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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into the operations,  
practices, and conduct of  
Communication TeleSystems  
International and Edward S. Sorén,  
President of Communication TeleSystems  
International to determine whether  
they have complied with the laws,  
rules, regulations and applicable  
tariff provisions governing the manner  
in which California consumers are  
switched from one long-distance  
to another, and other requirements for  
for long distance carriers.

**ORIGINAL**

**FILED**  
**PUBLIC UTILITIES COMMISSION**  
**FEBRUARY 23, 1996**  
**SAN FRANCISCO OFFICE**  
**I.96-02-043**

**ORDER INSTITUTING INVESTIGATION**  
**AND ORDER TO SHOW CAUSE WHY**  
**COMMUNICATION TELESYSTEMS INTERNATIONAL'S**  
**CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**  
**SHOULD NOT BE REVOKED**

Communication TeleSystems International is a California corporation with its principal place of business in San Diego, California. Communication TeleSystems International also does business under the names CTS and WORLDxCHANGE Communications. Edward S. Soren is the President and Chief Executive of Communication TeleSystems International. Communication TeleSystems International and all of its DBAs will be referred to in this order as "CTS."

CTS, holds a Certificate of Public Convenience and Necessity (CPCN) to operate as a reseller of interLATA telecommunications services within California and commenced carrier operations on September 15, 1992. D.92-06-007, (1992) 44 CPUC 2d 470; CTS 1994 Annual Report. CTS has filed a petition for authority to provide competitive local exchange services within California. The Safety and Enforcement Division (S&E)

protested CTS' petition on January 4, 1996, and the petition is pending before this Commission.

The Safety and Enforcement Division's Special Investigations Unit (Staff) has investigated customer complaints and other information that CTS has violated regulations governing how telephone customers are switched from one interexchange carrier to another. These and other similar unlawful business practices alleged by Staff would, if substantiated at hearings, call into question the fitness of CTS to operate in California.

The Staff has prepared declarations to support the issuance of an Order to Show Cause. A copy of the Order Instituting Investigation and Order to Show Cause (OII/OSC) and the declarations will be personally served on the designated agent for service of process of Communication TeleSystems International, Mr. Edward S. Soren, President of CTS, at 4350 La Jolla Village Drive, Suite 100, San Diego, California 92122, or, if Mr. Soren is not available, served on Mr. Eric G. Lipoff, Regulatory Counsel or other CTS officer located at the same address. After service, a copy of the OII/OSC and supporting declarations will also be mailed to CTS' attorney Mr. Thomas J. MacBride, Jr., at Goodin, MacBride, Squeri, Schlotz & Ritchie, 505 Sansome Street, Suite 900, San Francisco, California 94111.

#### A. STAFF'S ALLEGATIONS

The Staff's declarations set forth the following facts and allegations:

Staff first met with CTS in March of 1995 in response to a request by CTS to meet and discuss steps it had allegedly taken to rectify billing and customer service problems it had had which resulted in customer complaints to the Commission's Consumer Affairs Branch (CAB). Subsequent to this meeting, S&E requested certain data from CTS regarding its marketing practices. In January of 1996, S&E began a full investigation into the operations of CTS as a result of the continuing high

volume of consumer complaints being made to various sources regarding CTS' marketing and business practices. S&E subsequently gathered the following data regarding CTS.

During 1995, Pacific Bell (Pacific) reported receiving 27,932 customer disputes alleging that customers' primary interexchange carriers (PIC) were switched to CTS without the customers' authorization. Pacific reports that CTS' 1995 PIC dispute ratio, which is calculated by dividing the number of customer PIC disputes by the number of carrier initiated PIC changes, was 10.84 percent, over 200 percent higher than the industry average ratio of 3.51 percent. As of December 16, 1995, Pacific reported that CTS had 56,238 lines in service in Pacific's territory and that during 1995, CTS switched an average of 22,460 consumers to CTS each month. This results in a monthly customer turnover ratio in Pacific's service territory of approximately 40 percent.

GTEC reports that during 1995, GTEC received more PIC disputes for CTS than for any other carrier. GTEC reported receiving 3,049 customer PIC disputes for CTS, more than AT&T, MCI, or Sprint, the three largest interexchange carriers. In January of 1996, GTEC reported 548 PIC disputes for CTS, over one hundred more than any other carrier and over 20 percent of all PIC disputes GTEC received.

CAB reported that during 1995 it received 798 consumer contacts regarding CTS. Of these 798 contacts, 446 contacts concerned abusive marketing (which includes slamming) by CTS, making CTS the recipient of the third largest number of abusive marketing contacts received by CAB. Almost 10 percent of all consumer contacts CAB received regarding abusive marketing, were made regarding CTS.

San Diego Better Business Bureau reported receiving 103 complaints regarding CTS during the last 12 months. The San Diego Better Business Bureau has given CTS an "unsatisfactory" rating because of its record and pattern of complaints and its failure to eliminate the basic cause of the complaints, switching

consumers long distance provider without the customers' authorization and billing for calls never made.

