

ALJ/JAR/mrj \*

Mailed 10/22/98

Decision 98-10-046 October 22, 1998

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

In the Matter of the Application of Tel-Save, Inc. of Pennsylvania d/b/a The Phone Company for Authority to Operate as a Resale Provider of Local Exchange Service within the State of California (U-5535-C).

Application 96-12-050  
(Filed December 20, 1996)

**ORDER ON PETITION FOR MODIFICATION**

**ORIGINAL**

On August 21, 1998, the Consumer Services Division (CSD), American Business Alliance (ABA), and Tel-Save, Inc. of Pennsylvania, dba The Phone Company (Tel-Save),<sup>1</sup> jointly filed a petition for modification of Decision (D.) 98-07-020. The decision granted Tel-Save a Certificate of Convenience and Public Necessity (CPCN) to operate as a facilities-based and resale competitive local carrier subject to the terms of a Settlement Agreement and other terms and conditions. The agreement, between Tel-Save, CSD, and ABA, provided for immediate restitution to all affected California customers who had complained to their local exchange carrier or the Commission about ABA unlawfully switching their presubscribed long distance service. Tel-Save had acquired substantially all of ABA's assets, including marketing operations, in December 1996.

Under a term of the adopted Settlement Agreement, ABA, who obtained its CPCN to resell interLATA and intraLATA services in California in May 1996, agreed to voluntarily surrender the CPCN. The Parties note that D.98-07-020 did not provide for Commission approval and acceptance of ABA's surrender of its

---

<sup>1</sup> Collectively, the Parties.

CPCN, and request that we modify the decision in order to obviate the filing of an application and opening of a new docket to carry out this ministerial task. We agree that modifying D.98-07-020 is a simpler and more efficient means of securing the surrender of ABA's CPCN. Therefore, we shall grant the Parties' petition.

#### **Findings of Fact**

1. Under a term of the Settlement Agreement adopted in D.98-07-020, ABA agreed to voluntarily surrender its CPCN.
2. D.98-07-020 did not provide for Commission approval and acceptance of the surrender of ABA's CPCN.
3. Modifying D.98-07-020 is a simpler and more efficient means of securing the surrender of ABA's CPCN than the filing of an application and opening of a new docket to carry out this ministerial task.
4. There have been no protests to the petition for modification.

#### **Conclusions of Law**

1. The Parties' petition for modification should be granted.
2. For administrative efficiency, the order should be effective immediately.

#### **IT IS ORDERED that:**

1. The Petition to Modify Decision (D.) 98-07-020, jointly filed by the Consumer Services Division, American Business Alliance, and Tel-Save, Inc. of Pennsylvania, dba The Phone Company, is granted, as stated below.
2. In the Findings of Fact at page 10, the following text shall be inserted as paragraph 6(a):

"Pursuant to such all-party settlement, ABA shall voluntarily surrender to the Commission its CPCN granted by D.96-05-056 (dated May 22, 1996)."

3. In the Conclusions of Law at page 12, the following text shall be inserted as paragraph 1(a):

"ABA's voluntary surrender of its CPCN, a term and condition of the all-parties' settlement, should be approved and accepted by the Commission."

4. In the Order at page 15, the following text shall be inserted as paragraph 2(a):

"The Commission hereby approves and accepts ABA's voluntary surrender of its CPCN to provide long distance telephone service in California. ABA's CPCN granted in D.96-05-056 is hereby cancelled."

5. Application 96-12-050 is closed.

This order is effective today.

Dated October 22, 1998, at San Francisco, California.

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