

Decision 11-08-011 August 18, 2011

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

In the Matter of the Application of Radical Systems Solutions Inc. for a Certificate of Public Convenience and Necessity for Authority to Provide Resold Interexchange Services in the State of California.

Application 11-03-029  
(Filed March 30, 2011)

**DECISION GRANTING RADICAL SYSTEM SOLUTIONS INC. A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE RESOLD LOCAL EXCHANGE SERVICE IN CALIFORNIA**

**Summary**

Radical Systems Solutions Inc. is granted a certificate of public convenience and necessity, pursuant to Pub. Util. Code §1001, for authority to provide resold interexchange telecommunications services in the state of California, subject to the terms and conditions set forth below. The application is unopposed. This proceeding is closed.

**Background**

On March 30, 2011, Radical Systems Solutions Inc. (Radical)<sup>1</sup> filed an application for a certificate of public convenience and necessity (CPCN) to provide resold interexchange telecommunications services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T), Verizon California Inc. (Verizon), Citizens Telecommunications Company of

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<sup>1</sup> Radical is a registered interexchange carrier in California; the company was granted authority by Decision (D.) 09-03-048 issued March 26, 2009 (U-7138-C).

California, Inc., d/b/a Frontier Communications Company of California (Frontier) and SureWest Telephone (SureWest). Radical currently provides automated operator assisted call completion services to inmates and other incarcerated persons in confinement and correctional facilities throughout the state of California. Radical's principal place of business is located at 8018 E. Santa Ana Canyon Rd. Suite 100, #163, Anaheim, CA 92909-1102.

### **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 so as to avoid adverse affects, guarantee alternatives are investigated, and ensure environmental quality is restored or enhanced to the fullest extent possible. Radical will provide its service through the use of existing transmission facilities of other carriers and has no plans to construct other facilities at this time. Therefore 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, Radical must file for additional authority, and submit to any necessary CEQA review.

### **Financial Qualifications**

To be granted an application for registration, an applicant for authority to provide resold interexchange services must demonstrate that it has a minimum of \$25,000 of cash or cash equivalent to meet the firm's start-up expenses.<sup>2</sup> An applicant must also demonstrate that it has sufficient additional resources to

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<sup>2</sup> The financial requirement for non-dominant interexchange carriers (NDIEC) is contained in D.91-10-041.

cover all deposits required by local exchange carriers (LECs) and/or interexchange carriers (IECs) in order to provide the proposed service.<sup>3</sup> Radical provided an audited financial statement for the year ending December 31, 2010 and a series of bank statements covering a period of several months demonstrating that it has sufficient cash to satisfy the financial requirements.

Radical proposes to offer service within the territories of AT&T, Verizon, Frontier, and SureWest. In its response, Radical stated that it has no deposits with any underlying providers and does not anticipate having to supply any deposits in the future. However in its response, Radical guarantees that they have sufficient cash on hand to be able to cover any potential deposits that should be required in addition to the \$25,000 required above.<sup>4</sup>

### **Managerial and Technical Qualifications**

To be granted a CPCN for authority to provide resold interexchange service, applicants are required to make a reasonable showing of technical expertise in telecommunications or a related business.<sup>5</sup> Radical supplied biographical information on its management in Attachment E of its application that demonstrated that it has sufficient expertise and training 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 telecommunication carrier that filed for bankruptcy; has been found either civilly or criminally liable by a court

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<sup>3</sup> For NDIECs, the requirement is found in D.93-05-010.

<sup>4</sup> *Radical System Solution Inc.* Response to Second ALJ inquiry.

<sup>5</sup> D.95-12-056 at Appendix C, Rule 4.A.

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 investigations for similar violations; or was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule or order.

### **Tariff**

Commission staff reviewed Radical'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, Radical shall correct these deficiencies as a condition of our approval of its application.

### **Map of Service Territory**

To be granted a CPCN for authority to provide resold interexchange service, an applicant must provide a map of the service territories it proposes to serve.<sup>6</sup> In its Response, Radical provided a map of the location of its proposed service territory, in compliance with this requirement.

### **Expected Customer Base**

Radical provided its estimated customer base for the first and fifth years of operation in Attachment G to its application. Therefore, Radical has complied with this requirement.

### **Conclusion**

We conclude that the application conforms to our rules for certification as a resold interexchange carrier. Accordingly, we grant Radical a CPCN to

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<sup>6</sup> D.95-12-056 at Appendix C, Rule 4.E.

provide resold interexchange telecommunications services in the service territories of AT&T, Verizon, Frontier, and SureWest, subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

### **Motion for Protective Order**

Pursuant to Rule 11.4, Radical Systems 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.

All sealed information should remain sealed for a period of two years after the effective date of this order.

