intraLATA) telecommunications services offered by communication common carriers in California.

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 and intraLATA service. Applicant may not offer interLATA and intraLATA service 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 shall be effective not less than one day after filing. Applicant shall comply with the provisions in its tariffs.

b. 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 Decision (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, paragraphs 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 Services Division with the applicant's designated contract 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 interLATA service is first rendered to the public within five days after service begins and again within five days of when intraLATA service begins.

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 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 Code (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-5834-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 CPCN, unless the applicant has received the written permission of the Telecommunications Division to file or remit late.

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

19. Application 97-07-001 is closed.

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

A.97-07-001 ALJ/GEW/jac

TO: ALL INTEREXCHANGE TELEPHONE UTILITIES

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
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 California Interexchange Telephone Utilities.

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)