

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Zone Telecom, Inc. (U6418C) for a Certificate of Public Convenience and Necessity to Provide Local Exchange Switchless Resale Telecommunications Services throughout the State of California.

Application 10-08-014
(Filed August 17, 2010)

**DECISION GRANTING ZONE TELECOM, INC.
A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
TO PROVIDE LOCAL EXCHANGE SWITCHLESS RESALE
TELECOMMUNICATIONS SERVICES
THROUGHOUT THE STATE OF CALIFORNIA**

Summary

Zone Telecom, Inc. filed an application for a certificate of public convenience and necessity (CPCN) to expand its current authority in order to provide non-facilities based local exchange switchless resale telecommunications services in the service territories of Pacific Bell Telephone Company, d/b/a AT&T California, Verizon California Inc., SureWest Telephone, and Citizens Telecommunications Company of California, Inc., d/b/a Frontier Communications of California, throughout the State of California.

By this decision, we grant Zone Telecom, Inc. a CPCN to expand its current authority to include providing local exchange telecommunications services on the terms and conditions set forth in the ordering paragraphs.

Background

On August 17, 2010, Zone Telecom, Inc. (Zone)¹ filed a CPCN to provide local exchange switchless resale telecommunications services in the territories of Pacific Bell Telephone Company, d/b/a AT&T California (AT&T), Verizon California Inc. (Verizon), SureWest Telephone (SureWest), Citizens Telecommunications Company of California, Inc., d/b/a Frontier Communications Company of California (Frontier). In Decision (D.)00-09-077,² Zone was granted a certificate of public convenience and necessity (CPCN) to operate as a facilities-based non-dominant carrier of inter and intra Local Access and Transport Area (LATA) telecommunications services, in the above-referenced service territories. Zone's principal place of business is located at 3 Executive Campus, Suite 520, Cherry Hill, NJ 08002.³

On September 22, 2010, the assigned Administrative Law Judge (ALJ) issued a ruling (Ruling) requesting further information concerning "slamming" allegations filed against Zone with the Federal Communications Commission (FCC), past complaints filed with the Commission, and the lack of the required certifications in the instant application. On September 30, 2010, Zone filed a response to the Ruling (Response). The Response addressed the issue(s) of the FCC and Commission complaints, but failed to address the lack of certifications

¹ Zone is organized as a foreign corporation in the State of Delaware and is qualified to transact intrastate business in California.

² Issued September 25, 2000.

³ In D.11-01-018, the Commission approved the indirect transfer of control of Associated Network Partners, Inc. and Zone Telecom, Inc. to ANZ Communications, LLC.

in the application. On October 29, 2010, Zone filed a Supplemental Response (Supplemental) with additional information concerning the complaints and the required certifications. The electronic file became corrupted and is no longer usable. Zone refiled a hardcopy response on January 6, 2011. For purposes of administrative efficiency, the unusable electronic file of October 29, 2010 will be removed from the record. The hardcopy filing of January 6, 2011 will stand as the response of Zone as required by the September 22, 2010 Ruling. All outstanding issues raised in the Ruling have been resolved.

California Environmental Quality Act (CEQA)

The CEQA requires the Commission act 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. Since Zone states that it does not intend to construct any additional facilities, it can be seen with certainty that there is no possibility that granting this application will have an adverse impact upon the environment. Before it can construct facilities other than equipment to be installed in existing buildings or structures, Zone must file for additional authority, and submit to any necessary CEQA review.

Financial Qualifications

Pursuant to Rule 4.B of D.95-12-056, an applicant for a CPCN for authority to provide resold local exchange service must demonstrate that it has \$25,000 cash or cash equivalent to meet the firm's start-up expenses. The applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by other telecommunications carriers in order to provide service in California.

In confidential Exhibit B of its application, Zone has provided financial statements that demonstrate that it has access to well over \$25,000 cash or cash equivalent, which is reasonably liquid and available. This amount is sufficient to cover start-up and operating expenses and any deposits third-party carriers may require.

Managerial and Technical Qualifications

To be granted a CPCN for authority to provide local exchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.⁴ Zone supplied biographical information on its management in Exhibit D to its application that demonstrated that it has sufficient expertise and training to operate as a telecommunications provider.

In the Supplemental, Zone verified that no one associated with or employed by Zone as an affiliate, officer, director, partner, or owner of more than 10% of the company was previously associated with a telecommunications carrier that filed for bankruptcy, or was sanctioned by the FCC or any state regulatory agency for failure to comply with any regulatory statute, rule, or order.

In the Supplemental, Zone also verified that no one associated with or employed by it as an affiliate, officer, director, partner, or owner of more than 10% of the company was previously associated with any telecommunications carrier that has been found either civilly or criminally liable by a court of appropriate jurisdiction for a violation of §§ 17000, et seq. of the California

⁴ D.95-12-056 at Appendix C, Rule 4.A.

Business and Professions Code, or for any actions which involved misrepresentations to consumers, nor is currently under investigation for similar violations.

Expected Customer Base

Zone provided its estimated customer base for the first and fifth years of operation in Exhibit B (confidential) of its application. Therefore, Zone has complied with this requirement.

Tariffs

Commission staff reviewed Zone's draft tariffs for compliance with Commission rules and regulations. The deficiencies are noted in Attachment A to this decision. In its compliance tariff filing, Zone shall correct these deficiencies as a condition of our approval of its application.

Conclusion

We conclude that the application conforms to our rules for certification as a competitive local exchange carrier. Accordingly, we grant Zone a CPCN to provide non-facilities based local exchange switchless resale telecommunications services in the service territories of AT&T, Verizon, SureWest, and Frontier, throughout the State of California, subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

Categorization and Need for Hearing

In Resolution ALJ 176-3260, dated September 2, 2010, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

Comments on Proposed Decision

No protests were filed in this proceeding. Therefore, this is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2) and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure (Rules), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and W. Anthony Colbert is the assigned ALJ in this proceeding.

Request to File Under Seal

Pursuant to Rule 11.4, Applicant has filed a motion for leave to file Exhibit B to the application as confidential material under seal. Applicant represents that the information is sensitive, and disclosure could place it at an unfair business disadvantage. We have granted similar requests in the past, and do so here.

Findings of Fact

1. Notice of the application appeared on the Daily Calendar on August 25, 2010. No protests have been filed. A hearing is not required.
2. Zone seeks authorization to provide non-facilities based local exchange switchless resale telecommunications services in the service territories of AT&T, Verizon, SureWest, and Frontier, throughout the State of California.
3. Zone currently holds a CPCN to operate as a facilities-based non-dominant carrier of interLATA and intraLATA telecommunications services in California.
4. Zone has a minimum of \$25,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses and operating expenses.

5. Zone has sufficient additional cash or cash equivalent to cover deposits that may be required by other telecommunications carriers in order to provide the proposed service.

6. Zone's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.

7. No one associated with or employed by Zone as an affiliate, officer, director, partner, or owner of more than 10% of Zone was previously associated with a telecommunications carrier that filed for bankruptcy, or was sanctioned by the FCC or any state regulatory agency for failure to comply with any regulatory statute, rule, or order.

8. No one associated with or employed by it as an affiliate, officer, director, partner, or owner of more than 10% of Zone was previously associated with any telecommunications carrier that has been found either civilly or criminally liable by a court of appropriate jurisdiction for a violation of §§ 17000, et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, nor is currently under investigation for similar violations.

9. Except for the deficiencies identified in Attachment A to this decision, Zone's draft tariffs comply with the Commission's requirements.

10. Pursuant to Rule 11.4, Applicant filed a motion for leave to file confidential materials, Exhibit B, under seal.

11. On October 29, 2010, Zone electronically filed its Supplemental, as required by the ALJ Ruling of September 22, 2010; the electronic file became corrupted and is no longer usable; a hardcopy of the response was filed on January 6, 2011.

12. Zone provided an estimate of its customer base for the first and fifth year of operation.

Conclusions of Law

1. Zone should be granted a CPCN, to expand its current authority in order to provide non-facilities based local exchange switchless resale telecommunications services in the service territories of AT&T, Verizon, SureWest, and Frontier subject to the terms and conditions set forth in the Ordering Paragraphs.

2. Zone, once granted this CPCN, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

3. Zone's initial tariff filing should correct the tariff deficiencies shown in Attachment A to this decision.

4. Zone should be granted non-dominant carrier status, subject to Commission rules and regulations as detailed in D.85-01-008 and modified in D.85-07-081 and D.85-11-044.

5. Zone's motion to file Exhibit B under seal should be granted. Materials under seal shall not be made accessible or disclosed to anyone other than the Commission and its staff, except upon further order or ruling of the Commission, the assigned Commissioner, the assigned ALJ, or the ALJ then designated as Law and Motion Judge.

6. For purposes of administrative efficiency, the unusable electronic file of the October 29, 2010 Supplemental should be removed from the record and the hardcopy filing of January 6, 2011 should stand as the response of Zone as required by the September 22, 2010 Ruling.

O R D E R**IT IS ORDERED** that:

1. A Certificate of Public Convenience and Necessity is granted to Zone Telecom, Inc. to expand its current authority, to provide non-facilities based local exchange switchless resale telecommunications services in the service territories of Pacific Bell Telephone Company, d/b/a AT&T California, Verizon California Inc., SureWest Telephone, and Citizens Telecommunications Company of California, Inc, d/b/a Frontier Communications Company of California subject to the terms and conditions set forth below.
2. Zone Telecom, Inc. may not offer competitive local exchange services until tariffs are filed with and authorized by this Commission, in accordance with General Order 96-B and as corrected for deficiencies set forth in Attachment A.
3. The corporate identification number (U6418C), assigned to Zone Telecom, Inc., must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.
4. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments B, C, and D to this decision, Zone Telecom, Inc., is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.
5. Zone Telecom, Inc. is a non-dominant carrier, subject to the Commission rules and regulations as detailed in Decision (D.) 85-01-008 and modified in D.85-07-081 and D.85-11-044.
6. Zone Telecom, Inc. must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

7. Zone Telecom, Inc. must annually pay the user fees and public purpose surcharges specified in Attachment B. Per the instructions in Exhibit E to Decision 00-10-028, the Combined California Public Utilities Commission Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0. Under Pub. Util. Code § 405, carriers that are in default of reporting and submitting user fees for a period of 30 days or more will be subject to penalties including suspension or revocation of their authority to operate in California. Therefore, Zone Telecom, Inc. must report user fees even if the amount due is \$0.

8. Prior to initiating service, Zone Telecom, Inc. must provide the Commission's Consumer Affairs Branch with the name and address of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name or telephone number changes, or at least annually.

9. Zone Telecom, Inc. must notify the Director of the Communications Division in writing of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

10. Zone Telecom, Inc. must file an affiliate transaction report with the Director of the Communications Division, in compliance with Decision 93-02-019, on a calendar-year basis with the information contained in Attachment D.

11. Zone Telecom, Inc. must file an annual report with the Director of the Communications Division, in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

12. Zone Telecom, Inc. must file a tariff within 12 months of the effective date of this order, or its certificate will be cancelled.

13. Zone Telecom, Inc.'s motion to file materials under seal is granted, materials under seal shall not be made accessible or disclosed to anyone other than the Commission and its staff, except upon further order or ruling of the Commission, the assigned Commissioner, the assigned Administrative Law Judge, or the Administrative Law Judge then designated as Law and Motion Judge.

14. For purposes of administrative efficiency, the unusable electronic file of Zone Telecom, Inc.'s October 29, 2010 Supplemental Response is removed from the record and the hardcopy filing of January 6, 2011 will stand as the response of Zone Telecom, Inc., as required by the assigned Administrative Law Judge's September 22, 2010 Ruling.

15. Application 10-08-014 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

List of deficiencies in draft tariff submitted by Zone Telecom, Inc. in Application 10-08-014 to be corrected in its initial tariff compliance filing.

1. Please provide company's California business address at which the tariff is available for inspection or web page URL where tariffs are published online (General Order 96-B, Section 8.1.3).
2. 2-T Sheet 78-T - Fees and Surcharges: Your tariff must state that your fees and surcharges are in compliance with Resolution T-16901 and concur with the tariff provision for fees and surcharges in AT&T California tariffs.

(END OF ATTACHMENT A)

ATTACHMENT B**REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS**

1. Applicant shall file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.
2. Applicant is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in Appendix E to Decision (D.) 00-10-028, the Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.
 - a. The current 1.150% 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 Trust Administrative Committee Fund (Pub. Util. Code § 879; Resolution T-17071, dated March 1, 2007, effective April 1, 2007);
 - b. The current 0.200% 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-17127, dated December 20, 2007, effective January 1, 2008);
 - c. The user fee provided in Pub. Util. Code §§ 431-435, which is 0.180% of gross intrastate revenue (Resolution M-4819), dated June 7, 2007, effective July 1, 2007;
 - d. The current 0.110% 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 § 739.3; D.96-10-066, pp. 3-4, App. B, Rule 1.C; Resolution T-17259, dated April 8, 2010, effective May 1, 2010);
 - e. The current 0.450% 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; D.07-12-054); Resolution T-17215, dated October 15, 2009, effective December 1, 2009;

- f. The current 0.000% 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 Advanced Services Fund (D.07-12-054); and
- g. The current 0.079% 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, Resolution T-17142, dated April 24, 2008, effective June 1, 2008).

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant should check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (dba AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user charges until further revised.

3. Applicant is a competitive local exchange carrier. The effectiveness of its future tariffs is subject to the requirements of General Order (GO) 96-B and the Telecommunications Industry Rules (D.07-09-019).

