

Mailed 9/3/98

Decision 98-09-033 September 3, 1998

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of American Telco, Inc.
d/b/a Texas American Telco (U-5608-C)
and Dobson Wireline Company to
transfer Control of American Telco, Inc.
to Dobson Wireline Company.

Application 98-06-030
(Filed June 16, 1998)

OPINION

Request

By this application, Applicants American Telco, Inc. (ATI), qualified to do business in California as Texas American Telco, and Dobson Wireline Company (DWC) seek authority for DWC to acquire control of ATI.

The application has been filed pursuant to Public Utilities (PU) Code § 854. Because none of the parties has gross annual California revenue exceeding \$500 million, the provisions of PU Code § 854 (b) and § 854 (c) do not apply.

Notice of this application appeared in the Commission's Daily Calendar on June 23, 1998. No protest were received: therefore, a public hearing is not necessary.

Concurrent with their joint filing, Applicants filed a motion for a limited protective order to place their financial statements and stock purchase agreement submitted as Exhibits 3, 4, and 5 to the application under seal. No opposition was filed. This motion was subsequently granted, pursuant to an Administrative Law Judge ruling on July 6, 1998.

The Parties

ATI, a privately owned Texas Corporation, is certificated by this Commission to provide resold inter-Local Access and Transport Area (inter-LATA) and intra-Local Access and Transport Area (intra-LATA) telecommunications services throughout California.

California is divided into ten LATAs of various sizes, each containing numerous local telephone exchanges. "Inter-LATA" describes services, revenues, and functions that relate to telecommunications originating in one LATA and terminating in another. "IntraLATA" describes services, revenues, and functions that relate to telecommunications originating and terminating within a single LATA.

The owners of ATI¹ also own all of the outstanding stock of American Telco Network Services, Inc. (ATNS), an unregulated entity that maintains telecommunications equipment. ATI's principal office is located at 100 Waugh Drive, Suite 200, Houston, Texas 77077.

DWC, an Oklahoma corporation, is a holding company with subsidiaries that provide local and interexchange telecommunications services in Oklahoma and Texas. DWC, itself, does not operate as a public utility within California or any other state. DWC's principal office is located at 13439 North Broadway Extension, Suite 200, Oklahoma City, Oklahoma 73114.

¹ Ronald W. Henriksen, Russell C. Henriksen, Linda Henriksen Hughes, Betty Henriksen Caldwell, the Estate of Vernon R. Henriksen, the Ronald W. Henriksen "A" Trust, Ronald W. Henriksen "B" trust, the J. Nes Kirneh Trust, the L.K. Hughes "M" Trust, and the L.K. Hughes "A" Trust.

The Transaction

Pursuant to a March 26, 1998 stock purchase agreement submitted under seal as Exhibit 5, DWC will acquire all of the issued and outstanding stock of ATI and ATNS, from its current shareholders for the purchase price of \$130,000,000. The portion of the purchase price allocable to ATI is determined by subtracting the net book value of ATNS as reflected on its closing date balance sheet from the total purchase price. ATI's stock consists of 100,000 shares of Class A and 900,000 shares of Class B common stock. As a result of the stock purchase, ATI will become a wholly owned subsidiary of DWC.

Applicants entered into the proposed transaction because the owners of ATI desire to pursue other and different business opportunities which the sale of ATI would facilitate and, DWC seeks to expand its market into areas where the company currently does not have a presence.

Categorization

Applicants have requested that this matter be categorized as ratesetting and that no hearings are necessary. By Resolution ALJ 176-2996, dated July 2, 1998, the Commission preliminarily determined that this was a ratesetting proceeding, and determined that no hearings were expected. With no filed protests there is no reason to hold a public hearing and no reason to change the preliminary determinations made in Resolution ALJ 176-2996.

Financial Consideration

In support of the application, Applicants have submitted financial statements under seal as Exhibits 3 and 4. The financial statements indicate that DWC has sufficient available resources to acquire and operate ATI.

Public Interest and Environmental Assessment

DWC included information on its key officers to demonstrate that it has the technical expertise, as shown in Exhibit 2 to the application. ATI will retain its Certificate of Public Convenience and Necessity and will continue to provide service to its customers under currently existing rates, terms, and conditions. The change in control will be transparent to ATI's customers.

The application involves only a proposed change in control and operation of an existing certificated nondominant telecommunications carrier. Accordingly, there is no possibility that the transaction contemplated herein may have any significant effect on the environment. This application should be approved.

Findings of Fact

1. DWC seeks to acquire control of ATI through the purchase of all issued and outstanding stock of ATI, pursuant to PU Code § 854.
2. Notice of this application appeared in the Commission's Daily Calendar on June 23, 1998.
3. No protest to the application have been filed.
4. A public hearing is not necessary.
5. This matter was categorized as ratesetting in Resolution ALJ 176-2996.
6. It can be seen with certainty that the proposed transfer will not have an adverse impact on the environment.
7. The change in control will be transparent to and have no effect upon ATI'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 change in control.
8. Public convenience and necessity require the granting of this application, to be effective on the date signed.

Conclusion of Law

The application should be granted to the extent provided in the following order.

O R D E R

IT IS ORDERED that:

1. Dobson Wireline Company (DWC) is authorized to acquire control of American Telco, Inc (ATI) in accordance with the terms described in the application.
2. DWC shall not exercise the authority granted in Ordering Paragraph 1 or begin to provide interLATA and intraLATA telecommunications services in California until it has filed with the Telecommunications Division Director revised tariffs to reflect the change of control granted in this order.
3. ATI and DWC shall jointly notify the Telecommunications Director in writing of the actual transfer date as authorized herein, within 10 days after the transfer. A true copy of the transfer shall be attached to the notification.
4. ATI shall be responsible for fees and surcharges applicable to fund the Universal Lifeline Telephone Service (PU Code § 879; Resolution T-16098, December 16, 1997); California Relay Service and Communications Devices fund (PU Code § 2881; Resolution T-16090, December 16, 1997); Commission User Fee (Resolution M-4786); the California High Cost Fund-A (PU Code § 739.30; Resolution T-16117, effective February 19, 1998); California High Cost Fund-B (D.96-10-066), and the California Teleconnect Fund (D.96-10-066), including any fees and surcharges which ATI may not have yet collected.
5. The U-5608-C Corporate identification number assigned to ATI shall continue to be used by ATI, which shall be included in all original filings with the Commission and in the titles of other pleadings filed in existing cases.

6. Applicants financial statements and stock purchase agreement placed under seal pursuant to a July 6, 1998 Administrative Law Judge ruling shall remain under seal for one year from today unless Applicants make a timely request for an extension of confidential treatment with good cause shown. The motion shall be filed no later than 30 days before the expiration of this ordering paragraph.

7. The application is granted as set forth above and the authority granted shall expire if not exercised within one year of the effective date of this order.

8. Application 98-06-030 is closed.

This order is effective today.

Dated September 3, 1998, at San Francisco, California.

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