

Decision 10-08-013 August 12, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Everycall Communications, Inc.
d/b/a All American Home Phone d/b/a
Local USA for a Certificate of Public Convenience
and Necessity to Offer Resold and Limited
Facilities-Based Local Exchange and
Interexchange Telecommunications Services
within the State of California.

Application 09-12-012
(Filed December 10, 2009)

**DECISION GRANTING EVERYCALL COMMUNICATIONS INC., A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO
PROVIDE LIMITED FACILITIES-BASED AND RESOLD LOCAL EXCHANGE
AND INTEREXCHANGE SERVICE IN CALIFORNIA**

1. Summary

Everycall Communications, Inc., d/b/a All American Home Phone, d/b/a Local USA (Applicant) filed an application for a certificate of public convenience and necessity for authority to provide limited facilities-based and resold local exchange services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California, Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California, SureWest Telephone/SureWest Communications, and Verizon California, Inc., and interexchange telecommunications services statewide.

By this decision, we grant Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange and interexchange telecommunications services, on the terms and conditions set forth in the Ordering Paragraphs.

2. Background

On December 10, 2009, Applicant filed an application for a certificate of public convenience and necessity (CPCN) to provide limited facilities-based and resold local exchange services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T), Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California (CTC), SureWest Telephone/SureWest Communications (SureWest), and Verizon California, Inc. (Verizon) and interexchange services statewide. Applicant states that it will initially offer services in the service territories of AT&T and Verizon, but plans to eventually offer services statewide.

Applicant is a Louisiana corporation and a privately-held company. Applicant's principal place of business is located at 4315 Bluebonnet Blvd., Suite A, Baton Rouge, Louisiana 70809.

3. Description of Proposed Service

Applicant proposes to offer interexchange and limited facilities-based local exchange services to both residential and business customers in California. Applicant also plans to resell services of AT&T, Verizon, and/or other authorized competitive local exchange carriers (CLECs) as allowed by the Commission. Applicant's services will consist of basic interexchange and basic and optional local exchange services available for resale through incumbent local exchange carriers and CLECs, including prepaid local exchange services.

4. 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 Applicant states that it

will not be constructing any facilities for the purpose of providing local exchange or interexchange services, except for equipment to be installed in existing buildings or structures, 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, Applicant must file for additional authority, and submit to any necessary CEQA review.

5. Financial Qualifications

Pursuant to Rule 4.B of the Initial Rules for Local Exchange Service Competition in California adopted in Decision (D.) 95-12-056, an applicant for a CPCN for authority to provide facilities-based local exchange service must demonstrate that it has \$100,000 cash or cash equivalent to meet the firm's start-up expenses. 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. Applicant has provided financial documents which demonstrate that Applicant meets these requirements.

6. Managerial and Technical Qualifications

To be granted a CPCN for authority to provide local exchange and interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.¹ Applicant supplied biographical information on its management in Exhibit 8 to its application that demonstrates that it has sufficient expertise and training to operate as a telecommunications provider.

¹ D.95-12-056 at Appendix C, Rule 4.A.

Applicant has certified 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 a telecommunications carrier that filed for bankruptcy, or was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order.

Applicant also certified that no one associated with or employed by it as an affiliate, officer, director, partner, or owner of more than 10% of Applicant was previously associated with any telecommunication 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.

For the above reasons, we find that Applicant is in compliance with the requirements of Rule 4.A. of D.95-12-056.

7. Tariffs

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

8. Map of Service Territory

To be granted a CPCN for authority to provide local exchange service, an applicant must provide a map of the service territories it proposes to serve.² In

² D.95-12-056 at Appendix C, Rule 4.E.

Exhibit 4, Applicant provided a map of the location of its proposed service territory, in compliance with this requirement.

9. Expected Customer Base

Applicant provided its estimated customer base for the first and fifth years of operation in Exhibit 6 of its application. Therefore, Applicant has complied with this requirement.

10. Conclusion

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant Everycall Communication a CPCN to provide limited facilities-based and resold local exchange and interexchange telecommunications service in the service territories of AT&T, CTC, SureWest, and Verizon, subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

11. Categorization and Need for Hearings

In Resolution ALJ 176-3246, dated December 17, 2009, 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.

12. Comments on Proposed Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Pub. Util. 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.

