

Decision 12-05-030 May 24, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Securetel Network Inc.
d/b/a STN for Registration as an
Interexchange Carrier Telephone
Corporation pursuant to the provisions of
Public Utilities Code Section 1013.

Application 11-07-018
(Filed July 21, 2011)

**DECISION GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY TO PROVIDE RESOLD INTEREXCHANGE SERVICE**

1. Summary

Securetel Network Inc. d/b/a STN seeks a certificate of public convenience and necessity (CPCN) under Pub. Util. Code § 1001 for authority to provide resold interexchange service as a switchless reseller in California. By this decision, we grant the CPCN on the terms and conditions set forth in the Ordering Paragraphs.

2. Background

Securetel Network Inc. d/b/a STN (STN) seeks authority to provide resold interexchange services as a non-dominant interexchange carrier (NDIEC). STN will purchase bundles of minutes from its underlying service providers and package them into prepaid calling cards for sale to California consumers.

In prior decisions, we authorized the provision of competitive interexchange services by carriers meeting specified criteria. We established a

ministerial level registration process pursuant to Pub. Util. Code § 1013¹ for carriers whose applications conformed to certain requirements – including the requirement that the applicant not have previously made any voluntary payments or settlements to resolve a regulatory action. STN filed its application pursuant to the § 1013 registration process. The application was originally assigned to Examiner John Leutza in the Communications Division for review in accordance with the § 1013 registration process. However, STN states that in 2009 the Federal Communications Commission (FCC) issued a Notice of Apparent Liability against STN. STN agreed to pay \$2,000 to resolve the action. For this reason, STN is ineligible for registration pursuant to § 1013. The application was re-assigned to be reviewed for granting of a certificate of public convenience and necessity (CPCN) under § 1001.

STN will sell calling cards to retail outlets in California. STN will partner with underlying carriers, a network of distributors and a technical support service company, World Communications Group Services, Ltd. (WCGS) to provide switching and technical assistance services. STN has worked with WCGS to provide similar services in New York.

STN is a New York corporation qualified to do business in California. STN's principal place of business is located at 1303 53rd Street, Suite 230, Brooklyn, New York 11219. STN's telephone number is (718) 633-2195. STN has provided similar services in New York since 2007. (Correspondence from Jacqueline R. Hankins to Donna Wong, dated October 28, 2011 (Response to Data Request #1).)

¹ Unless otherwise indicated, all statutory references are to the Public Utilities Code.

3. 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. STN will not be constructing any facilities for the purpose of providing interexchange services. Therefore, it can be seen with certainty that there is no possibility that granting this application will have an adverse effect upon the environment. Before it can construct facilities other than equipment to be installed in existing buildings or structures, STN must file for additional authority, and submit to any necessary CEQA review.

4. Financial Qualifications

To be granted a CPCN, 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.

STN provided an income statement, balance sheet and bank statement demonstrating that it has sufficient cash to satisfy the financial requirement. Because STN has provided documentation that it possesses a minimum of \$25,000 that is reasonably liquid and available, it has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement.

An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers and/or interexchange carriers in order to provide the proposed service. At this time, STN estimates that deposits required by carriers will total less than \$25,000. Therefore, \$25,000 is sufficient to cover deposits at this time.

5. Technical and Managerial Qualifications

Prior to issuing a CPCN under § 1001 or registration under § 1013, the Commission must determine if the applicant has the necessary managerial qualifications and technical competence. In its application and in Response to Data Request #1, STN submitted biographical information on its owner and sole officer that demonstrates that it possesses sufficient experience and knowledge to operate as a telecommunications provider. In addition, STN will partner with WCGS to provide technical assistance and support. STN has worked with WCGS to provide similar services in New York.

The Commission must also take steps to protect consumers from fraud. To aid the Commission in its determination, the applicant must state if anyone associated with the applicant has been found either civilly or criminally liable for any actions which involved misrepresentations to consumers.

In 2009, the FCC issued a Notice of Apparent Liability against STN for apparent violations of the FCC's Consumer Proprietary Network Information (CPNI) Rules (47 U.S.C. §§ 222; 47 C.F.R. § 64.2000 *et seq.*). The FCC concluded that, in its 2007 CPNI filing, STN omitted an explanation of any actions taken against data brokers and a summary of all customer complaints received in the past year concerning the unauthorized release of CPNI as required by 47 C.F.R. § 64.2009(e). (See, *In the Matter of Securetel Network Inc. Apparent Liability for Forfeiture* (FCC 2009) File No. EB-09-TC-153.) The FCC proposed a forfeiture of \$2,000. Rather than challenge the FCC's determination, STN agreed to pay the proposed forfeiture.

STN states that it has been in full compliance with the FCC's CPNI rules since 2007, and that there were no actual actions or complaints that would have

been included in the 2007 CPNI filing. (Application at Attachment F; Response to Data Request #2 (March 19, 2012) at 3.)

STN represents that, with the exception of the 2009 FCC settlement, no one associated with or employed by STN as an affiliate, officer, director, partner, or owner of more than 10% of STN was previously associated with any 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 light of the above, we find that STN has met the requirements for managerial qualifications and technical competence.

6. Detariffed Status

STN has requested an exemption from tariffing requirements pursuant to the requirements set out in Decision (D.) 98-08-031. STN has agreed to abide by the requirements and consumer protection rules set forth in D.98-08-031, as such rules may be modified from time to time. STN is eligible to provide detariffed service in accordance with D.98-08-031. STN also must post all detariffed rates, terms, and conditions of service on an internet site pursuant to Rule 5.2 of the Telecommunications Industry Rules in General Order 96-B and must notify customers, for any service not provided under tariff, of higher rates or charges, or more restrictive terms or conditions or withdrawal of service or transfer of ownership or customer base pursuant to Rule 5.3 of the Telecommunications Industry Rules in General Order 96-B.

7. Request for Treatment as a Non-Dominant Interexchange Carrier

STN requests treatment as a non-dominant interexchange carrier, which would include exemption from the requirements of Pub. Util. Code §§ 816-830 concerning stocks and security and § 851 concerning the encumbrance and

transfer of utility property. The Commission detailed its rules regarding exemption of non-dominant interexchange carriers in D.85-01-008, as subsequently modified in D.85-07-081 and D.85-11-044. We grant STN's request for non-dominant interexchange carrier status, provided that it follows all rules detailed in the above referenced decisions.

8. Conclusion

We conclude that the application conforms to our rules for authority to provide resold interexchange telecommunications services. Accordingly, we shall approve the application and grant the CPCN subject to the terms and conditions set forth in the Ordering Paragraphs.

9. Categorization and Need for Hearing

In Resolution ALJ 176-3278 dated July 28, 2011, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests were filed. There is no apparent reason why the application should not be granted.

10. Assignment of Proceeding

Catherine J.K. Sandoval is the assigned Commissioner and Jeanne McKinney is the assigned Administrative Law Judge in this proceeding.

11. 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 Public Utilities Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Findings of Fact

1. Notice of the application appeared in the Daily Calendar on July 26, 2011. No protests were filed. A hearing is not required.

2. In prior decisions the Commission authorized competition in providing interexchange services for carriers meeting specified criteria.
3. STN has previously paid a forfeiture for settlement of an alleged FCC violation.
4. Applicants that have paid a forfeiture for an alleged FCC violation are not eligible for registration under § 1013.
5. STN has a minimum of \$25,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.
6. No deposits are required by other telecommunications carriers at this time.
7. STN has sufficient cash or cash equivalent to cover any deposits that may be required by other telecommunications carriers in order to provide the proposed service.
8. STN possesses sufficient experience and knowledge to provide telecommunications services.
9. Except for the 2009 settlement with the FCC, no one associated with or employed by STN as an affiliate, officer, director, partner, or owner of more than 10% of STN: (a) was previously associated with a telecommunications carrier that filed for bankruptcy; (b) was sanctioned by the FCC or any state regulatory agency for failure to comply with any regulatory statute, rule, or order; (c) 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, or (d) is currently under investigation for similar violations.

10. STN has been in compliance with FCC regulations since 2007.

11. STN meets the qualifications for exemption from tariffing requirements and STN has agreed to abide by the consumer protection rules adopted in D.98-08-031, as modified from time to time.

12. STN requests non-dominant interexchange carrier treatment.

13. STN will not be constructing facilities. Granting authority to provide resold interexchange services will not have a significant adverse effect upon the environment.

Conclusions of Law

1. STN should be granted a CPCN to provide resold interexchange telecommunications services in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. STN has the financial ability to provide the proposed service.

3. STN has sufficient technical expertise and management experience to provide the proposed service.

4. The 2009 FCC settlement is not grounds to deny STN a CPCN authorizing the provision of telecommunications services in this state.

5. Because STN will not be constructing any facilities, it can be seen with certainty that there will be no significant effect on the environment.

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

7. STN should be granted an exemption from the requirement to file tariffs.

8. STN should be granted non-dominant carrier status, subject to Commission rules and regulations applicable to NDIECs, including D.85-01-008, D.85-07-081 and D.85-11-044.

9. Because of the public interest in competitive interexchange services, the following order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. Securetel Network Inc. d/b/a STN is granted a certificate of public convenience and necessity to operate as a resale provider of competitive interexchange services, subject to the terms and conditions set forth below.

2. Securetel Network Inc. d/b/a STN shall maintain \$50,000 in unencumbered cash or cash equivalent for a period of twelve months after approval of this application.

3. Securetel Network Inc. d/b/a STN is exempt from the requirement to file tariffs subject to the conditions set forth in the attached appendices.

4. The corporate identification number assigned to Securetel Network Inc. d/b/a STN, U7230C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

5. This certificate of public convenience and necessity is granted subject to the terms and conditions set forth in these Ordering Paragraphs, and the authority to render service will expire if not exercised within 12 months after the effective date of this decision.

6. In addition to all the requirements applicable to resellers of interexchange services included in Attachments A, B, and C to this decision, Securetel Network Inc. d/b/a STN 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.

7. Securetel Network Inc. d/b/a STN must post all detariffed rates, terms, and conditions of service on an internet site pursuant to Rule 5.2 of the Telecommunications Industry Rules in General Order 96-B.

8. Securetel Network Inc. d/b/a STN must annually pay the user fee and public purpose surcharges specified in Attachment A. Per the instructions in Appendix 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, carriers must report user fees even if the amount due is \$0.

9. Applicant 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.

10. Securetel Network Inc. d/b/a STN is not authorized to construct facilities.

11. Application 11-07-018 is closed.

This order is effective today.

Dated May 24, 2012, at San Francisco, California.

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

ATTACHMENT A

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 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 0.14% 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-17343, dated September 22, 2011, effective November 1, 2011; 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 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 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.²

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.

² 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.

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.

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 certificate of public convenience and necessity 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 A)

**ATTACHMENT B
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 B)

ATTACHMENT C
CALENDAR YEAR AFFILIATE TRANSACTION REPORT

An original paper copy, and a machine-readable electronic copy, on a CD or floppy disk using Microsoft Word or a compatible format, shall be filed with the California Public Utilities Commission, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298. The filing shall be made no later than May 1st 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.

1. Each utility must 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 must 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 D.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)