

Decision 12-07-010 July 12, 2012

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

In the Matter of the Application of  
Conectado, Inc., for a Certificate of Public  
Convenience and Necessity to Provide  
Resold Interexchange Telecommunications  
Services within California.

Application 12-02-019  
(Filed February 24, 2012)

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

**1. Summary**

Conectado, Inc. seeks a certificate of public convenience and necessity (CPCN) under Pub. Util. Code § 1001 for authority to provide resold interexchange services in California. By this decision, we grant the CPCN on the terms and conditions set forth in the Ordering Paragraphs.

**2. Background**

Conectado, Inc. (Applicant or Conectado) seeks authority to provide resold interexchange services pursuant to Pub. Util. Code § 1001. Conectado will provide services routed over facilities owned by other certified carriers such as Alliance Group Services.

Conectado is a Nevada corporation qualified to do business in California. Conectado's principal place of business is located at 300 Maple Park Blvd., Ste. 301, St. Clair Shores, MI 48081. Conectado's telephone number is (586) 218-6070.

We have previously determined that public convenience and necessity require that competition be allowed in the provision of competitive local exchange service, Rulemaking 95-04-043/Investigation 95-04-044. Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

### **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. Conectado 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, Conectado 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.

(Decision (D.) 95-12-056)

Conectado provided an income statement and a balance sheet statement. Conectado also provided a letter from its bank certifying that a minimum of \$25,000 would remain in a time deposit account through 2013. Because Conectado 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. (D.95-12-056) At this time, Conectado has provided documentation that its underlying carrier, Alliance Group Services Inc., will not require a deposit or prepayment. (Response to Inquiries from Assigned Administrative Law Judge (ALJ), dated April 23, 2012 (Response to ALJ Inquiries) Therefore, no additional funds are necessary to cover deposits at this time.

## **5. Technical and Managerial Qualifications**

Prior to issuing a CPCN under § 1001, the Commission must determine if the applicant has the necessary managerial qualifications and technical competence. (D.95-12-056 at Appendix C, Rule 4.A.) In its application and in Response to ALJ Inquiries, Conectado submitted biographical information on its owner, Carmen Casey, demonstrating that she has some experience working in the telecommunications industry. In addition, Conectado has contracted with Back Office Support Systems Inc., a provider of back office support services for telecommunications companies, to provide operational support. Based on the foregoing, Conectado has demonstrated that it possesses sufficient experience and knowledge to operate as a telecommunications provider in California.

Conectado represents that no one associated with or employed by Conectado as an affiliate, officer, director, partner, or owner of more than 10% of Conectado was previously associated with any telecommunications carrier that was sanctioned by the Federal Communications Commission (FCC) or any state

regulatory agency for failure to comply with any regulatory statute, rule, or order.

In its application, Conectado verified that no one associated with or employed by Conectado as an affiliate, officer, director, partner, or owner of more than 10% of Conectado was previously associated with a telecommunications carrier that filed for bankruptcy, was sanctioned by the FCC or any state regulatory agency for failure to comply with any regulatory statute, rule, or order, or 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 Conectado has met the requirements of D.95-12-056 for managerial qualifications and technical competence.

## **6. Detariffed Status**

Conectado has requested an exemption from tariffing requirements pursuant to the requirements set out in D.98-08-031. Conectado 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. Conectado is eligible to provide detariffed service in accordance with D.98-08-031. Conectado 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 (GO) 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 GO 96-B.

**7. Expected Customer Base**

Conectado provided its estimated customer base for the first and fifth years of operation in Section 14 of its application. Therefore, Conectado has complied with this requirement.

**8. Treatment as a Non-Dominant Carrier**

Non-dominant carrier treatment includes 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 carriers in D.85-01-008, as subsequently modified in D.85-07-081 and D.85-11-044. Conectado is eligible for non-dominant carrier status, provided that it follows all rules detailed in the above-referenced decisions.

**9. 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.

**10. Categorization and Need for Hearing**

In Resolution ALJ 176-3290 dated March 8, 2012, 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. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

## **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.

## **12. Assignment of Proceeding**

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

### **Findings of Fact**

1. Notice of the application appeared in the Daily Calendar on March 5, 2012. 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. Conectado has a minimum of \$25,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.

4. No deposits are required by other telecommunications carriers at this time.

5. Conectado 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.

6. By contracting with Back Office Support Systems, Inc. to provide operational support, Conectado possesses sufficient experience and knowledge to provide telecommunications services.

7. No one associated with or employed by Conectado as an affiliate, officer, director, partner, or owner of more than 10% of Conectado: (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.

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

9. Conectado is eligible for non-dominant carrier treatment.

10. The Commission is the lead agency for this project under CEQA. Conectado 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. Conectado 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. Conectado has the financial ability to provide the proposed service.

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

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

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

6. Conectado should be granted an exemption from the requirement to file tariffs.

7. Conectado should be granted non-dominant carrier status, subject to Commission rules and regulations applicable to non-dominant interexchange carriers, including D.85-01-008, D.85-07-081, and D.85-11-044.

8. 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. Conectado, Inc. 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. Conectado, Inc. shall maintain \$25,000 in unencumbered cash or cash equivalent for a period of twelve months after approval of this application.

3. Conectado, Inc. is exempt from the requirement to file tariffs subject to the conditions set forth in the attached appendices. Conectado, Inc. 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.

4. The corporate identification number assigned to Conectado, Inc., U7231C, must be included in the caption of all original filings and communications 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. Conectado, Inc. must comply with the Commission's rules and regulations for non-dominant interexchange carriers, as well as the requirements applicable to resellers of interexchange services included in Attachments A, B, and C to this decision, the Consumer Protection Rules contained in General Order 168, and all other applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

7. Conectado, Inc. must annually pay the user fee and public purpose surcharges specified in Attachment B. Per the instructions in Appendix E to D.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.

8. Conectado, Inc. is not authorized to construct facilities.

9. Application 12-02-019 is closed.

This order is effective today.

Dated July 12, 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**

List of deficiencies in draft tariff submitted by Conectado, Inc. in Application 12-02-019 to be corrected in its initial tariff compliance filing.

No deficiencies noted. Applicant will offer service on a de-tariffed basis and must update its Rules with the web address of its Price Guide.

**(END OF ATTACHMENT A)**

## ATTACHMENT B

### REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS

1. Applicant shall file, in this docket with reference to this decision number,<sup>1</sup> 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 0.40% 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-17357, dated June 7, 2012, effective July 1, 2012);

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<sup>1</sup> Written acceptance filed in this docket does not reopen the proceeding.

- 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 (CLEC). The effectiveness of its future tariffs is subject to the requirements of General Order (GO) 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 GO 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.<sup>2</sup>

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.

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.

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<sup>2</sup> 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.

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

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 (Code of Civil Procedure (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 D)**