

Decision 98-07-062 July 23, 1998

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Communications Brokers & Consultants, Inc.
(U-5456-C) to Expand Its Current Certificate of
Public Convenience and Necessity to Include
Authorization to Provide Competitive Local
Exchange Services on a Resale Basis in California.

Application 98-04-044
(Filed April 23, 1998)

O P I N I O N

1. Summary

Communications Brokers & Consultants, Inc. (applicant) seeks authority to provide competitive local exchange service on a resale basis in California. The company currently is certificated to provide intrastate interexchange service in the state. The application is granted.

2. Background

Applicant is a California corporation with principal offices in Calabasas. It holds a certificate of public convenience and necessity (CPCN) to provide intrastate interLATA and intraLATA telecommunications services¹ as a non-dominant interexchange carrier. (See Decision (D.) 95-03-024.)

¹ California is divided into Local Access and Transport Areas (LATAs) of various sizes, each containing numerous local telephone exchanges. "IntraLATA" describes telecommunications services originating and terminating within a single LATA. "InterLATA" describes telecommunications services originating in one LATA and terminating in another.

Applicant seeks to expand its CPCN to include authority to provide resale competitive local exchange services in the service territories of Pacific Bell and GTB California Incorporated. Applicant states that it initially will provide local exchange service in Los Angeles, Ventura and Orange counties, but it requests statewide authority in order to respond quickly to changing market conditions.

3. Applicant's Qualifications

Applicant states that it possesses the required technical and financial resources to provide local exchange services on a resale basis. It has been providing resold interexchange services since 1995. It has included in its application a sample competitive local exchange tariff incorporating local competition rules. (Exhibit A.) Its management personnel, described in the application in Exhibit B, have experience dating to 1983 in numerous telecommunications companies. Applicant states that none of its managers or shareholders has been associated with a bankrupt telecommunications company or has been sanctioned by federal or state regulatory agencies.

Applicant has attached a copy of its balance sheet and income statement for 1997 showing that it possesses financial resources adequate to meet the Commission's requirement that a new competitive local exchange carrier have at least \$25,000 in unencumbered cash or equivalents. (D.95-07-054.)

Applicant estimates that it will serve approximately 50 local exchange customers by the end of its first year of expanded operation and 250 customers by the end of its fifth year. Applicant states that its rates will be competitive with the rates for similar services provided by other local exchange carriers.

4. Discussion

Competition in the provision of local exchange services was authorized by the Commission in D.95-07-054 and later decisions in Rulemaking 95-04-043/ Investigation 95-04-044 (the Local Competition Proceeding); (see, e.g.

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D.95-12-056, adopting further interim rules for local competition, and
D.96-03-020, adopting wholesale rates for resale of local exchange services.)

Applicant has shown that it possesses the technical resources to operate as a competitive local exchange carrier, and its application demonstrates sufficient financial resources for such operations. Its proposed tariff appears to conform to Commission rules, including the consumer protection rules set forth in Appendix B of D.95-07-054.

Because applicant proposes only to resell the existing services of incumbent local exchange carriers, no construction is contemplated in this application. Accordingly, we conclude that there is no possibility that the grant of the application will have an adverse impact on the environment. The proposed services are exempt from requirements of the California Environmental Quality Act.

Pursuant to D.97-06-107, non-dominant interexchange carriers and competitive local carriers are exempted from the service requirements of Rule 18(b) of the Rules of Practice and Procedure. Nevertheless, applicant states that it has served a notice of availability of this application on all parties of record in the Commission's Local Competition Proceeding. No protests to the application have been received, and the time for submission of such protests has passed.

5. Conclusion

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, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-2992.

We have reviewed applicant's filing and conclude that it conforms to our requirements for authorization to provide competitive local exchange services on

a resale basis in California, except for the deficiencies noted in Attachment B. With that qualification, the application is approved as set forth below.

Findings of Fact

1. Applicant seeks authority to resell local exchange telecommunications services, as well as the interLATA and intraLATA services it currently provides.

2. By prior Commission decisions, we authorized competition in providing local exchange telecommunications services in the service territories of Pacific Bell and GTE California Incorporated.

3. Applicant has demonstrated that it has the financial and technical resources necessary for providing local exchange service.

4. Applicant has submitted a draft of an initial tariff which complies with the requirements established by the Commission, except for the deficiencies identified in Attachment B.

5. Since no facilities are to be constructed, it can be seen with certainty that the proposed operation will not have a significant effect upon the environment.

