

Decision 99-11-002 November 4, 1999

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

In the Matter of the Application of Alliance Network, Inc., a Delaware Corporation, for a Certificate of Public Convenience and Necessity to Provide InterLATA and IntraLATA Telecommunications Service in California as a Switchless Reseller.

Application 99-07-013  
(Filed July 6, 1999)

**OPINION**

**I. Summary**

Alliance Network, Inc., a Delaware corporation, doing business in California as "C2K, Inc." or "C2K" (applicant) seeks a certificate of public convenience and necessity (CPCN) under Pub. Util. Code § 1001 for authority to provide resold interexchange telecommunications services in California as a non-dominant interexchange carrier. There has been one protest to the application. By this decision, we grant the authority requested, subject to the terms and conditions set forth below.

**II. Background**

By Decision (D.) 84-01-037 (1984) 14 CPUC2d 317, and later decisions, we authorized inter-Local Access and Transport Areas (LATAs) entry generally.<sup>1</sup>

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<sup>1</sup> California is divided into 10 Local Access and Transport Areas of various sizes, each containing numerous local telephone exchanges. "InterLATA" 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.

However, we limited the authority conferred to interLATA service; and we subjected the applicants to the condition that they not hold themselves out to the public as providing intraLATA service. Subsequently, by D.94-09-065 (1994) 56 CPUC2d 117, we authorized competitive intraLATA interexchange services effective January 1, 1995, for carriers meeting specified criteria.

### **III. Application and Protest**

Applicant filed Application (A.) 99-07-013 on July 6, 1999. Applicant seeks authority to provide resold interLATA and intraLATA service as a nondominant interexchange carrier (NDIEC) throughout California.

On August 4, 1999, Alliance Group Service, Inc., doing business as Alliance Communications, Inc., filed in protest to the application. Protestant states that granting a CPCN to applicant is likely to cause identity confusion between its operation (Alliance Communications) and applicant's (Alliance Network).

On August 31, 1999, applicant notified the Commission that, in order to resolve the alleged conflict in names, it will do business in California under the name of "C2K, Inc." or "C2K." Applicant states that its initial tariff will indicate the d/b/a "C2K."

Because of the change in name, the protest to this application is moot. Accordingly, we grant the application.

### **IV. Procedural Matters**

In Resolution ALJ 176-3020, dated July 22, 1999, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. While a protest has been filed, it is deemed moot in view of applicant's decision to operate in California under a different name. Given this status, a public hearing is not necessary, and it is not necessary to alter the preliminary determinations.

## **V. Comments on Draft Decision**

The draft decision in this matter was mailed to the parties in accordance with Pub. Util Code § 311(g) and Rule 77.1 of the Rules of Practice and Procedure. No comments were filed.

## **VI. Financial Qualifications of Applicant**

To be granted a CPCN, an applicant seeking authority to provide interexchange services must demonstrate that it has a minimum of \$25,000 in cash or cash equivalent to meet the firm's start-up expenses. To meet this requirement, applicant provided a copy of its balance sheet as of June 17, 1999, showing total assets well in excess of this requirement. We find that applicant has met our requirement that it possesses sufficient financial resources to fund its operations.

## **VII. Technical Qualifications of Applicant**

Applicants for NDIEC authority are required to make a reasonable showing of technical expertise in telecommunications or a related business. Applicant has submitted information on its key employees that demonstrates that applicant's personnel possess sufficient experience and knowledge to operate as an NDIEC.

Commission staff reviewed applicant's draft tariffs for compliance with Commission rules and regulations. No deficiencies were found.

We find that applicant is technically qualified to operate as an NDIEC.

## **VIII. Environmental Review**

The California Environmental Quality Act (CEQA) requires the Commission, as the designated lead agency, to assess the potential environmental impact of a project in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced

to the fullest extent possible. We find on this record that applicant's request for authority here involves operations on a resale-only basis. No facilities owned by the applicant would be involved and, therefore, it can be seen with certainty that there will be no effect on the environment. Applicant must file for additional authority before it can construct facilities.

### **IX. Conclusion**

We conclude that the application conforms to our rules for certification to resell interexchange telecommunications services. Accordingly, we grant resale authority subject to the terms and conditions set forth herein.

### **Findings of Fact**

1. Applicant filed A.99-07-013 on July 6, 1999, for authority to provide telecommunications services as a NDIEC.
2. Notice of the application appeared in the Commission's Daily Calendar on July 14, 1999.
3. A protest was filed on August 4, 1999, alleging likely confusion of the names of applicant and protestant.
4. Applicant on August 31, 1999, agreed to do business in California under the names "C2K, Inc." or "C2K," and to amend its initial tariff accordingly.
5. A hearing is not required.
6. In prior Commission decisions, competition in providing interLATA telecommunications services was authorized, but those offering such services were generally barred from holding out to the public the provision of intraLATA service.
7. In D.94-09-065, the Commission authorized competitive intraLATA services effective January 1, 1995, for carriers meeting specified criteria.

