

Decision 00-02-029 February 8, 2000

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

Joint Application of Empire One  
Telecommunications, Inc. and EOT Acquisition  
Corporation for approval of the Transfer of  
Empire One's Assets and Assignment of Empire  
One's Certificates of Public Convenience and  
Necessity to EOT

Application 99-12-022  
(Filed December 15, 1999)

**OPINION**

**Summary**

This decision grants the joint application of Empire One Telecommunications, Inc. (Empire) and EOT Acquisition Corporation (EOT) for approval for EOT to acquire the assets and the certificates of public convenience and necessity (CPCNs) of Empire. After the merger of Empire and EOT, EOT will change its name to Empire One Telecommunications, Inc. The resulting entity will have the same name as Empire, but it will be a different entity. There will be no interruption of service, and no change in the rates or terms and conditions of service to customers.

**Parties to the Transaction**

Empire is a New York corporation authorized to do business in California. Its principal place of business is 254 West 31<sup>st</sup> Street, Third Floor, New York, New York 10001. By Decision (D.) 97-02-031 and D. 97-06-099 Empire was granted CPCNs to operate in California as an interexchange and as a local exchange service reseller (U-5725-C), respectively.

EOT is a Delaware corporation. Its principal place of business is 1600 Wilson Boulevard, Suite 1008, Arlington, Virginia 22209.

### **Procedural Background**

In Resolution ALJ 176-3030, dated January 6, 2000, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Therefore, a public hearing is not necessary, and it is not necessary to alter the preliminary determinations.

This is an uncontested matter in which the decision grants the requested relief. Therefore, pursuant to Section 311(g)(2) of the Public Utilities Code, the otherwise applicable 30-day period for public review and comment is being waived.

### **Proposed Transaction**

The transaction will take place as follows. Empire will merge into EOT. EOT will be the surviving entity. EOT will then change its name to Empire One Telecommunications, Incorporated. EOT is wholly owned by Sonus Communications Holdings, Inc., a Delaware corporation.

### **Discussion**

In a situation where a company which does not possess a CPCN desires to acquire control of a company which does possess a CPCN, we will apply the same requirements as in the case of an applicant seeking a CPCN to exercise the type of authority held by the company being acquired. Since Empire possesses a CPCN to act as a reseller of local and interexchange telecommunications services within California, we will apply the requirements for such authority to EOT.

The Commission has established two major criteria for determining whether a CPCN should be granted. An applicant who desires to act as a reseller

of local and interexchange service must demonstrate that it has a minimum of \$25,000 in cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up costs. In addition, the applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business.

EOT, as part of this application, provided a bank statement that demonstrates that it has sufficient resources to meet our financial requirements. EOT also provided information on its management that demonstrates that it has sufficient knowledge and experience to satisfy our requirements.

We will grant the application.

### **Findings of Fact**

1. Empire and EOT seek approval for EOT to acquire Empire and Empire's CPCNs authorizing it to act as a reseller of local and interexchange telecommunications services within California.
2. EOT has sufficient financial resources to meet the Commission's requirements to resell local and interexchange services..
3. EOT possesses the necessary technical expertise required by the Commission.
4. After the acquisition of control, EOT will change its name to Empire One Telecommunications, Incorporated.
5. The acquisition of Empire by EOT will not have an adverse impact on the public interest.
6. Notice of this application appeared on the Commission's Daily Calendar on December 17, 1999.
7. There were no protests to this application.
8. No hearings are necessary.

9. The Executive Director may grant noncontroversial applications by nondominant telecommunications carriers for authority to transfer assets or control under Sections 851-854 of the Public Utilities Code.

**Conclusions of Law**

1. The Commission will apply the same requirements to a request for approval of an agreement to acquire control of a reseller of local and interexchange telecommunications services within California as it does to an applicant for authority to provide such services.

2. EOT meets the Commission's requirements for the issuance of a CPCN to provide such services.

3. The acquisition of EOT by Empire is not adverse to the public interest.

4. This application is noncontroversial and should be granted by the Executive Director.

5. In order to avoid delaying this transaction, the approval of the application should be made effective immediately.

**O R D E R**

**IT IS ORDERED** that:

1. The joint application of Empire One Telecommunications, Inc. (Empire), and EOT Acquisition Corporation (EOT), requesting approval of the acquisition of the assets and Certificates of Public Convenience and Necessity of Empire by EOT is approved.

2. Following the transaction, EOT will change its name to Empire One Telecommunications, Inc.

3. This application is closed.

This order is effective today.

Dated February 8, 2000, at San Francisco, California.

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN  
Executive Director