Conclusions of Law

1. No protests to the application have been received, and no hearing is required.

2. Public convenience and necessity require the competitive local exchange service to be offered by applicant, subject to the terms and conditions set forth below.

3. Applicant is subject to:

- a. The current 2.4% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund Universal Lifeline Telephone Service Fund (PU Code § 879; Resolution T-16098, December 16, 1997);

- b. The current 0.25% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Relay Service and Communications Devices Fund (PU Code § 2881; Resolution T-16090, December 16, 1997);
 - c. The user fee provided in PU Code §§ 431-435, which is 0.11% of gross intrastate revenue for the 1998-1999 fiscal year (Resolution M-4789);
 - d. The current surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund-A (PU Code § 739.30; D.96-10-066, pp. 3-4, App. B, Rule 1.C; set by Resolution T-16117 at 0.0% for 1998, effective February 19, 1998);
 - e. The current 2.87% surcharge applicable to all intrastate service except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund-B (D.96-10-066, p. 191, App. B, Rule 6.F.); and
 - f. The current 0.05% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Teleconnect Fund (D.96-10-066, p. 88, App. B, Rule 8.G.); set by Resolution T-16165, effective August 1, 1998).
4. By D.95-12-057, as modified by D.97-01-015, competitive local exchange carriers are exempt from PU Code §§ 816-830.
5. By D.95-12-057, as modified by D.97-01-015, competitive local exchange carriers are exempt from the requirements of PU Code § 851 for the transfer or encumbrance of property whenever such transfer or encumbrance serves to secure debt.
6. The application should be granted to the extent set forth in the order below.

7. Any competitive local carrier which does not comply with our rules for local exchange competition adopted in Order Instituting Rulemaking 95-04-043 shall be subject to sanctions including, but not limited to, revocation of its certificate.

8. Because of the public interest in competitive local exchange services, the following order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. The certificate of public convenience and necessity granted to Communications Brokers & Consultants, Inc. (applicant) in Decision (D.) 95-03-024 is amended to additionally authorize applicant to operate as a reseller of competitive local exchange services, subject to the terms and conditions set forth below.

2. Applicant shall file a written acceptance of the amended certificate granted in this proceeding.

Applicant is authorized to file with this Commission tariff schedules for the provision of competitive local exchange service. Applicant may not offer competitive local exchange services until tariffs are on file. Applicant's initial filing shall be made in accordance with General Order (GO) 96-A, excluding §§ IV, V, and VI, and must include a satisfactory correction of each deficiency listed in Attachment B in this decision. The tariff shall be effective not less than one day after tariff approval by the Commission's Telecommunications Division. Applicant shall comply with the provisions in its tariffs.

4. Applicant is a competitive local exchange carrier (CLC). The effectiveness of its future CLC tariffs is subject to the schedules set forth in Appendix C, Section 4.E of Decision (D.) 95-12-056:

"E. CLCs shall be subject to the following tariff and contract filing, revision and service pricing standards:

- "(1) Uniform rate reductions for existing tariff services shall become effective on five (5) working days' notice. Customer notification is not required for rate decreases.
- "(2) Uniform major rate increases for existing tariff services shall become effective on thirty (30) days' notice to the Commission, and shall require bill inserts, or first class mail notice to customers at least 30 days in advance of the pending rate increase.
- "(3) Uniform minor rate increases, as defined in D.90-11-029, shall become effective on not less than (5) working days' notice to the Commission. Customer notification is not required for such minor rate increases.
- "(4) Advice letter filings for new services and for all other types of tariff revisions, except changes in text not affecting rates or relocations of text in the tariff schedules, shall become effective on forty (40) days' notice.
- "(5) Advice letter filings revising the text or location of text material which do not result in an increase in any rate or charge shall become effective on not less than five (5) days' notice to the Commission."
- "(6) Contracts shall be subject to GO 96-A rules for NDIECS, except interconnection contracts.
- "(7) CLCs shall file tariffs in accordance with PU Code § 876."

5. Applicant may deviate from the following provisions of GO 96-A:

(a) paragraph II.C.(1)(b), which requires consecutive sheet numbering and prohibits the reuse of sheet numbers; and (b) paragraph II.C.(4), which requires that "a separate sheet or series of sheets should be used for each rule." Tariff filings incorporating these deviations shall be subject to the approval of the Commission's Telecommunications Division. Tariff filings shall reflect all fees and surcharges to which applicant is subject, as reflected in Conclusion of Law 4.

6. Applicant shall file as part of its initial tariff, after the effective date of this order and consistent with Ordering Paragraph 3, a service area map.

