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

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| In the Matter of the Application of MGEN Services Corp., a Delaware Corporation, for a Certificate of Public Convenience and Necessity to Provide InterLATA and IntraLATA Telecommunications Service in California as a Switchless Reseller. | Application 06-05-030 (Filed May 17, 2006) |

# O P I N I O N

MGEN Services Corp., a Delaware corporation, filed an application on May 17, 2006, for a certificate of public convenience and necessity to provide inter - and intra-local access and transport area services in California as a non-dominant interexchange carrier. This application was filed pursuant to the registration process adopted in Decision (D.) 97-06-107 and related decisions.

The applicant was qualified to use the registration process, complied with the filing requirements for a registration application; and there were no protests to the application; and the draft tariffs submitted were not rejected by the Commission's Telecommunications Division. Therefore, pursuant to the authority granted to the Executive Director by D 97-08-050, the applicant should be granted a certificate of public convenience and necessity to provide this service.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

## Findings of Fact

1. The application was filed on May 17, 2006, and appeared in the Commission's Daily Calendar on May 31, 2006.

2. There were no timely protests to the application.

3. The draft tariffs were not rejected by the Commission's Telecommunications Division.

## Conclusions of Law

1. Applicant should be granted the requested certificate of public convenience and necessity subject to the conditions in the attached appendices.

## O R D E R

**IT IS ORDERED** that:

1. A certificate of public convenience and necessity is granted to MGEN Services Corp. to operate as a switchless reseller of inter-Local Access and Transport Area (LATA) and, to the extent authorized by Decision 94-09-065, intra-LATA telecommunications services offered by communication common carriers in California subject to the conditions set forth in the attached appendices. Applicant is assigned corporate identification number U-7000-C which shall be included in the caption of all filings made with this Commission.
2. Application No. 06-05-030 is closed.

This order is effective today.

Dated July 18, 2006, at San Francisco, California.

STEVE LARSON
Executive Director

# Appendix A

NON-DOMINANT INTEREXCHANGE CARRIER REGISTRATION

1. If you requested confidential treatment of the financial portions of your application, it was granted and those materials will remain under seal for one year from the date of the decision. If you wish to continue the seal on those materials beyond the one-year period, you must make a formal request no later than thirty days prior to the expiration of the year explaining the reasons why you believe such extension is necessary.

2. You are subject to the following fees, and you must remit them regularly. Per the instructions in 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 1.290% surcharge applicable to all intrastate services except for those excluded by Decision (D.) 94-09-065, as modified by D.95-02-050, to fund the Universal Lifeline Telephone Service (Public Utilities (PU) Code § 879; Resolution T-16966, effective January 1, 2006);

   b. The current 0.270% 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 (PU Code § 2881; Resolution T-16965 effective January 1, 2006);

   c. The user fee provided in PU Code §§ 431-435, which is 0.11% of gross intrastate revenue for the 2005-2006 fiscal year (Resolution M-4816);

   d. The current 0.210% 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 (PU Code § 739.30; D.96-10-066, pp. 3-4, App. B, Rule 1.C; set by Resolution T-16963, effective January 1, 2006);

   e. The current 2.000% 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 High Cost Fund-B (D.96-10-066,

**Appendix A**

p. 191, App. B, Rule 6.F.; Resolution T-16964 effective January 1, 2006); and

f. The current 0.130% 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 (set by Resolution T-16888, effective January 1, 2006).

These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, you should check the joint tariff for surcharges and fees filed by Pacific Bell (dba SBC California) and apply the current surcharge and fee amounts in that joint tariff on your end user bills until further revised.

3. You are exempt from Rule 18(b) of the Commission's Rules of Practice and Procedure.

4. You are exempt from PU Code §§ 816-830.

5. You are exempt from PU Code § 851 when the transfer or encumbrance serves to secure debt.

6. You shall file a written acceptance of the certificate granted in this proceeding with the Director of the Telecommunications Division.

7. a. You are authorized to file with this Commission tariff schedules for the provision of the services granted in your certificate of public convenience and necessity. You may not offer these services until tariffs are on file. Your initial filing shall be made in accordance with General Order 96-A, as modified and specified in 7b and 8 below, and shall be effective not less than one day after filing. You shall comply with the provisions in your tariffs.

b. The effectiveness of your future tariffs is subject to the schedules set forth in Ordering Paragraph 5 of D.90-08-032 (37 CPUC2d 130 at 158), as modified by D.91-12-013 (42 CPUC2d 220 at 231), D.92-06-034 (44 CPUC2d 617 at 618), and D.02-01-038:

**Appendix A**

"5. All NDIECs are hereby placed on notice that their California tariff filings will be processed in accordance with the following effectiveness schedule:

a. Inclusion of FCC-approved rates for interstate services in California public utilities tariff schedules shall become effective on one (1) day's notice.
b. Uniform rate reductions for existing services shall become effective on five (5) days' notice.
c. Uniform rate increases, except for minor rate increases, for existing services shall become effective on thirty (30) days' notice, and shall require bill inserts, or a message on the bill itself, or first class mail notice to customers of the pending increased rates.
d. Uniform minor rate increases, as defined in D.90-11-029, for existing services shall become effective on not less than five (5) working days' notice. [*25 days' notice to customers is required by D.02-01-038*.]
e. Advice letter filings for new services and for all other types of tariff revisions, except changes in text not affecting rates or relocations of text in the tariff schedules, shall become effective on forty (40) days' notice.
f. Advice letter filings merely revising the text of location of text material which do not cause an increase in any rate or charge shall become effective on not less than five (5) days' notice."