8. Applicant has demonstrated that it has a minimum of \$25,000 in cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.

9. Applicant possesses the requisite experience and knowledge to manage a telephone utility.

10. As part of its application, applicant submitted a draft of its initial tariff that complies with the requirements established by the Commission.

11. Exemption from the provisions of Pub. Util. Code §§ 816-830 has been granted to other NDIECs and CLCs. (See, e.g., D.86-10-007, D.88-12-076, D.97-01-015, and D.96-05-060.)

12. The transfer or encumbrance of property of nondominant carriers has been exempted from the requirements of Pub. Util. Code § 851 whenever such transfer or encumbrance serves to secure debt. (See D.85-11-044, D.97-01-015, and D.96-05-060.)

13. By D.97-06-107, all interexchange carriers and CLCs are no longer required to comply with General Order (GO) 96-A, subsections III.G(1) and (2), and Commission Rules of Practice and Procedure 18(b).

### **Conclusions of Law**

1. Applicant has the financial ability to provide the proposed service.

2. Applicant has made a reasonable showing of technical expertise in telecommunications.

3. Public convenience and necessity require that applicant's interexchange services be subject to the terms and conditions set forth herein.

4. Applicant is subject to:

a. The current 0.0% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by

- D.95-02-050, to fund the Universal Lifeline Telephone Service (Pub. Util.) Code § 879; Resolution T-16245, December 3, 1998);
- b. The current 0.192% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Relay Service and Communications Devices Fund Pub. Util. Code § 2881; D.98-12-073 and Resolution T-16234, December 17, 1998);
  - c. The user fee provided in Pub. Util. Code §§ 431-435, which is 0.11% of gross intrastate revenue for the 1999-2000 fiscal year (Resolution M-4796);
  - d. The current surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund-A (Pub. Util. Code § 739.30; D.96-10-066, pp. 3-4, App. B, Rule 1.C; set by Resolution T-16242 at 0.0% for 1999, December 3, 1998);
  - e. The current 3.8% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund-B (D.96-10-066, p. 191, App. B, Rule 6.F., Resolution T-16244, December 3, 1998); and
  - f. The current 0.05% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Teleconnect Fund (D.96-10-066, p. 88, App. B, Rule 8.G; set by Resolution T-16165, effective August 1, 1998).
5. Applicant should be exempted from Pub. Util. Code §§ 816-830.
  6. Applicant should be exempted from Pub. Util. Code § 851 when the transfer or encumbrance serves to secure debt.
  7. Because applicant has agreed to change the name under which it will do business in California, the protest to this application is moot.
  8. Applicant should be granted a CPCN to operate as an interexchange reseller to the extent set forth below.

9. Because of the public interest in interexchange services, the following order should be effective immediately.

## O R D E R

### IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Alliance Network, Inc., doing business in California as "C2K, Inc." or "C2K" (applicant) to provide resold interexchange services subject to the terms and conditions set forth below.
2. Applicant shall not construct facilities or provide facilities-based interexchange service until authorized to do so by a further order.
3. Applicant shall file a written acceptance of the certificate granted in this proceeding.
4. Applicant is authorized to file with this Commission tariff schedules for the provision of resold interexchange services. Applicant may not offer services until tariffs are on file. Applicant's initial filing shall be made in accordance with General Order (GO) 96-A, excluding Sections IV, V, and VI. The tariff shall be effective not less than 1 day after tariff approval by the Commission's Telecommunications Division. Applicant shall comply with the provisions in its tariffs.
5. Applicant is a nondominant interexchange carrier (NDIEC). The effectiveness of its future NDIEC tariffs is subject to the schedules set forth in Ordering Paragraph 5 of D.90-08-032 (37 CPUC2d 130 at 158), as modified by D.91-12-013 (42 CPUC2d 220 at 231) and D.92-06-034 (44 CPUC2d 617 at 618):
  - "5. All NDIECs are hereby placed on notice that their California tariff filings will be processed in accordance with the following effectiveness schedule:

- “a. Inclusion of FCC-approved rates for interstate services in California public utilities tariff schedules shall become effective on one (1) day’s notice.
- “b. Uniform rate reductions for existing services shall become effective on five (5) days’ notice.
- “c. Uniform rate increases, except for minor rate increases, for existing services shall become effective on thirty (30) days’ notice, and shall require bill inserts, a message on the bill itself, or first class mail notice to customers of the pending increased rates.
- “d. Uniform minor rate increases, as defined in D.90-11-029, for existing services shall become effective on not less than five (5) working days’ notice. Customer notification is not required for such minor rate increases.
- “e. Advice letter filings for new services and for all other types of tariff revisions, except changes in text not affecting rates or relocations of text in the tariff schedules, shall become effective on forty (40) days’ notice.
- “f. Advice letter filings merely revising the text or location of text material which do not cause an increase in any rate or charge shall become effective on not less than five (5) days’ notice.”