7. Prior to initiating service, applicant shall provide the Commission's Consumer Services Division with the applicant's designated contact person(s) for purposes of resolving consumer complaints and the corresponding telephone number. This information shall be updated if the name or telephone number changes, or at least annually.

8. Applicant shall notify this Commission in writing of the date that local exchange service is first rendered to the public. This notice shall be provided no later than five days after local exchange service first begins.

9. Applicant shall keep its books and records in accordance with the Uniform System of Accounts specified in Title 47, Code of Federal Regulations, Part 32.

10. In the event the books and records of the applicant are required for inspection by the Commission or its staff, applicant shall either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to applicant's office.

11. Applicant shall file an annual report, in compliance with GO 104-A, on a calendar-year basis using the information request form developed by Commission staff contained in Attachment A to this decision.

12. Applicant shall ensure that its employees comply with the provisions of Public Utilities (PU) Code § 2889.5 regarding solicitation of customers.

13. The amendment granted and the authority to render service under the rates, charges, and rules authorized herein will expire if not exercised within 12 months after the effective date of this order.

14. The corporate identification number assigned to applicant, U-5456-C is unchanged, and shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

15. Within 60 days of the effective date of this order, applicant shall comply with PU Code § 708, Employee Identification Cards, and notify the Director of the Telecommunications Division in writing of its compliance.

16. If applicant is 90 days or more late in filing an annual report or in remitting the fees listed in Conclusion of Law 4, the Commission's Telecommunications Division shall prepare for Commission consideration a resolution that revokes the applicant's certificate of public convenience and necessity, unless the applicant has received the written permission of the Commission's Telecommunications Division to file or remit late.

17. Applicant shall comply with the consumer protection rules set forth in Appendix B of D.95-07-054.

18. Applicant shall comply with the Commission's rules for local exchange competition in California that are set forth in Appendix C of D.95-12-056, including the requirement that CLCs shall place customer deposits in a protected, segregated, interest-bearing escrow account subject to Commission oversight.

19. Applicant shall comply with the customer notification and education rules adopted in D.96-04-049 regarding the passage of calling party number.

20. The application is granted, as set forth above.

21. This proceeding is closed.

This order is effective today.

Dated July 23, 1998, at San Francisco, California.

RICHARD A. BILAS

President

P. GREGORY CONLON

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners

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TO: ALL COMPETITIVE LOCAL CARRIERS

Article 5 of the Public Utilities Code grants authority to the California Public Utilities Commission to require all public utilities doing business in California to file reports as specified by the Commission on the utilities' California operations.

A specific annual report form has not yet been prescribed for California Competitive Local Carriers. However, you are hereby directed to submit an original and two copies of the information requested in Attachment A no later than March 31st of the year following the calendar year for which the annual report is submitted.

Address your report to:

**California Public Utilities Commission
Financial Reports, Room 3251
505 Van Ness Avenue
San Francisco, CA 94102-3298**

Failure to file this information on time may result in a penalty as provided for in §§ 2107 and 2108 of the Public Utilities Code.

If you have any question concerning this matter, please call (415) 703-1961.

ATTACHMENT A

Information Requested of California Interexchange Telephone Utilities and Competitive Local Carriers.

To be filed with the California Public Utilities Commission, 505 Van Ness Avenue, Room 3251, San Francisco, CA 94102-3298, no later than March 31st of the year following the calendar year for which the annual report is submitted.

1. Exact legal name and U # of reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (e.g., corporation, partnership, sole proprietorship, etc.).

If incorporated, specify:

- a. Date of filing articles of incorporation with the Secretary of State.
- b. State in which incorporated.
6. Commission decision number granting operating authority and the date of that decision.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. A list of all affiliated companies and their relationship to the utility.
State if affiliate is a:
 - a. Regulated public utility.
 - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.
11. Income statement for California operations for the calendar year for which information is submitted.

(END OF ATTACHMENT A)

ATTACHMENT B

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List of deficiencies in tariffs filed by Communication Brokers & Consultants, Inc., in A. 98-04-044 to be corrected in Tariff Compliance Filing.

1. Include sample forms.
2. Page 5-T: Need to include a service area map showing only the area where the company intends to provide service or the exchange boundaries of Pacific Bell and GTEC.
3. Sheet 34-T: Need to revise the proposed tariff to reflect the requirements of Appendix B, rule 15 which addresses customer requests for blocking access to 900 and 976 information services.
4. Per D. 95-12-057, the tariff must be revised to state which provider the company will use to administer the Deaf and Disabled Equipment Distribution Program.

(END OF ATTACHMENT B)