

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of California Catalog and Technology, Inc. d/b/a CCT Telecommunications for a Certificate of Public Convenience and Necessity to provide (i) Resold and Facilities-Based Local Exchange Services throughout the territories of Pacific Bell Telephone Company, Verizon California Telecommunications Company and Citizens Telecommunications Company of California, Inc. and (ii) facilities-based interexchange service statewide (U-5607-C).

Application 02-10-012
(Filed October 10, 2002)

O P I N I O N

I. Summary

California Catalog & Technology, Inc., d/b/a CCT Telecommunications (Applicant) seeks a certificate of public convenience and necessity (CPCN) under Pub. Util. Code § 1001 for authority to provide facilities-based and resold local exchange telecommunications services and facilities-based interexchange service throughout the state. By this decision, we grant the requested authority subject to the terms and conditions set forth below.

II. Background

In prior decisions, we authorized the provision of facilities-based competitive local exchange service by carriers meeting specified criteria, within the service territories of Pacific Bell Telephone Company (Pacific), Verizon California Inc. (Verizon), Roseville Telephone Company (RTC), and Citizens

Telecommunications Company of California, Inc. (CTC). We also authorized carriers meeting the same criteria to provide interexchange service statewide.

Applicant, a California corporation, seeks authority to provide limited facilities-based and resold local exchange services as a competitive local carrier (CLC) throughout Pacific, Verizon's and Citizen's service territories.

Applicant's principal place of business is located at 1015 Black Diamond Way, Suite A, Lodi, CA 95240.

III. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide facilities-based and resold local exchange and/or interexchange services must demonstrate that it has a minimum of \$100,000 of cash or cash equivalent to meet the firm's start-up expenses.¹ An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers (LECs) and/or interexchange carriers (IECs) in order to provide the proposed service.² Applicant provided bank statements and financial statements that demonstrate that it has sufficient cash to satisfy the financial requirement, including any required deposits.

¹ The financial requirement for CLCs is contained in D.95-12-056, Appendix C. The financial requirement for NDIECs is contained in D.91-10-041.

² The requirement for CLC applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying LECs and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

IV. Technical Qualifications

Applicants for CLC authority are required to make a reasonable showing of technical expertise in telecommunications or a related business. Applicant submitted biographical information on its officers that demonstrates that it possesses sufficient experience and knowledge to operate as a telecommunications provider.

Applicant represents that no one associated with or employed by Applicant as an affiliate, officer, director, partner, or owner of more than 10% of Applicant was previously associated with any telecommunications carrier that filed for bankruptcy or went out of business, or was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order.

V. Tariffs

Commission staff reviewed Applicant's draft tariffs for compliance with Commission rules and regulations. There were no deficiencies.

VI. California Environmental Quality Act (CEQA)

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. Applicant represents that it will be constructing facilities entirely within existing buildings or structures owned by carriers from which it will purchase services for resale. Therefore, it can be seen with certainty that there is no possibility that granting this application will have an adverse effect upon the environment. Applicant must file for additional

authority, and submit to any required CEQA review, before it can construct facilities other than equipment to be installed in existing buildings or structures.

VII. Categorization and Need for Hearings

In Resolution ALJ 176-3098 dated October 24, 2002, 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.

VIII. Comments on Draft Decision

This is an uncontested matter, in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

IX. Conclusion

We conclude that the application conforms to our rules for authority to provide competitive local exchange telecommunications services. Accordingly, we shall approve the application subject to the terms and conditions set forth herein. However, we use this occasion to place Applicant on notice that its history of financial instability and consumer complaints is troublesome to us and we will monitor Applicant's performance to insure that the interests of California telephone customers are protected.

X. Assignment of Proceeding

Michael Peevey is the Assigned Commissioner and Karl Bemederfer is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Notice of the application appeared in the Daily Calendar on October 15, 2002.
2. No protests have been filed.
3. A hearing is not required.
4. In prior decisions, the Commission authorized competition, by carriers meeting specified criteria, in providing local exchange telecommunications services within the service territories of Pacific, Verizon, RTC and CTC.
5. Applicant has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.
6. Applicant has sufficient additional cash or cash equivalent to cover any deposits that may be required by other telecommunications carriers in order to provide the proposed service.
7. Applicant possesses sufficient experience and knowledge to provide telecommunications services.
8. As part of its application, Applicant submitted a draft of its initial tariff. Its draft tariffs complied with the Commission's requirements.
9. Applicant will not be constructing facilities to provide telecommunications services.

Conclusions of Law

1. Applicant has the financial ability to provide the proposed service.
2. Applicant has sufficient technical expertise to operate as a telecommunications carrier.
3. Public convenience and necessity require that Applicant's competitive local exchange be subject to the terms and conditions set forth herein.

4. Since Applicant will not be constructing any facilities, it can be seen with certainty that there will be no significant effect on the environment.

5. The application should be granted to the extent set forth below.

6. Applicant, once granted a CPCN, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

7. Applicant's initial tariff filing should correct the deficiencies in its draft tariffs as indicated in Attachment A to this decision.

