

Decision 97-11-059 November 19, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Tie Communications, Inc., for a Certificate of Public Convenience and Necessity to Provide all Forms of Resold InterLATA and IntraLATA Telecommunications Services within All LATAs within the State of California.

ORIGINAL
Application 97-06-028
(Filed June 16, 1997)

OPINION

Tie Communications, Inc. (applicant) filed an application on June 19, 1997, requesting a certificate of public convenience and necessity (CPCN) for authority to provide resold interexchange telecommunications services throughout the State of California. Appended to the application was a balance sheet that showed applicant to have negative retained earnings and current liabilities in excess of current assets.

On July 3, 1997, assigned Administrative Law Judge (ALJ) Kenney informed applicant's counsel that it appeared that the financial statements appended to the application had been audited, and if that were so, a copy of the auditor's opinion should be provided to the ALJ. The underlying purpose of the ALJ's request was to review the auditor's opinion for any concern about whether the applicant was a going concern. If no such concern was expressed by the auditor, then it could be inferred that the applicant was solvent and financially fit to be granted a CPCN.¹

On July 31, 1997, applicant's counsel informed the ALJ that an auditor's opinion was available and would be provided during the week of August 11, 1997. Subsequently, on August 14, applicant's counsel informed the ALJ that the auditor's opinion would be provided in early September. When the auditor's opinion failed to

¹ Applicant's counsel was notified of the ALJ's reason for requesting the auditor's opinion during telephone conversations on July 31 and August 14, 1997.

A.97-06-028 ALJ/TIM/jac

arrive, the ALJ notified applicant's counsel that if the auditor's opinion was not submitted by October 1, 1997, the application would be dismissed without prejudice. On September 30, 1997, applicant's counsel advised the ALJ that the auditor's opinion would not be submitted on October 1.

Under these circumstances, it is appropriate to dismiss the application for lack of prosecution.

Finding of Fact

Applicant has failed to supply information deemed necessary for review of this application.

Conclusion of Law

The application should be dismissed without prejudice to applicant's right to file again at a later time.

O R D E R

IT IS ORDERED that:

1. Application 97-06-028 is dismissed without prejudice.
2. Application 97-06-028 is closed.

This order is effective today.

Dated November 19, 1997, at San Francisco, California.

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