

Decision 99-10-053 October 21, 1999

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

In Re Application of Comm South Companies, Inc. and Topp Telecom, Inc. For Approval of Transfer of Control.

Application 99-07-037  
(Filed July 27, 1999)

**OPINION**

**Summary**

This decision grants the joint application of Comm South Companies, Inc. (CSC) and Topp Telecom, Inc. (Topp) for approval for Topp to acquire 100% of the outstanding common stock of CSC. This results in CSC becoming a wholly-owned subsidiary of Topp.

**Parties to the Transaction**

CSC is a Texas corporation authorized to do business in California. Its principal place of business is 6830 Walling Lane, Dallas, Texas 75231. By Decision (D.) 98-03-025, CSC was granted a certificate of Public Convenience and Necessity (CPCN) to operate in California as a local exchange service reseller (U-5943-C).

Topp is a Florida corporation. Its principal place of business is 8390 N. W. 25<sup>th</sup> Street, Miami, Florida 33122. It is a cellular reseller operating throughout the U.S. and the U.S. Virgin Islands.

**Procedural Background**

In Resolution ALJ 176-3021, dated August 5, 1999, 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 Pub. Util. Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Proposed Transaction**

The transaction will take place as follows. Topp will purchase 100% of the common stock of CSC. As a result, CSC will become a wholly-owned subsidiary of Topp. CSC will continue to operate under its current name and tariffs.

### **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 CSC possesses a CPCN to act as a reseller of local exchange telecommunications services within California, we will apply the requirements for such authority to Topp.

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 exchange 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.

Topp, as part of this application, provided an audited financial statement that demonstrates that it has sufficient resources to meet our financial requirements.

The current management of CSC will be involved in the management of CSC until the end of 1999 as consultants. In addition, Topp provided information, on the person who will be responsible for the day-to-day operations of CSC, that demonstrates that Topp has sufficient knowledge and experience to satisfy our requirements.

We will grant the application.

### **Findings of Fact**

1. CSC and Topp seek approval for Topp to acquire 100% of the outstanding common stock of CSC such that CSC, the holder of a CPCN authorizing it to act as a reseller of local exchange telecommunications services within California, will become a wholly-owned subsidiary of Topp. Topp will not acquire the CPCN held by CSC, and CSC will continue to provide, under its current name and tariffs, the services authorized by its CPCN.

2. Topp has sufficient financial resources to meet the Commission's requirements for a local exchange reseller.

3. Topp possesses the necessary technical expertise required by the Commission.

4. The acquisition of control of CSC by Topp will not have an adverse impact on the public interest.

5. Notice of this application appeared on the Commission's Daily Calendar on July 29, 1999.

6. There were no protests to this application.

7. No hearings are necessary.

### **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 exchange

telecommunications services within California as it does to an applicant for authority to provide such services.

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

3. The application is not adverse to the public interest.

4. The application should be granted and made effective immediately.

5. After the acquisition of control, CSC will be a wholly-owned subsidiary of Topp, and will continue to exercise, under its current name and tariffs, the authority granted by its CPCN.

## **O R D E R**

**IT IS ORDERED** that:

1. The joint application of Comm South Companies, Inc. (CSC), and Topp Telecom, Inc. (Topp), requesting approval of the acquisition of 100% of the outstanding common stock of CSC is approved.

2. Following the transaction, CSC will become a wholly-owned subsidiary of Topp.

3. CSC will continue to provide, under its own name and tariffs, the services authorized by its Certificate of Public Convenience and Necessity (CPCN).

4. CSC's CPCN is not acquired by Topp.
5. This application is closed.

This order is effective today.

Dated October 21, 1999, at San Francisco, California.

RICHARD A. BILAS  
President  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
JOEL Z. HYATT  
CARL W. WOOD  
Commissioners