8. Because of the public interest in competitive local exchange and 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 (CPCN) is granted to California Catalog & Technology, Inc. d/b/a CCT Telecommunications (Applicant) to operate as a facilities-based and resale provider of competitive local exchange services and interexchange services, subject to the terms and conditions set forth below.

2. Applicant is authorized to provide (i) local exchange service in the service territories of Pacific Bell Telephone Company, Verizon California, Inc. and Citizens Telecommunications Company of California, Inc. and (ii) interexchange service statewide.

3. Applicant is authorized to file tariff schedules for the provision of competitive local exchange and 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 its tariffs.

4. 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.

5. The corporate identification number assigned to Applicant, U-5607-C, shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

6. Applicant shall comply with all applicable rules adopted in the Local Exchange Competition proceeding (Rulemaking 95-04-043/ Investigation 95-04-044), as well as all other applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities, subject to the exemptions granted in this decision.

7. Applicant shall comply with the requirements applicable to competitive local exchange carriers included in Attachments A-C to this decision.

8. Applicant is not authorized to construct facilities, other than equipment to be installed in existing buildings or structures.

9. This application is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A**Page 1****REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND NON-DOMINANT INTEREXCHANGE CARRIERS**

1. If you requested confidential treatment of the financial portions of your application, it was granted and those materials will remain under seal for one year from the date of the decision. If you wish to continue the seal on those materials beyond the one-year period, you must make a formal request no later than 30 days prior to the expiration of the year explaining the reasons why you believe such extension is necessary.

2. You are subject to the following fees, and you must remit them regularly. Per the instructions in 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 0.00% 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-16688, December 5, 2002);
- b. The current 0.300% 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-16663, August 22, 2002);

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- c. The user fee provided in Pub. Util. Code §§ 431-435, which is 0.11% of gross intrastate revenue (Resolution M-4804);
- 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 § 739.3; D.96-10-066, pp. 3-4, App. B, Rule 1.C; set by Resolution T-16550 at 0.360%, October 25, 2001);
- e. The current 1.42% 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-16554, October 25, 2001); and
- f. The current 0.00% 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-16686, December 5, 2002).

These fees change periodically. You should access the Commission web site (WWW.CPUC.CA.GOV) at least semiannually for current values, use these as of the effective date in your customer bills, and update your tariff when you submit an advice letter for other changes.

- 3. You are exempt from Rule 18(b) of the Commission's Rules of Practice and Procedure.
- 4. You are exempt from Pub. Util. Code §§ 816-830.
- 5. You are exempt from Pub. Util. Code § 851 when the transfer or encumbrance serves to secure debt.

6. You shall file a written acceptance with the Director of the Telecommunications Division of the certificate granted in this proceeding.

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

8. Prior to initiating service, you shall provide the Manager of the Consumer Affairs Branch with the name and phone number of your 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.

9. You shall notify the Director of the Telecommunications Division in writing of the date interLATA service and/or local exchange service is first rendered to the public within five days after interLATA service begins and again within five days of when intraLATA service begins.

10. You shall keep your books and records in accordance with the Uniform System of Accounts specified in Title 47, Code of Federal Regulations, Part 32.

11. In the event your books and records are required for inspection by the Commission or its staff, you 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 your office.

12. You shall file an annual report with the Director of the Telecommunications Division, in compliance with GO 104-A, on a calendar-year basis using the information request form developed by the Commission Staff and contained in Attachment B. You shall file an annual affiliate transaction report with the Director of the Telecommunications Division, in compliance with D.93-02-019, on a calendar year basis, using the form developed by the Commission staff and contained in Attachment C.

13. You shall ensure that your employees comply with the provisions of Public Utilities (Pub. Util.) Code § 2889.5 regarding solicitation of customers.

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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. Pub. Util. Code § 708 requires public utilities to provide ID badges to all employees with a format specified in that Section, and employees to present that badge when they request entry to customer or subscriber premises. You shall send a letter to the Director of the Telecommunications Division within 60 days of the effective date of this order declaring that you have issued the required badges.

16. If you are 90 days or more late in filing an annual report or in remitting the fees listed above, Telecommunications Division shall prepare for Commission consideration a resolution that revokes your CPCN, unless you have received the written permission of Telecommunications Division to file or remit late.

17. You must abide by the Commission's consumer protection rules adopted in D.98-08-031 as modified from time to time.

18. If your company is planning to discontinue service or to file for bankruptcy, you are required to contact the Bankruptcy Coordinator in the Telecommunications Division immediately. Please ask us for instructions in your particular circumstances; our rules are designed to ensure that your telecommunications customers receive adequate notice and are minimally inconvenienced. Your compliance is necessary so that you are not penalized for failure to follow Commission rules.

(END OF ATTACHMENT A)

ATTACHMENT B

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TO: ALL COMPETITIVE LOCAL EXCHANGE AND NON-DOMINANT 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:

Director, Telecommunications Division
California Public Utilities Commission
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. Information Requested of California Interexchange Telephone Utilities and Local Exchange Carriers.

To be filed with the Director, Telecommunications Division, California Public Utilities Commission, 505 Van Ness Avenue, Room 3107, Telecommunications Division, 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.

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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 B)

ATTACHMENT C**Page 1****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;
- 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.

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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 #1 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 tariffed 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 Section 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 C)