The Federal Communications Commission (FCC) received 63 complaints concerning CTS during 1994. When comparing complaints to presubscribed lines (156,055), the FCC found that CTS' complaints per million lines was 404 or approximately 31 times higher than AT&T's ratio. The FCC reported receiving 327 complaints against CTS during 1995.

Staff also reports that an analysis of Pacific's PIC change numbers and customer data indicates that CTS targets minority customers. For the eleven month period ending January 19, 1996, CTS initiated 224,687 PIC changes with Pacific Bell. Of these 224,687 carrier initiated PIC changes, 180,533 or 83 percent were made to customers who had indicated to Pacific that their language preference is Spanish. Over 10 percent of these consumers called Pacific to dispute the PIC change. Pacific's records further show that 31 percent of the customers with a Vietnamese language preference that were switched by CTS disputed the PIC change.

Staff's declaration discusses other business practices that it contends are questionable. Staff reports that CTS offers a tariffed service it calls the "Stay With Us" program. Under this program, CTS will switch a customer back to CTS if the customer's PIC is changed by another interexchange carrier. Staff reports that customers who allege that CTS has slammed them find that CTS also signed them up for the Stay With Us program without their authorization. As a result, consumers alleged repeated slams by CTS because CTS will again switch the consumers back to CTS after the consumers changed their service provider back to their carrier of choice.

Staff's declarations also report that customers complained about CTS billing for calls the customers never made, charging excessive fees and rates, and misrepresenting discounts.

B. DISCUSSION

Staff's declarations and the allegations and facts they set forth greatly concern us. If the allegations against CTS are true, this carrier does not meet the public convenience and necessity requirements we expect of telecommunications providers and there are ample grounds for revocation of CTS' operating authority. Telecommunications service providers operating in California must meet minimum fitness requirements. Deficiencies in trust, performance, and reliability are grounds for the Commission to revoke a carriers certificate. Re NCN Communications, Inc., (1991) 40 CPUC 2d 441, 454. The Commission has good cause to believe that CTS is operating in disregard of the rules and regulations applicable to long distance carriers, and CTS' pervasive pattern of conduct is adverse to the public interest and requires us to take immediate action.

CTS' conduct does not appear to be improving. While CTS approached the Staff in March of 1995 alleging that it had corrected the billing and customer service problems that had occurred in early 1995, Staff's declarations show that CTS' complaint rates are still very high. CTS' PIC dispute rate with Pacific Bell in December 1995, was 11.41 percent, still over 200 percent above the annual industry average. GTEC reported that in January of 1996, CTS had 548 PIC disputes, over one hundred more than any other carrier. CTS' "Stay With Us" program appears to aggravate its slamming problems because customers are switched back to CTS after they try to change back to their carrier of choice.

We are further concerned because CTS apparently is targeting minority customers. As we recently stated in Decision 95-12-019, when addressing the targeting of minority customers, the Commission has a responsibility to ensure that the public is protected from unscrupulous practices of telephone service providers, and its responsibility is particularly acute where the carrier is targeting customers unsophisticated with the

competitive telecommunications marketplace with aggressive and allegedly duplicitous sales tactics. D.95-12-019 at p. 11.

Staff reports that CTS' customer complaint and PIC dispute ratio are among the highest of telecommunications companies operating in California. The allegations of slamming presented in the Staff's declarations may be corroborated by CTS' high customer turnover ratio. Furthermore, the customer PIC dispute rates remain high in recent months. For the reasons set forth above, public interest requires us to take immediate action to afford the public some protection while the degree of CTS' violations is examined further. We will also order the utility to show cause why we should not ultimately suspend or revoke its certificate.

The Commission has a vital interest in protecting the public from unauthorized long distance service switches as well as protecting the competitive market for long distance service from unfair competition. The Commission has received detailed declarations from the Staff with supporting documentation. Given the aggravated nature and level of the violations alleged in the Staff's declarations as summarized above, and because their continuation could cause undue hardship on the public, we find that there is substantial likelihood that harm to the public will continue and that there is probable cause for the Commission to act by taking some interim measures today. We find that the protection of the public requires the following steps pending a further order in this matter. Each of these steps is to take effect within five days of personal service of this order on the respondent and will remain in effect until further order of the Commission.

First, the respondents will submit no additional PIC changes to local exchange carriers in California. By this, we prohibit Communication TeleSystems International or any of its agents from transmitting in writing or electronically to a local exchange carrier a request to change a consumer's prescribed or primary interexchange carrier. CTS can still market to

customers. Consumers who want to switch their PIC to CTS can still, on their own volition, submit, by their individual affirmative action, such a change request directly to their local exchange carrier. Second, respondent cannot sell or transfer any of its customers.

A hearing is set for March 7, 1996 at 10:00 at 505 Van Ness Avenue, in San Francisco, to address continuing these conditions before the broader issues concerning the precise scope of any violations and sanctions are resolved. During the pendency of this proceeding, CTS may continue to provide long distance service in California to its existing customers, and may continue to solicit PIC changes in compliance with this order.