4. Applicant is a non-dominant interexchange carrier (NDIEC). The effectiveness of its future NDIEC tariffs is subject to the requirements of GO 96-B and the Telecommunications Industry Rules (D.07-09-019).

5. Tariff filings shall reflect all fees and surcharges to which Applicant is subject, as reflected in 2 above.

6. Applicant shall file a service area map as part of its initial tariff.

7. Prior to initiating service, Applicant shall provide the Commission's Consumer Affairs Branch with the name and address of its designated contact

person(s) for purposes of resolving consumer complaints. This information shall be updated if the name or telephone number changes, or at least annually.

8. Applicant shall notify the Director of the Communications Division in writing of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

9. Applicant shall notify the Director of the Communications Division in writing of the date interLATA service is first rendered to the public within five days after service begins, and again within five days after intraLATA service begins.¹

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

11. In the event Applicant's books and records are required for inspection by the Commission or its staff, it 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 its office.

12. Applicant shall file an annual report with the Director of the Communications Division, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

13. Applicant shall file an affiliate transaction report with the Director of the Communications Division, in compliance with D.93-02-019, on a calendar-year basis with the information contained in Attachment D.

¹ California is divided into 10 Local Access and Transport Areas (LATAs), each containing numerous local telephone exchanges. InterLATA describes services, revenues, and functions relating to telecommunications originating within one LATA and terminating in another LATA. IntraLATA describes services, revenues, and functions relating to telecommunications originating within a single LATA.

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

15. 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 Communications Division in writing of its compliance.

16. If Applicant is 90 days or more late in filing an annual report, or in remitting the surcharges and fee listed in 2 above, and has not received written permission from the Communications Division to file or remit late, the Communications Division shall prepare for Commission consideration a resolution that revokes Applicant's Certificate of Public Convenience and Necessity.

17. Applicant is exempt from Rule 3.1(b) of the Commission's Rules of Practice and Procedure.

18. Applicant is exempt from Pub. Util. Code §§ 816-830.

19. Applicant is exempt from the requirements of Pub. Util. Code § 851 for the transfer or encumbrance of property whenever such transfer or encumbrance serves to secure debt.

20. If Applicant decides to discontinue service or file for bankruptcy, it shall immediately notify the Communications Division's Bankruptcy Coordinator.

21. Applicant shall send a copy of this decision to concerned local permitting agencies no later than 30 days from the date of this order.

(END OF ATTACHMENT B)

ATTACHMENT C
ANNUAL REPORT

An original and a machine readable copy using Microsoft Word or compatible format shall be filed with the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than March 31st of the year following the calendar year for which the annual report is submitted.

Failure to file this information on time may result in a penalty as provided for in Pub. Util. Code §§ 2107 and 2108.

Required information:

1. Exact legal name and U # of the 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. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. List of all affiliated companies and their relationship to the utility. State if affiliate is a:
 - 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.
12. Cash Flow statement as of December 31st of the calendar year for which information is submitted, for California operations only.

For answers to any questions concerning this report, call (415) 703-2883.

(END OF ATTACHMENT C)

ATTACHMENT D**CALENDAR YEAR AFFILIATE TRANSACTION REPORT**

1. Each utility shall list and provide the following information for each affiliated entity and regulated subsidiary that the utility had during the period covered by the annual Affiliate Transaction Report.

- Form of organization (e.g., corporation, partnership, joint venture, strategic alliance, etc.);
- Brief description of business activities engaged in;
- Relationship to the utility (e.g., controlling corporation, subsidiary, regulated subsidiary, affiliate);
- Ownership of the utility (including type and percent ownership);
- Voting rights held by the utility and percent; and
- Corporate officers.

2. The utility shall prepare and submit a corporate organization chart showing any and all corporate relationships between the utility and its affiliated entities and regulated subsidiaries in #1 above. The chart should have the controlling corporation (if any) at the top of the chart, the utility and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart, and all secondary subsidiaries and affiliates (e.g., a subsidiary that in turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary should be clearly noted.

3. For a utility that has individuals who are classified as “controlling corporations” of the competitive utility, the utility must only report under the requirements of #1 and #2 above any affiliated entity that either (a) is a public utility or (b) transacts any business with the utility filing the annual report excluding the provision of tariff services.

4. Each annual report must be signed by a corporate officer of the utility stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

5. Any required material that a utility is unable to provide must be reasonably described and the reasons the data cannot be obtained, as well as the efforts expended to obtain the information, must be set forth in the utility's annual Affiliate Transaction Report and verified in accordance with Sections I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must file, in lieu of the annual transaction report, an annual statement to the Commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

(END OF ATTACHMENT D)