13. Assignment of Proceeding

Dian M. Grueneich is the assigned Commissioner and Myra J. Prestidge is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Applicant has applied for a CPCN authorizing Applicant to provide limited facilities-based and resold local exchange services in the service territories of AT&T, CTC, SureWest, and Verizon, and interexchange services statewide.
2. Notice of the application appeared in the Daily Calendar on December 16, 2009.
3. No protests have been filed.
4. A hearing is not required.
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 deposits that may be required by other telecommunications carriers in order to provide the proposed service.
7. Applicant's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange and interexchange services to the public.
8. 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 a telecommunications carrier that filed for bankruptcy, or was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order.

9. No one associated with or employed by it as an affiliate, officer, director, partner, or owner of more than 10% of Applicant 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.

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

11. Applicant has provided a map of the location of its proposed service territory.

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

13. Applicant will not be constructing facilities.

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. Applicant should be granted a CPCN to provide limited facilities-based and resold local exchange telecommunications service in the service territories of AT&T, Citizens, SureWest, and Verizon, as well as limited facilities-based and resold interexchange telecommunications service in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

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

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

6. 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 is granted to Everycall Communications, Inc., d/b/a All American Home Phone, d/b/a Local USA to provide limited facilities-based and resold local exchange telecommunications service in the service territories of Pacific Bell Telephone Company d/b/a AT&T California, Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California, SureWest Telephone/SureWest Communications, and Verizon California, Inc., and limited facilities-based and resold interexchange service in California, subject to the terms and conditions set forth below.

2. Everycall Communications, Inc., d/b/a All American Home Phone, d/b/a Local USA must not offer competitive local exchange services until tariffs are filed with and authorized by this Commission, in accordance with General Order 96-B, (Decision (D.) 07-01-024), the Telecommunications Industry Rules (D.07-09-019) as a Tier II advice letter, and as corrected for deficiencies set forth in Attachment A. The tariff shall be effective not less than one day after tariff approval by the Commission's Communication Division. Applicant shall comply with its tariff.

3. The corporate identification number, U 7188 C assigned to Everycall Communications, Inc., d/b/a All American Home Phone, d/b/a Local USA

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. 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. Applicant shall comply with all applicable rules adopted in the Local Exchange Competitive proceeding (Rulemaking 95-04-010/Investigation 95-04-044), the Commission's rules and regulations for nondominant interexchange carriers set forth in Decision (D.) 93-05-010, D.90-08-032, 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.

6. Applicant shall comply with the requirements applicable to competitive local exchange carriers and non-dominant interexchange carriers included in Attachment B to this decision.

7. Applicant is not authorized to construct facilities other than those to be installed in existing building and structures.

8. Application 09-12-012 is closed.

This order is effective today.

Dated August 12, 2010, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

ATTACHMENT A

List of deficiencies in draft tariff submitted by Everycall Communications, Inc., d/b/a All American Home Phone, d/b/a Local USA in A.09-12-012 to be corrected in its initial tariff compliance filing:

1. Tariff Sheet Format: CPUC assigned utility ID number (U#) should be included on each sheet in the upper left header along with Company name and address. (General Order 96-B, Section 8.4.1.)
2. Please provide company California business address at which the tariff is available for inspection or web page URL where tariffs are published on-line (GO 96-B, Section 8.1.3).
3. Please add the procedure the customer may use to request amortization of unpaid charges that is in compliance with Decision 95-07-054, Appendix B, Rule 6.B.(2).5.
4. 2-T Sheet 31-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.
5. Please provide California Lifeline Telephone Service offer consistent with the requirement found at:
<http://www.cpuc.ca.gov/PUC/Telco/Public+Programs/ultra.htm>

(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 1.15% 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 0.20% 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 0.18% of gross intrastate revenue (Resolution M-4819), dated June 7, 2007, effective July 1, 2007;
- d. The current 0.11% 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 0.45% 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 0.00% 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 Advances 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 (d/b/a 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 (CLEC). The effectiveness of its future tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

4. Applicant is a nondominant interexchange carrier (NDIEC). The effectiveness of its future NDIEC tariffs is subject to the requirements of General Order 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 using the form contained in Attachment D.

¹ California is divided into ten 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 Public Utilities (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, the Communications Division shall prepare for Commission consideration a resolution that revokes Applicant's CPCN unless it has received written permission from the Communications Division to file or remit late.

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

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 not 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 §§ 2107 and 2108 of the Public Utilities Code.

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.

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 be 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 D)