

Decision 99-06-098 June 30, 1999

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

Joint Application of Madison Dearborn Capital Partners III, L.P., and Dakota Services, Ltd., for Approval of Transfer of Control.

Application 99-05-036  
(Filed May 18, 1999)

**OPINION**

**1. Summary**

Applicants seek approval under Section 854 of the Public Utilities Code of a series of transactions that will transfer control of Dakota Services, Ltd. (Dakota Services), a nondominant telecommunications carrier, to Madison Dearborn Capital Partners III, L.P. (Madison Dearborn), a private equity firm with extensive investments in telecommunications companies. The application is unopposed. The application is granted.

**2. Description of Applicants**

Dakota Services, a privately held Wisconsin corporation, is a national facilities-based competitive local carrier specializing in high-speed data transmission and other advanced telecommunications services. It is authorized to provide such services in 20 states, including California. In California, Dakota Services was authorized in Decision 98-12-083 (December 17, 1998) to provide statewide local toll and long distance services. However, the company has not begun offering its services in California and, therefore, has no California customers.

Madison Dearborn, a Delaware limited partnership, is a private equity fund with total equity commitments of \$2.2 billion. The partnership is an affiliate of Madison Dearborn Partners, Inc., which has financed and sponsored a number

of telecommunications companies, including Allegiance Telecom, Inc., and Focal Communications Corporation. The principals associated with Madison Dearborn also have managed equity investments in Nextel Communications, Inc.; Paging Network, Inc.; Omnipoint Corporation; Clearnet Communications, Inc.; and Wireless One Network.

Madison Dearborn states that it has committed \$45 million to its investment in Dakota Services.

### **3. Nature of Application**

The proposed transfer of control will be accomplished through a series of transactions, including the merger of Dakota Services into a wholly owned subsidiary of @Link Holdings, a Delaware holding company that will be majority owned by Madison Dearborn. Immediately following the merger, Dakota Services will change its name to "@Link Networks, Inc." Dakota Services will notify current customers of the name change and continue to provide service under existing arrangements and pursuant to the certification granted by this Commission.

Applicants state that there will be no change in the rates or terms and conditions of service of Dakota Services. They state that there will be no change in the management team that currently directs Dakota Services.

Applicants state that Madison Dearborn has the financial qualifications to control Dakota Services, and Dakota Services will continue to operate with its own technical and managerial support. Madison Dearborn's balance sheet shows total assets of about \$550 million. Dakota Services in 1998 had total assets of about \$8 million.

### **4. Public Interest**

Applicants state that the transactions will serve the public interest in promoting competition by allowing Dakota Services access to Madison

Dearborn's financial resources. Applicants state that the resulting corporate structure and improved financial condition are expected to enhance Dakota Services' operational efficiency, as well as its long-term financial viability.

Applicants in their application have attached copies of their financial statements, and they have attached a copy of their proposed articles of merger.

## **5. Discussion**

Pub. Util. Code § 854 requires Commission authorization before a utility may "merge, acquire, or control...any public utility organized and doing business in this state...." The purpose of this and related sections is to enable the Commission, before any transfer of public utility property is consummated, to review the situation and to take such action, as a condition of the transfer, as the public interest may require. (San Jose Water Co. (1916) 10 CRC 56.)

The proposed transfer of control here promises improved products and services for California consumers. No changes in the existing services or management of Dakota Services of the California carriers are proposed. Madison Dearborn has the financial qualifications necessary to support the Dakota Services operation.

There have been no protests to this application, and the contemplated transfer of control appears to be noncontroversial. Applicants request expedited approval of the application. Expedited approval may be granted by the Executive Director pursuant to authority delegated to him by the Commission to grant "noncontroversial applications for authority to transfer assets or control under [Pub. Util.] Code §§ 851-855..." (CAWC, Inc., Decision (D.) 87-04-017 (1987).)

In Resolution ALJ 176-3016, dated June 3, 1999, the Commission preliminarily categorized this proceeding as ratesetting, and preliminarily determined that hearings were not necessary. Based on the record, we conclude

that a public hearing is not necessary, nor is it necessary to alter the preliminary determination in ALJ 176-3016.

The application is granted, subject to the terms and conditions set forth below.

### **Findings of Fact**

1. Notice of this application appeared in the Commission's Daily Calendar of May 20, 1999.

2. Dakota Services and Madison Dearborn seek authority pursuant to Pub. Util. Code § 854 of a series of transactions that will transfer control of Dakota Services to Madison Dearborn.

3. Dakota Services is a national facilities-based competitive local carrier specializing in high-speed data transmission; it provides services in 20 states, including California.

4. Madison Dearborn is a private equity fund with financial interest in numerous telecommunications companies.

5. There will be no change in current services or rates provided by Dakota Services as a result of the transfer of control.

### **Conclusions of Law**

1. The proposed transfer of control is not adverse to the public interest.

2. This proceeding is designated a ratesetting proceeding; no protests have been received; no hearing is necessary.

3. The application is noncontroversial and may be granted by the Executive Director pursuant to authority delegated by the Commission.

4. The application should be approved.

**O R D E R**

**IT IS ORDERED** that:

1. Madison Dearborn Capital Partners III, L.P. (Madison Dearborn) and Dakota Services, Ltd. (Dakota Services) are authorized pursuant to Section 854 of the Public Utilities Code to enter into the agreement and plan of merger, as more fully described in the application and its exhibits, by which Madison Dearborn will acquire control of Dakota Services.
2. Applicants shall notify the Director of the Commission's Telecommunications Division in writing of the transfer of authority, as authorized herein, within 10 days of the date of consummation of such transfer. A true copy of the instruments of transfer shall be attached to the notification.
3. Applicants shall file new tariffs incorporating any changes in name, rates, services and management authorized in the transfer transaction.
4. Madison Dearborn and Dakota Services shall make all books and records available for review and inspection upon Commission staff request.
5. Application 99-05-036 is closed.

This order is effective today.

Dated June 30, 1999, at San Francisco, California.

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN  
Executive Director