

Decision 98-04-018 April 9, 1998

APR 9 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Falcon Holding Company, L.P. for authority to provide local exchange telecommunications services.

Application 95-09-069
(Filed September 5, 1995)

ORIGINAL

O P I N I O N

On September 5, 1995, Falcon Holding Group, L.P. (Falcon) initially filed a Petition in Investigation (I.) 95-04-044 seeking authority to become a Competitive Local Exchange Services Provider offering resale and facilities-based service within the territories of Pacific Bell (Pacific) and GTE California, Inc. (GTEC) as prescribed by Decision (D.) 95-07-054, issued in R.95-04-043/I.95-04-044.

As directed in D.95-07-054, 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- and resale-basis to begin by January 1, 1996, and March 1, 1996, respectively, in the territories of Pacific and GTEC.

Falcon failed to file its petition by the required September 1 deadline. Hence, we did not include Falcon for consideration of its requested authority among the initial group of petitioners. Falcon's petition was converted to an application, and, pursuant to D.95-07-054 and D.95-12-057, was processed outside of the Local Competition docket.

The Commission staff reviewed Falcon's application and notified Falcon that its filing was deficient and that a proposed tariff must be supplied. Falcon still has not filed its draft tariff as of the date of this order. Falcon has been given ample time to provide correction of the tariff deficiency. Accordingly, we conclude that good cause exists to deny without prejudice the application of Falcon for lack of prosecution.

Falcon is free to file a new application or petition for CPCN authority as our current process warrants with the correction of the tariff deficiency previously noted. We shall consider its request if and when it makes such filing. Since Falcon 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 Falcon. Falcon 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.

A response to the application of Falcon was filed on February 13, 1996, by the County of San Luis Obispo (County) raising concerns regarding Falcon's request in light of past examples of service problems and customer complaints against Falcon in its capacity as a cable television provider. In the event that Falcon files a new petition or application for CLC authority, we will order Falcon to serve such filing on the County. We shall evaluate Falcon's request in light of relevant evidence concerning consumer complaints and service quality.

Findings of Fact

1. Falcon initially filed its petition for authority to offer competitive local exchange service on September 5, 1995.
2. Falcon failed to meet the petition-filing deadline specified by the Commission, and Falcon's petition was therefore converted into an application.
3. The Commission staff informed Falcon of tariff filing deficiencies which it needed to correct in order to receive for Commission approval of its application.
4. Up to the present time, Falcon has failed to correct the draft tariff filing deficiency previously noted by the Commission staff.

Conclusions of Law

1. Falcon has had ample time to correct the tariff deficiency in its filing.
2. The application of Falcon should be denied without prejudice due to Falcon's lack of prosecution.
3. Since Falcon 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 Falcon. Falcon 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.

4. Falcon should serve any future petition or application for CPCN authority on the County of San Luis Obispo.

O R D E R

IT IS ORDERED that:

1. The Application of Falcon Holding Group, L.P. (Falcon) for a certificate of public convenience and necessity (CPCN) to offer competitive local exchange service is denied without prejudice.

2. Falcon shall serve any future petition or application for CPCN authority on the County of San Luis Obispo.

3. Application 95-09-069 is closed.

This order is effective today.

Dated April 9, 1998, at San Francisco, California.

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