To expedite this proceeding and to assist Staff in completing all facets of its investigation, we direct the respondents to provide to the Safety and Enforcement Division the information specified in ordering paragraph 3 within 30 days of the date the order is served.

IT IS ORDERED that:

1. An investigation is instituted into the operations, practices, and conduct of Communication TeleSystems International and its President, Edward S. Soren, respondents, to determine:

- a) the extent to which the respondents may have violated Public Utilities Code Section 2889.5 and other applicable laws, tariff rules or conditions, or other regulations governing the solicitation of long distance customers;
- b) whether the allegations of misrepresenting discounts, charging customers for calls never made, and other customer complaints are true and if so the extent such practices occurred;
- c) whether and to what extent restitution is required.

2. In addition to fines for any violations of Section 2889.5 or other order, decision, rule direction, or requirement of the Commission which may be levied under Public Utilities Code Section 2107 or any other provision of law, if it appears that the respondent is unfit to conduct utility service, its certificate may be suspended or revoked.

3. To facilitate this investigation, and consistent with the provisions of Section 314 of the Public Utilities Code, CTS is to provide to Safety and Enforcement Division Investigator Stormy Maddux the following information within 30 days of the date this order is personally served on the respondents:

- a) a list of the names, addresses and telephone numbers of all California-based customers who have contacted Communication TeleSystems International during 1995 with complaints of any kind, and copies of CTS' response and the final disposition of each complaint;
- b) a list of all names under which Communications TeleSystems International does business now and which it has used during the past 18 months;
- c) a list of the names, titles and business addresses of all current officers, directors, and owners of CTS, and any others serving in those capacities over the past 12 months, the dates on which they were elected/appointed and their terms of offices;
- d) a list of all of CTS' affiliates and subsidiaries and the names, titles, and business addresses of all officers, directors, and owners of more than a 5 percent interest of these companies;
- e) copies of all regulatory agency, District Attorney, and Attorney General actions (e.g. orders, OIIs, complaints, etc.) taken against respondents;
- f) copies of all civil suit complaints filed against respondents or any CTS officer



and director regarding alleged slamming or marketing practices.

4. As a condition of its continuing authority to operate in California as a reseller of telecommunications services pending a final decision in this matter, within 5 days of personal service of this order on Edward S. Soren, Eric G. Lipoff, or any other CTS officer, respondents are prohibited from:

- a) submitting PIC changes to local exchange carriers within California;
- b) transferring or selling customers;
- c) editing or destroying any order verification documentation, tapes, or letters of authorization.

5. CTS' petition for authority to operate as a competitive local carrier filed as Petition Number 4 in I.95-04-044, is held in abeyance until a final decision is issued in this proceeding.

6. All advice letters submitted by CTS after today will be consolidated with this OII for consideration.

7. A hearing is set for March 7, 1996 at 10:00 a.m. at 505 Van Ness Avenue, San Francisco, solely to allow the respondents an opportunity to present evidence that the PIC freeze and other requirements ordered in paragraph 4 are not warranted, and to show cause, if any, to modify or vacate the order. Staff or any other party may advance, at this hearing, motions for additional emergency relief as the party may believe appropriate to protect consumers. This hearing may be rescheduled, if necessary, by ruling of the assigned Administrative Law Judge.

8. A separate hearing shall be scheduled subsequently to allow the respondents an opportunity to appear and show cause why the orders entered today should not be permanent, and why their certificate of public convenience and necessity, issued in D.92-06-007, (1992) 44 CPUC 2d 470, should not be revoked. A prehearing conference shall be scheduled and held before then for

the purpose of determining if Staff has additional evidence to advance, setting a schedule of the exchange of written testimony, determining which of the Staff's percipient and collaborative witnesses will need to testify, and addressing any discovery issues.

9. The Staff may continue to investigate the respondents' operations as Staff, as part of the Commission, can always investigate utility operations. However, any additional information which Staff wishes to advance as direct showing evidence in this investigatory proceeding shall be provided to the respondents in advance of any hearings in accordance with the schedule directed by the Administrative Law Judge. Staff will respond to discovery requests directed at Staff's prepared testimony offered in this proceeding.

10. At the first evidentiary hearing held in this investigatory proceeding, the respondents shall submit testimony on the subject of whether a bond or some other collateral should be required in order to assure funding to guarantee compliance with any orders which may ultimately be issued in connection with this proceeding.

11. The Staff's declaration (including the declaration supplied at staff's request by Pacific Bell) which support the commencement of this investigatory proceeding shall be made public except that, pending further order by the assigned Administrative Law Judge, customers numbers shall be redacted in the public version of the declaration.

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The Executive Director shall cause the order to be personally served as described on page 2 complete with the declarations submitted by Staff to support issuance of the Order To Show Cause and the requirements in ordering paragraph number 4.

This order is effective today.

Dated February 23, 1996, in San Francisco, California

DANIEL WM. FESSLER  
President  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
Commissioners

Commissioner P. Gregory Conlon,  
being necessarily absent, did not participate.