6. Applicant may deviate from the following provisions of GO 96-A:

(a) paragraph II.C.(1)(b), which requires consecutive sheet numbering and prohibits the reuse of sheet numbers, and (b) paragraph II.C.(4), which requires that “a separate sheet or series of sheets should be used for each rule.” Tariff filings incorporating these deviations shall be subject to the approval of the Commission’s Telecommunications Division. Tariff filings shall reflect all fees and surcharges to which applicant is subject, as reflected in Conclusion of Law 4.

7. Applicant shall file as part of its initial tariff, after the effective date of this order and consistent with Ordering Paragraph 3, a service area map.



8. Prior to initiating service, applicant shall provide the Commission's Consumer Services Division with the applicant's designated contact person(s) for purposes of resolving consumer complaints and the corresponding telephone number. This information shall be updated or if the name or telephone number changes.

9. Applicant shall notify this Commission in writing of the date interLocal Access and Transport Areas (LATA) service is first rendered to the public within five days after service begins and again within five days of when intraLATA service begins.

10. Applicant shall keep its books and records in accordance with the Generally Accepted Accounting Principles.

11. In the event the books and records of the applicant are required for inspection by the Commission or its staff, applicant shall either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to applicant's office.

12. Applicant shall file an annual report, in compliance with GO 104-A, on a calendar-year basis using the information request form developed by Commission staff contained in Attachment A to this decision.

13. Applicant shall ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

14. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months after the effective date of this order.

15. The corporate identification number assigned to applicant is U-6219-C which shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

16. Within 60 days of the effective date of this order, applicant shall comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Telecommunications Division in writing of its compliance.

17. Applicant is exempted from the provisions of Pub. Util. Code §§ 816-830.

18. Applicant is exempted from Pub. Util. Code § 851 for the transfer or encumbrance of property, whenever such transfer or encumbrance serves to secure debt.

19. If applicant is 90 days or more late in filing an annual report or in remitting the fees listed in Conclusion of Law 4, the Commission's Telecommunications Division shall prepare for Commission consideration a resolution that revokes the applicant's certificate of public convenience and necessity, unless the applicant has received written permission from the Commission's Telecommunications Division to file or remit late.

20. Applicant shall comply with the Commission's rules and regulations for NDIECs set forth in D.93-05-010, D.90-08-032, and other Commission decisions.

21. Applicant shall send a copy of this decision to concerned local permitting agencies not later than 30 days from the date of this order.

22. The application is granted, to the extent set forth above.

23. Application 99-07-013 is closed.

This order is effective today.

Dated November 4, 1999, at San Francisco, California

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

**INFORMATION REQUESTED OF INTEREXCHANGE CARRIERS**

TO: ALL INTEREXCHANGE TELEPHONE UTILITIES

Article 5 of the Public Utilities Code grants authority to the California Public Utilities Commission to require all public utilities doing business in California to file reports as specified by the Commission on the utilities' California operations.

A specific annual report form has not yet been prescribed for the California interexchange telephone utilities. However, you are hereby directed to submit an original and two copies of the information requested in Attachment A no later than March 31st of the year following the calendar year for which the annual report is submitted.

Address your report to:

California Public Utilities Commission  
Auditing and Compliance Branch, Room 3251  
505 Van Ness Avenue  
San Francisco, CA 94102-3298

Failure to file this information on time may result in a penalty as provided for in §§ 2107 and 2108 of the Public Utilities Code.

If you have any question concerning this matter, please call (415) 703-1961.

## ATTACHMENT A

### INFORMATION REQUESTED OF INTEREXCHANGE TELEPHONE UTILITIES

To be filed with the California Public Utilities Commission, 505 Van Ness Avenue, Room 3251, San Francisco, CA 94102-3298, no later than March 31st of the year following the calendar year for which the annual report is submitted.

1. Exact legal name and U # of reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (e.g., corporation, partnership, sole proprietorship, etc.).

If incorporated, specify:

- a. Date of filing articles of incorporation with the Secretary of State.
- b. State in which incorporated.
6. Commission decision number granting operating authority and the date of that decision.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. A list of all affiliated companies and their relationship to the utility. State if affiliate is:
  - a. Regulated public utility.
  - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.
11. Income statement for California operations for the calendar year for which information is submitted.

(END OF ATTACHMENT A)