### **Categorization and Need for Hearing**

In Resolution ALJ 176-3273, dated May 5, 2011, 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), the otherwise applicable 30-day period for public review and comment is being waived.

### **Assignment of Proceeding**

Catherine J. K. Sandoval is the assigned Commissioner and W. Anthony Colbert is the assigned Administrative Law Judge (ALJ) in this proceeding.

### **Findings of Fact**

1. Notice of the application appeared on the Daily Calendar on April 21, 2011. No protests have been filed. A hearing is not required.

2. Radical has a minimum of \$25,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.

3. Radical 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.

4. Radical's management possesses sufficient experience, knowledge, and technical expertise to provide resold interexchange services to the public.

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

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

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

8. Radical provided a map of the location of its proposed service territory.

9. Radical provided an estimate of its customer base for the first and fifth year of operation.

10. Applicant has filed a motion for leave to file confidential financial information under seal.

### **Conclusions of Law**

1. Radical should be granted a CPCN to provide resold interexchange telecommunications service in the service territories of AT&T, Verizon, Frontier, and SureWest, subject to the terms and conditions set forth in the Ordering Paragraphs.

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

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

4. Radical should be granted nondominant 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. Radical's motion to file material under seal should be granted, material under seal should not be made accessible or disclosed to anyone other than the Commission and its staff for two years, 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

**O R D E R**

**IT IS ORDERED** that:

1. A Certificate of Public Convenience and Necessity is granted to Radical Systems Solutions Inc., to provide resold interexchange telecommunications services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California, Verizon California Inc., Citizens Telecommunications Company of California, Inc, d/b/a/ Frontier Communications Company of California, and SureWest Telephone, subject to the terms and conditions set forth below.
2. Radical Systems Solutions Inc. may not offer resold interexchange 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 assigned to Radical Systems Solutions Inc., U-7138-C, 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 interexchange carriers included in Attachments B, C, and D to this decision Radical Systems Solutions 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. Radical Systems Solutions Inc. is a nondominant 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. Radical Systems Solutions 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. Radical Systems Solutions Inc. must annually pay the user fee 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.

8. Prior to initiating service, Radical Systems Solutions 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. Radical Systems Solutions 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. Radical Systems Solutions 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. Radical Systems Solutions 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. Radical Systems Solutions Inc. must file a tariff within 12 months of the effective date of this order, or its certificate will be cancelled.

13. Radical Systems Solution Inc's., request 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 for two years, except upon further order or ruling of the Commission, the assigned Commissioner, the assigned Administrative Law Judge then designated as the Law and Motion Judge. If Radical Systems Solution Inc., believes it is necessary for this information to remain under seal for longer than two years, it shall file a motion stating the justification for further withholds this information. This motion shall be filed at least 30 days before the expiration of the two year period granted by this order.

14. Application 11-03-029 is closed.

This order is effective today.

Dated August 18, 2011, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
TIMOTHY ALAN SIMON  
MICHEL PETER FLORIO  
CATHERINE J.K. SANDOVAL  
MARK J. FERRON  
Commissioners

**Attachment A**  
**Page 1**

List of deficiencies in tariff filed by Radical System Solutions, Inc. to be corrected in its tariff compliance filing.

1. Please include a list of Definitions.
2. Please include information on Special Information on Forms. Please add descriptions and rules that are in compliance with D.96-09-098, Rule 4.
3. Please add descriptions and rules for Disputed Bills that are in compliance with D.96-09-098, Rule 9.
4. Please add descriptions and rules for Discontinuance and Restoration of Service that are in compliance with D.96-09-098, Rule 11.
5. Please include information on Limitation of Liability. See D.96-09-098, Rule 14.
6. Please include information on Privacy of Customers. See D.96-09-098, Rule 15.
7. Please include information on Fees and Surcharges. See D.96-09-098, Rule 18.

**(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, and must remit them regularly. 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 Deaf and Disabled Telecommunications Program (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 either 0.180% of gross intrastate revenue (Resolution M-4819), dated June 7, 2007, effective July 1, 2007;
- d. 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 High Cost Fund-A (Pub. Util. Code § 739.3; D.96-10-066, pp. 3-4, App. B, Rule 1.C; Resolution T-17299, dated November 19, 2010, effective December 1, 2010);
- e. 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 High Cost Fund-B (D.96-10-066, p. 191, App. B, Rule 6.F.; D.07-12-054); Resolution T-17311, dated March 24, 2011 effective May 1, 2011;

- 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); Resolution T-17248, dated December 17, 2009, effective January 1, 2010; 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 (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 keep its books and records in accordance with the Generally Accepted Accounting Principles.

10. 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.

11. 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.

12. 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.

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

14. 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.

15. 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.

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

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

18. 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.

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

20. 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 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)**