8. You may deviate from the following provisions of GO 96-A: (a) paragraph II.C.(1)(b), which requires consecutive sheet numbering and prohibits the reuse of sheet

numbers, and (b) paragraph II.C.(4), which requires that "a separate sheet or series of sheets should be used for each rule." Tariff filings incorporating these deviations shall be subject to the approval of the Commission's Telecommunications Division. Tariff filings shall reflect all fees and surcharges to which applicant is subject, as noted above. You are also exempt from GO 96-A, paragraph III.G. (1) and (2) which requires service of advice letters on competing and adjacent utilities, unless such utilities have specifically requested such service.

9. Applicant shall file a service area map as part of its initial tariff.

10. Prior to initiating service, you shall provide the Manager of the Commission's Consumer Affairs Branch with your designated contact person(s) for purposes of resolving consumer complaints and the corresponding telephone number(s). This information shall be updated if the name or telephone number changes, or at least annually.

11. You shall notify the Director of the Telecommunications 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 of when intraLATA service begins.

12. You shall keep your books and records in accordance with the Uniform System of Accounts specified in Title 47, Code of Federal Regulations, Part 32.

13. In the event your books and records are required for inspection by the Commission or its staff, you 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 your office.

14. You shall file an annual report with the Director of the Telecommunications Division, in compliance with GO 104-A, on a calendar-year basis, using the information request form developed by Commission staff and contained in Appendix B. You shall file an annual affiliate transaction report with the Director of the Telecommunications

division, in compliance with D.93-02-019, on a calendar year basis, using the form developed by the Commission staff and contained in Appendix C.

15. You shall ensure that your employees comply with the provisions of Public Utilities (PU) Code § 2889.5 regarding solicitation of customers.

16. 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.

17. PU Code 708 requires public utilities to provide ID badges to all employees with a format specified in that Section, and employees to present that badge when they request entry to customer or subscriber premises. You shall send a letter to the Director of the Telecommunications Division within 60 days of the effective date of this order declaring that you have issued the required badges.

18. If you are 90 days or more late in filing an annual report or in remitting the fees listed above, Telecommunications Division shall prepare for Commission consideration a resolution that revokes your CPCN, unless you have received the written permission of Telecommunications Division to file or remit late.

19. If your company is planning to discontinue service or to file for bankruptcy, you are required to contact the Bankruptcy Coordinator in the Telecommunications Division immediately. Please ask us for instructions in your particular circumstances; our rules are designed to ensure that your telecommunications customers receive adequate notice and are minimally inconvenienced. Your compliance is necessary so that you are not penalized for failure to follow Commission rules.

20. Beginning December 6, 2004, you must abide by the Consumer Protection Rules contained in General Order 168.

**(END OF APPENDIX A)**

**Appendix A**

# Appendix B

TO: ALL INTEREXCHANGE TELEPHONE UTILITIES

Article 5 of the Public Utilities Code grants authority to the California Public Utilities Commission to require all public utilities doing business in California to file reports as specified by the Commission on the utilities' California operations.

A specific annual report form has not yet been prescribed for the California interexchange telephone utilities. However, you are hereby directed to submit an original hardcopy and a machine readable electronic copy using Microsoft Word or compatible format of the information requested in **Appendix B pages 2 and 3** no later than March 31st of the year following the calendar year for which the annual report is submitted.

Address your report to:

Director, Telecommunications Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

Failure to file this information on time may result in a penalty as provided for in §§ 2107 and 2108 of the Public Utilities Code.

If you have any question concerning this matter, please call (415) 703-2883.

**Appendix B**

Information Requested of California Interexchange Telephone Utilities.

To be filed with the Director, Telecommunications Division, California Public Utilities Commission, 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.

1. Exact legal name and U # of 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. Commission decision number granting operating authority and the date of that decision.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. A list of all affiliated companies and their relationship to the utility. State if affiliate is a:

   a. Regulated public utility.
   b. Publicly held corporation.

**Appendix B**

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.

**(END OF APPENDIX B)**

# Appendix C

## 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);
   - 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 listed 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 or 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 tariffed 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.

**Appendix C**

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 1-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 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 APPENDIX C)**