

Decision 98-07-005 July 2, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of LCI International Telecom Corp. (U-5270-C) and LCI International Management Services, Inc. for Approval of a Pro Forma Change of Control and Merger Under Section 854 of the Public Utilities Code.

Application 98-03-011
(Filed March 10, 1998)

O P I N I O N

ORIGINAL

Summary

By this decision we grant the joint application of LCI International Telecom Corp. (U-5270-C) (LCI Telecom) and LCI Management Services, Inc. (LCIM) (collectively Applicants), seeking authority for the merger of LCIM into LCI Telecom and a resulting pro forma change of control.

Notice of the filing of the application appeared in the Daily Calendar on March 11, 1998. No protests were received and no hearing is necessary.

The Parties

LCI Telecom, a Delaware corporation authorized to do business in California, is authorized by this Commission to operate as an interexchange carrier (Decision (D.) 92-06-009) and as a competitive local carrier (D.96-02-072) in California. It provides resold and facilities-based local and long distance telecommunications services to business and residential customers throughout California and the nation. It is a wholly owned subsidiary of LCIM. LCI Telecom, which has its principal office located at 8180 Greensboro Drive, Suite 800, McLean, Virginia 22102, is the sixth largest long distance telecommunications carrier in the United States based on presubscribed telephone lines as reported to the Federal Communications Commission.

LCIM, a Delaware corporation, is, in turn, a wholly owned subsidiary of LCI International, Inc. (LCI), the ultimate corporate parent for the LCI family of companies. LCIM provides management services to LCI Telecom. Neither LCI nor LCIM directly hold any California operating authority. LCIM also has its principal office located at 8180 Greensboro Drive, Suite 800, McLean, Virginia 22102.

The Transaction

Pursuant to the proposed transaction, LCI Telecom and LCIM will merge, with LCI Telecom as the surviving entity. The LCI Telecom corporate entity will not change, and there will be no change in ultimate control over LCI Telecom. The only effect of the transaction will be the elimination of LCIM as an intermediate corporation in the chain of control and LCIM's elimination from LCI's corporate structure. Thus, upon completion of the merger, LCI Telecom will be under the direct control of LCI rather than indirectly through LCIM, and LCIM will no longer exist.

Categorization

The Applicants requested that this matter be categorized as ratesetting and that no hearings were required. By Resolution ALJ 176-2988 the Commission ratified the preliminary determination that this was a ratesetting proceeding, and determined that no hearings were expected. Given the lack of protests, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-2988.

Discussion

As part of its application, LCIM requests that the requirement that it file a certified copy of its articles of incorporation and certification of authorization to conduct business in California be waived. This request is based on the fact that LCIM does not directly hold any California operating authority and subsequent

to its merger into LCI Telecom, it will cease to exist. Since LCIM will no longer exist as an entity following its merger into LCI Telecom, there appears to be no logical reason to require compliance with the filing requirement. We will, therefore, grant the Applicants request and waive that requirement.

Financial Considerations

In support of the application, the parties have submitted Securities and Exchange Commission (SEC) Form 10-K for the fiscal year ended December 31, 1996 (Appendix A to the application), and Form 10-Q for the quarter ended September 30, 1997 (Appendix B to the application), filed by LCI, the ultimate parent of both LCI Telecom and LCIM. Financial statements contained in these documents indicate that LCI has sufficient available resources to continue to cover LCI Telecom's operations as it has in the past.

Public Interest

The merger will not adversely affect LCI Telecom's customers in California. LCI Telecom's operations and tariffs will be unaffected, and customers will continue to receive the same services, on the same terms and conditions, and at the same prices as prior to the merger. Since LCIM took no active part in the day-to-day operations of LCI Telecom, and no change in the manner of LCI Telecom's operations will result from the merger, the merger logically will have no adverse effect on the public.

The application should be approved.

Findings of Fact

1. LCI Telecom and LCIM seek authority for the merger of LCIM into LCI Telecom with LCI Telecom surviving, and a resulting pro forma change of control.
2. Notice of this application appeared in the Commission's Daily Calendar on March 11, 1998.

3. There were no protests filed.
4. This matter was categorized as ratesetting in Resolution ALJ 176-2988.
5. LCI Telecom is a wholly owned subsidiary of LCIM.
6. LCIM is a wholly owned subsidiary of LCI, and provides management services to LCI Telecom.
7. LCI is the ultimate corporate parent for the LCI family of companies.
8. Neither LCI nor LCIM directly hold any California operating authority.
9. As a result of the merger, LCI Telecom will not change and there will be no change in ultimate control over LCI Telecom. The only effect of the merger will be the elimination of LCIM as an intermediate corporation in the chain of control and LCIM's elimination from LCI's corporate structure.
10. Since LCIM will no longer exist following the merger, there appears to be no reason to require it to file a certified copy of its articles of incorporation and its certification of authorization to conduct business in California.
11. Financial statements of LCI indicate it has sufficient resources to continue to cover LCI Telecom's operations as it has in the past.
12. The merger will be transparent to and have no effect upon LCI Telecom's customers, who will continue to receive the same services at the same price and under the same terms and conditions as prior to the merger.
13. The application should be approved.

Conclusions of Law

1. The requirement that LCIM file a certified copy of its articles of incorporation and certification of authorization to conduct business in California is unnecessary in this case and should be waived.
2. As a result of the merger for which approval is sought, LCI Telecom will not change and there will be no change in ultimate control over LCI Telecom.

3. Following the merger, customers of LCI Telecom will receive the same services at the same price and under the same terms and conditions as prior to the merger.

4. The only effect of the merger will be the elimination of LCIM as an intermediate corporation in the chain of control and LCIM's elimination from LCI's corporate structure.

5. LCI has sufficient financial resources to continue to cover LCI Telecom's operations as it has in the past.

6. Approval of the application for merger is not adverse to the public interest.

O R D E R

IT IS ORDERED that:

1. The application for merger of LCI Management Services, Inc.(LCIM) into LCI International Telecom Corp.(LCI Telecom) and pro forma change of control is approved.

2. LCI Telecom shall continue to provide those services authorized by its Certificate(s) of Public Convenience and Necessity under its current tariffs on file with the Commission.

3. The corporate identification number assigned LCI Telecom shall remain U-5270-C.

4. The requirement that LCIM file a certified copy of its articles of incorporation and certification of authorization to conduct business in California is waived.

A.98-03-011 ALJ/RLR/gab/bwg*

5. Application 98-03-011 is closed.

This order is effective today.

Dated July 2, 1998, at San Francisco, California.

RICHARD A. BILAS

President

P. GREGORY CONLON

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners