

Decision 09-09-039 September 24, 2009

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

Application of Convergence Systems, Inc. for a Certificate of Public Convenience and Necessity to Provide Limited Facilities-Based Local Exchange Telecommunications Services within San Diego and Orange Counties in the State of California. (U-7134-C)

Application 08-12-005  
(Filed December 9, 2008)

**DECISION GRANTING PETITION TO MODIFY DECISION 09-06-015 TO PERMIT APPLICANT TO PROVIDE LIMITED FACILITIES-BASED LOCAL EXCHANGE AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES THROUGHOUT CALIFORNIA**

**1. Summary of Decision**

Applicant's Petition to Modify Decision 09-06-015, which granted Convergence Systems, Inc. (Convergence) a certificate of public convenience and necessity to construct telecommunications facilities and provide limited facilities-based local exchange and interexchange telecommunications services as a competitive local exchange carrier in San Diego and Orange Counties, is granted to allow Convergence to provide its local exchange services in the territories currently served by Pacific Bell Telephone Company dba AT&T California, Verizon California Inc., SureWest Telephone and Citizen Telephone Company and interexchange services throughout the State of California.

This proceeding is closed.

## **2. Background**

### **2.1 Applicant**

Convergence is a California corporation in good standing with its principal place of business in San Diego. Decision (D.) 09-06-015, which was issued on June 5, 2009, granted Convergence a certificate of public convenience and necessity (CPCN) to construct telecommunications facilities and provide limited facilities-based local exchange and interexchange telecommunications services as a competitive local exchange carrier in the service territories of Pacific Bell Telephone Company dba AT&T California (Pacific), Verizon California Inc. (Verizon), SureWest Telephone (SureWest) and Citizen Telephone Company (Citizen) within San Diego and Orange Counties. (D.09-06-015, OP. 2.)

In compliance with Ordering Paragraph 5 of D.09-06-015, the assigned corporate identification number U-7134-C is being added to the caption of this application.

### **2.2 Petition to Modify**

Convergence seeks to expand the geographical extent of its authority to enable it to provide its services beyond the two counties specified in our original order. The reason for its request is that, after filing its application in December 2008, Convergence became aware of several opportunities to provide its services in other parts of California.

Convergence filed a timely Petition to Modify D.09-06-015 pursuant to Rules of Practice and Procedure (Rule) 16.4, subdivision (d). No response has been filed.

## **3. Discussion**

Convergence's petition, which is unopposed, merely requests expansion of its authority so that it may conduct its business statewide within limits

previously established by the Commission. No findings or conclusions in the original order require alteration, and no new environmental issues are presented. Granting the petition would not be adverse to the public interest.

We will grant the petition.

#### **4. Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

#### **5. Assignment of Proceeding**

Rachelle B. Chong is the assigned Commissioner and Victor D. Ryerson is the assigned Administrative Law Judge in this proceeding.

#### **Findings of Fact**

1. Convergence is a California corporation in good standing with its principal place of business in San Diego. D.09-06-015, which was issued on June 5, 2009, granted Convergence a CPCN to construct telecommunications facilities and provide limited facilities-based local exchange and interexchange telecommunications services as a competitive local exchange carrier within the territories of Pacific, Verizon, SureWest and Citizen in San Diego and Orange Counties.
2. Convergence has filed a timely Petition to Modify D.09-06-015 pursuant to Rule 16.4, subdivision (d). The petition seeks to expand the authority granted under D.09-06-015 to statewide authority.
3. No response has been filed to the petition.

## Conclusions of Law

1. Granting Convergence's Petition to Modify would not be adverse to the public interest.
2. The petition should be granted, and our Order in D.09-06-015 should be modified, as set forth in our Order below.<sup>1</sup>
3. Because of the public interest in establishing competitive statewide services as Convergence proposes, this decision should be effective immediately.

## O R D E R

**IT IS ORDERED** that:

1. Our Decision (D.) and Order in this matter, D.09-06-015, issued June 5, 2009, are modified as follows:
  - a. *Page 1, paragraph 1 at line 4-5: "... as a competitive local exchange carrier in San Diego and Orange Counties"* is changed to, "... as a competitive local exchange carrier (CLEC) within the territories currently served by Pacific Bell Telephone Company dba AT&T California (Pacific), Verizon California Inc. (Verizon), SureWest Telephone Company and Citizens Telephone Company (Citizens), and interexchange carrier throughout the State of California..."
  - b. *Page 2, paragraph 2.2 at line 1-2: "... limited facilities-based telecommunications services in San Diego and Orange Counties"* is changed to, "... limited facilities-based telecommunications services as a CLEC in Pacific's, Verizon's, SureWest's and Citizen's service territories, and as an interexchange carrier throughout the State of California..."
  - c. *Page 7, paragraph 10 at line 3-4: is deleted.*

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<sup>1</sup> These modifications include the deletion of a phrase that was purely a typographical error.

- d. *Page 7, finding of Fact 2 at line 1-2: "... limited facilities-based local telephone service in San Diego and Orange Counties in"* is changed to, *"...limited facilities-based local telephone service in Pacific's, Verizon's, SureWest's and Citizen's territories as a CLEC and interexchange service throughout the State of California ..."*
- e. *Page 9, Ordering Paragraph 2 at line 4-5: "... situated in San Diego and Orange Counties"* is replaced by *"and interexchange services throughout the State of California."*

2. In addition, Convergence shall amend its Tariff Schedule Applicable to Local Exchange Telecommunications Services, Sheet 7-T, which reflects a map of its service territory, and any other tariff sheets that reference its service territory as being limited to San Diego and Orange Counties, consistent with this order.

3. The assigned corporate identification number U-7134-C shall be added to the caption of this application.

4. Application 08-12-005 is closed.

This order is effective today.

Dated September 24, 2009, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners