

FEB 4 1998

Decision 98-02-036 February 4, 1998

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

In re Application of CARIBBEAN TELEPHONE AND TELEGRAPH, INC. a/k/a THE LONG-DISTANCE COMPANY for Authority to Provide Local Exchange Service as a Nonfacilities based Competitive Local Carrier in the State of California.

Application 95-09-070  
(Filed September 1, 1995)

**ORIGINAL**

**O P I N I O N**

On September 1, 1995, Caribbean Telephone and Telegraph, Inc., also known as The Long-Distance Company (Caribbean or the Applicant), initially filed a Petition in Investigation (I.) 95-04-044 for Competitive Local Exchange Services Provider Authority offering resale and facilities-based service within the territories of Pacific Bell (Pacific) and GTE California, Inc. (GTEC).

As directed in Decision (D.) 95-07-054, issued in R.95-04-043/I.95-04-044 prospective competitive local carriers (CLCs) were to file petitions for authority by September 1, 1995, to enable us to act upon and approve said petitions in time to allow local exchange competition on facilities-basis to begin by January 1, 1996, in the territories of Pacific and GTEC.

We used the investigation docket of this proceeding to administer the initial certification of all of the eligible CLC petitions. A second group, consisting of CLC resellers, was upon approval of their petitions, permitted to begin service by March 1, 1996. Caribbean filed its petition pursuant to this process.

The Commission staff reviewed Caribbean's petition and sent Caribbean a letter on November 27, 1995, outlining various deficiencies in its filing. In response to the deficiency letter, Caribbean asked for extension of time to correct the problems. In D.95-12-057, we granted Caribbean request for extension of time to file corrections to its petition and indicated that we would consider its request with the reseller group to be

certificated effective March 1, 1996. Caribbean was ordered to file their corrections by January 15, 1996.

Although Commission staff discussed the deadline for filing corrections, Caribbean had not filed its corrections by February 9, 1996, more than three weeks after the deadline we established. We, therefore, ordered in D.96-02-072 that the petition from Caribbean be converted to an application which would be addressed outside of the Local Competition docket. The petition was converted to Application 95-09-070.

Since the issuance of D.96-02-072, Caribbean has continued to fail to provide the correction of deficiencies previously outlined in the letter from the Commission staff. Caribbean has been given ample time to provide correction of the deficiencies. Accordingly, we conclude that good cause exists to deny without prejudice the application of Caribbean for lack of prosecution.

Caribbean is free to file a new application for CPCN authority with the correction of deficiencies as previously noted. We shall consider its request if and when it makes such filing. Since Caribbean was previously included in the Mitigated Negative Declaration (MND) approved in D.95-12-057, we shall consider relying on the previous MND in evaluating any subsequent CLC CPCN filing by Caribbean. Caribbean will be expected to show, however, that its proposed project is not significantly different from that which was previously represented in the MND approved by D.95-12-057.

#### **Findings of Fact**

1. Caribbean initially filed its petition for authority to offer competitive local exchange service on September 1, 1995.
2. The Commission staff sent a letter to Caribbean on November 27, 1995, informing it of various filing deficiencies which it needed to correct in order to qualify for Commission approval of its petition.
3. Caribbean failed to correct any of the deficiencies by the deadline specified by the Commission, and Caribbean's petition was therefore converted into an application.
4. Up to the present time, Caribbean has still failed to correct any of the deficiencies previously noted by the Commission staff.

**Conclusions of Law**

1. Caribbean has had ample time to respond to the deficiencies in its filing.
2. The application of Caribbean should be denied without prejudice due to Caribbean's lack of prosecution.
3. Since Caribbean was previously included in the MND approved in D.95-12-057, we may consider relying on the previous MND in evaluating any subsequent CLC CPCN filing by Caribbean. Caribbean will be expected to show, however, that its proposed project is not significantly different from that which was previously represented in the MND approved by D.95-12-057.

**O R D E R**

**IT IS ORDERED that:**

1. The Application of Caribbean Telephone and Telegraph for a certificate of public convenience and necessity to offer competitive local exchange service is denied without prejudice.
2. Application 95-09-070 is closed.

This order is effective today.

Dated February 4, 1998, at San Francisco, California.

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