

SEP 25 1997

Decision 97-09-116 September 24, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Electric Lightwave, Inc.)
 (U-5377-C) to Amend Its Certificate of)
 Public Convenience and Necessity for)
 Authority to Provide Competitive Local)
 Exchange Services Within the Local)
 Exchange Service Territory of Roseville)
 Telephone Company.)

Application 97-04-061
(Filed April 30, 1997)

ORIGINAL

O P I N I O N

Electric Lightwave, Inc. (applicant) seeks an amendment to its certificate of public convenience and necessity (CPCN). Applicant requests authority to provide local exchange telecommunications services as a facilities-based carrier and reseller within the local exchange territory of Roseville Telephone Company (Roseville). Applicant also requests partial exemption from Rule 18(b) of the Commission's Rules of Practice and Procedure regarding service of the application on cities and counties in the proposed service area.

Applicant is a wholly owned subsidiary of CU Capitalcorp, which, in turn, is a wholly owned subsidiary of Citizens Utilities Company. Applicant states that by Decision (D.) Nos. 94-03-073 and 95-09-115 the Commission authorized applicant to provide interLATA and intraLATA services within California, and by D.96-02-072, authorized applicant to provide competitive local carrier (CLC) services in the service areas of Pacific Bell (Pacific) and GTE California Incorporated (GTEC). Applicant now seeks to expand its local exchange services into the area currently served by Roseville.

On June 4, 1997, Roseville filed a timely protest. Among other things, Roseville asserts that the Commission has not yet determined whether the interim rules applicable to CLC competition

in the service areas of Pacific and GTEC should also apply in the service areas of the small and mid-sized local exchange carriers (LECs), or whether additional protection may be necessary. Roseville concludes that the application cannot be approved.

On June 16, 1997, applicant filed a timely reply. Applicant argues, among other things, that its application should not be put on hold while the Commission investigates CLC service in the small and mid-sized LEC service areas, which applicant fears could take more than a year. Applicant suggests that the Commission apply the CLC interim rules applicable to CLCs offering local exchange service in the areas of Pacific and GTEC to applicant's service in Roseville's territory until the Commission completes its consideration of specific rules for the service areas of small and mid-sized LECs.

On June 19, 1997, a ruling was issued in Rulemaking (R.) 95-04-043 and Investigation (I.) 95-04-044 (proceedings into competition for local exchange service). The ruling proposed that the same rules for CLC competition in the service areas of Pacific and GTEC be extended to the areas of the mid-sized LECs (Roseville and Citizens Telecommunications Company), and solicited comments. It also established a procedure for considering CLC CPCN requests in the mid-sized LECs' service areas. The procedure is that filings are made in the form of petitions docketed in I.95-04-044, similar to the approach used for the original group of petitions filed for CLC authority in the areas of Pacific and GTEC. (See D.95-07-054.) Further, the ruling converted this application into a petition to be considered in I.95-04-044, and included the petition in the first group of petitions seeking CLC CPCN authority within the mid-sized LECs' territory.

By companion order today, we adopt the same rules for CLC competition in the mid-sized LECs' service areas as those effective in the service areas of Pacific and GTEC. (See D.97-09-115 in

R.95-04-043 and I.95-04-044.) We also affirm the procedure whereby requests for CLC authority are made by petition.

Applicant's request for authority to provide local exchange telecommunications services as a facilities-based carrier and reseller within the local exchange territory of Roseville is being considered as a petition in I.95-04-044. Therefore, this application may be closed.

Findings of Fact

1. A notice of the filing of this application appeared in the Daily Calendar on May 5, 1997.
2. One protest was filed.
3. By ruling dated June 19, 1997 in R.95-04-043 and I.95-04-044, this application was converted to a petition in I.95-04-044, and included in the first group of petitions seeking CLC CPCN authority in the service territory of the mid-sized LECs.
4. By D.97-06-107, applicants for CLC authority are exempt from Rule 18(b) of the Commission's Rules of Practice and Procedures regarding service on competitors, cities and counties.

Conclusions of Law

1. This application should be closed, and the authority requested by applicant considered as a petition in I.95-04-044.
2. Applicant is exempt from Rule 18(b).
3. The following order should be effective today to permit efficient management of the Commission's dockets.

O R D E R

IT IS ORDERED that Application 97-04-061 is closed.
This order is effective today.
Dated September 24, 1997, at San Francisco, California.

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

President P. Gregory Conlon,
being necessarily absent, did not
participate.