

ALJ/KOT/tcg *

Decision 98-07-084 July 23, 1998

Mailed 7/23/98

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Voice Telephone Company for a Certificate of Public Convenience and Necessity to Operate as a Reseller of Telephone Services Within the State of California.

Application 95-12-056
(Filed December 18, 1995)

OPINION DISMISSING APPLICATION

Summary

This application is dismissed in light of the applicant's failure to proceed.

Background

Review of the application, where the applicant seeks authority to resell telephone services in California, revealed several deficiencies. In addition, the applicant acknowledged that it had been marketing debit cards in California without authority, starting at least one year before filing this application at the Commission. Several months passed during which the applicant was providing additional necessary information.¹

Toward the end of 1996 (roughly one year after filing of the application), the applicant's Chief Executive Officer wrote to Commission staff. This letter stated that the applicant "is currently in its final stage of negotiating with an investment group in North Carolina to purchase our company.... Once we have consummated this agreement, I will have a representative from the investment group call you to confirm."

¹ Three rulings were issued in order to elicit this information.

By letter dated December 17, 1996, "Delcon Investment Group, Inc." (Delcon) represented that it had bought a "substantial interest" in the applicant and that "consummation of the venture is scheduled for early 1997," at which time Delcon expected to assume management of the "financial affairs of this new venture." Delcon acknowledged that the applicant "had problems in meeting its financial obligations in the past," and invited the applicant's creditors to send "a letter and invoice verifying what each is owed and the amount. This will help facilitate a payment schedule by January 10, 1997."

Subsequently, Telecommunications Division staff contacted Delcon regarding the present application. On or about February 5, 1997, Delcon indicated that it had withdrawn its offer to acquire the applicant.

The applicant failed to communicate further regarding its intentions. By letter dated May 26, 1998, the Director of the Telecommunications Division asked the applicant whether it "still desires certification. If so, my staff will discuss with you what is required to complete the application. If not, [you] should ask to withdraw the application...." This letter was returned by the Postal Service as undeliverable. An attempt to reach the applicant by phone revealed that its phone had been disconnected, with no indication of a new number.

Discussion

In light of the facts summarized, it is reasonable to assume that the applicant has ceased operating and abandoned this application. However, if the applicant or its principals are providing unauthorized telecommunications services within California, they should be directed to immediately cease and desist such provision. It is also reasonable to direct that, if the applicant or its principals later seek authority to provide telecommunications services in California, a satisfactory explanation of the abandonment of this application and showing of financial fitness be forthcoming.

Finding of Fact

The applicant has abandoned this application under circumstances that cast doubt on its fitness to provide telecommunications services in California.

Conclusions of Law

1. The application should be dismissed with prejudice and the proceeding should be closed.
2. If the applicant or its principals are providing unauthorized telecommunications services, by debit card or other means, within California, they should be directed to immediately cease and desist such provision.
3. If the applicant or its principals later seek authority to provide telecommunications services in California, a satisfactory explanation of the abandonment of this application and showing of financial fitness should be forthcoming.
4. This order should take effect immediately in order to resolve the uncertain status of this stale application.

O R D E R

IT IS ORDERED that:

1. The applicant and its principals shall immediately cease and desist any provision, within California, of telecommunications services except by authority of this Commission.

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2. The application is dismissed with prejudice and 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