

**ORIGINAL**

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

Application of Convergent Communications, Inc. (U-5874-C) and Convergent Communications Services, Inc., for Approval of a Pro Forma Change of Control Under Section 854 of the Public Utilities Code.

Application 98-04-019  
(Filed April 21, 1998)

## OPINION

### 1. Summary

Convergent Communications, Inc. (Convergent) and its wholly owned subsidiary, Convergent Communications Services, Inc. (CCSI), request authority to permit Convergent to convey its certificate of public convenience and authority to CCSI to operate as an interexchange carrier and a reseller of competitive local exchange telephone services. Granted.

### 2. Nature of Application

Convergent holds authority from the Commission to operate as an interexchange carrier and as a reseller of competitive local exchange services. (See Decision (D.) 97-09-108.) CCSI is a wholly owned subsidiary of Convergent. Pursuant to a corporate restructure, Convergent proposes that CCSI will be the entity that will be offering telecommunications services in California.

Convergent states that the requested change will have no substantive effect on the personnel or operations of the California service provider. Convergent states that the information in the application filed by Convergent for its Certificate of Public Convenience and Necessity (CPCN) remains

substantially the same. The only change that will occur as a result of the transaction is that Convergent will offer services to California consumers through its subsidiary, CCSI, rather than directly. Moreover, applicant states, since Convergent has not begun to offer services in California, the corporate restructure will not affect any California consumers and will not cause public confusion.

Both Convergent and CCSI are Colorado corporations. Convergent has been authorized to offer telecommunications services in several states, including California. However, Convergent now plans to become a holding company, transferring its authority to CCSI. CCSI now is authorized to provide interexchange and local services via resale in Colorado, Iowa and Oregon, and it has a pending application in Utah.

### **3. Financial Information, Public Interest**

Based on a pro-forma balance sheet and income statement for CCSI, submitted as part of the application as a confidential exhibit (Exhibit C), applicants have shown that CCSI meets the financial requirements for a reseller of local services and a nondominant interexchange carrier.

The applicants state that this transaction will improve the organization and financial strength of Convergent and CCSI. According to the application, the corporate restructure will improve the companies' efficiency and financing ability, and will assist them in entering the California local market to provide competitive services to consumers. Because the two companies share management and operational personnel, and no material change in those areas is anticipated, CCSI will provide all of the services stated in the tariffs that are now in effect.

The proposed transaction involves only a change in corporate structure of a certified telecommunications carrier. It can be seen with certainty that the proposed transaction will have no significant effect on the environment.

#### 4. Discussion

Public Utilities (PU) Code § 854 requires Commission authorization before a utility may "merge, acquire, or control...any public utility organized and doing business in this state..." The purpose of this and related sections is to enable the Commission, before any transfer of public utility property is consummated, to review the situation and to take such action, as a condition of the transfer, as the public interest may require. (San Jose Water Co. (1916) 10 CRC 56.)

Technically, the transfer of control from Convergent to a wholly owned subsidiary, CCSI, contemplates a transfer of control. As a practical matter, however, no change in the operation of the telecommunications carrier is proposed or planned. Since Convergent has not yet begun service in California, the transfer of CPCN authority to CCSI should not be a matter of confusion to end-users.

Applicants request expedited approval of the application by the Executive Director pursuant to authority delegated to him by the Commission to grant "noncontroversial applications for authority to transfer assets or control under PU Code §§ 851-855..." (CAWC, Inc., D.87-04-017 (1987).) There have been no protests to this application, and the contemplated transfer of operating authority appears to be noncontroversial.

In Resolution ALJ 176-2992, dated May 7, 1998, the Commission preliminarily categorized this proceeding as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received.

Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-2992.

The application is granted, subject to the terms and conditions set forth below.

### **Findings of Fact**

1. Notice of this application appeared in the Commission's Daily Calendar of May 5, 1998.
2. Convergent seeks authority to transfer its CPCN to CCSI, a wholly owned subsidiary.
3. Convergent has not yet begun service in California under its operating authority.
4. CCSI meets financial and technical requirements to operate as an interexchange carrier and a reseller of competitive local exchange service.
5. There will be no change in the management or in the provision of services by CCSI.

### **Conclusions of Law**

1. The proposed transfer of operating authority is not adverse to the public interest.
2. This proceeding is designated a ratesetting proceeding; no protests have been received; no hearing is necessary.
3. The application is noncontroversial and may be granted by the Executive Director pursuant to authority delegated by the Commission.
4. The application should be approved.

**O R D E R**

**IT IS ORDERED that:**

1. On or after the effective date of this order, Convergent Communications, Inc. (Convergent), is authorized pursuant to Public Utilities Code (PU) § 854 to transfer Convergent's certificate of public convenience and necessity (CPCN) to a wholly owned subsidiary, Convergent Communications Services, Inc. (CCSI).

2. CCSI is authorized to do business under the utility identification number, U-5874-C, previously assigned to Convergent.

3. Applicants shall notify the Director of the Commission's Telecommunications Division in writing of the actual date of transfer of authority, as authorized herein, within 10 days after completion of the transfer. A true copy of the instruments of transfer shall be attached to the notification.

4. CCSI shall file a new tariff incorporating the present rates and services of Convergent into a single new tariff under the name of the transferee, CCSI.

5. CCSI shall be subject to the same terms and conditions that the Commission has placed on Convergent in granting the CPCN to operate as an interexchange carrier and a reseller of competitive local exchange service.

6. Convergent and CCSI shall make all books and records available for review and inspection upon Commission staff request.

7. Upon compliance with all of the conditions of this order, including the payment of all fees due under Public Utilities Code (PU) § 431 to the date of transfer, Convergent shall stand relieved of all future public utility obligations as an interexchange carrier and a reseller of competitive local exchange services, and its utility identification number, U-5874-C, shall be transferred to CCSI.

A.98-04-019 ALJ/GEW/avs

8. The authority granted in this order shall expire if not exercised within 12 months after the effective date of this order.

9. Application 98-04-019 is closed.

This order is effective today.

Dated Jul 13 1998, at San Francisco, California.

  
WESLEY M. FRANKLIN  
Executive Director