

Decision 97-10-007 October 9, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Valley Public Telecommunications (a sole proprietorship) for a Certificate of Public Convenience and Necessity (CPCN) to operate as a non-facilities based reseller of prepaid residential local exchange service in the Coachella Valley of Southern California.

Application 97-06-027
(Filed June 12, 1997)

ORIGINAL

O P I N I O N

Request

Valley Public Telecommunications (applicant), a sole proprietorship, seeks a certificate of public convenience and necessity (CPCN) to permit it to operate as a nonfacilities-based reseller of residential local exchange service on a prepaid basis in the Coachella Valley of Southern California.

Background

By Decision (D.) 95-07-054 (Rulemaking (R.) 95-04-043/Investigation (I.) 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 competitive local carriers (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.

Requirements

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.

A CLC reseller must also demonstrate that it has technical expertise. As part of this demonstration, applicant must submit proposed tariffs which conform to the consumer protection rules set forth in Appendix B of D.95-07-054, the rules for local exchange competition set forth in Appendix E of D.96-02-072, and the customer notification and education rules adopted in D.96-04-049.

Discussion

Applicant's demonstration of its financial ability to operate as a CLC reseller consisted of a balance sheet dated June 1, 1997, and budgeted income statements for the calendar years ended 1997 through 2001. (Exhibit II to the application.) The balance sheet shows that applicant has \$18,800 of cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up expenses. However, it does not substantiate that applicant has the minimum \$25,000 in uncommitted cash on hand or reasonably liquid for its proposed operation as required by Rule 4.B(2) of D.95-07-054.

Equally absent from the application is a demonstration of applicant's technical experience. Applicant did not submit any tariffs for its proposed operations.

Applicant's own lack of financial strength and demonstration of technical experience, in itself, is no basis for denying applicant's CPCN request. Other similarly situated applicants have requested and obtained CPCNs by providing irrevocable letters of credit or by substantiating that their proposed operations would be viable with a lower threshold amount and have supplemented their applications with proposed tariffs conforming to the Commission's Rules.

Hence, the Assigned Administrative Law Judge (ALJ) issued a July 28, 1997 ruling which provided applicant additional time, until August 25, 1997, to demonstrate that it has a minimum of \$25,000 cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up expenses and to provide proposed tariffs which conform to the Commission's rules.

As of September 17, 1997, applicant has not responded to the ALJ ruling or demonstrated that it possesses the necessary financial resources and tariffs. Absent applicant's ability to meet the financial requirement and ability to provide tariffs for its proposed operations there is no reason to consider this application. This application should be denied.

Findings of Fact

1. Applicant filed its application on June 12, 1997.
2. By prior Commission decisions, we authorized competition in providing local exchange telecommunications service within the service territories of Pacific and GTEC.
3. 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.
4. An applicant must demonstrate that it has a minimum of \$25,000 of cash or cash equivalent reasonably liquid and readily available to meet its start-up expenses.
5. Applicant's financial statement shows that it has only \$18,800 in cash reasonably liquid and readily available to meet its start-up expenses.
6. An ALJ ruling provided applicant additional time, until August 25, 1997, to demonstrate that it has a minimum of \$25,000 cash reasonably liquid and readily available for its proposed operations and possesses tariffs for its proposed operation.
7. Applicant has not demonstrated technical experience.
8. Applicant has not responded to the ALJ ruling or demonstrated that it possesses the minimum financial requirement or tariffs for its proposed operation.
9. There is no reason to keep this application open.

Conclusion of Law

The application should be denied because applicant has not demonstrated that it has the financial technical ability to provide the proposed service and has not provided tariffs for its proposed operation.

O R D E R

IT IS ORDERED that:

1. Valley Public Telecommunications (applicant) request for a certificate of public convenience and necessity (CPCN) to operate as a nonfacilities-based reseller of residential local exchange service in the Coachella Valley of Southern California is denied. This denial is without prejudice to applicant filing a subsequent new application for a CPCN at such time applicant can demonstrate that it meets the minimum requirements established for a CPCN.

2. Application 97-06-027 is closed.

This order is effective today.

Dated October 9, 1997, at San Francisco, California.

P. GREGORY CONLON
President

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