

Decision 08-06-004 June 12, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of IBFA Acquisition
Company, LLC for Approval of Transfer of
Ownership to Telava Acquisitions, Inc.

Application 08-02-012
(Filed February 14, 2008)

**DECISION AUTHORIZING TRANSFER OF OWNERSHIP
AND CONTROL OF IBFA ACQUISITION COMPANY**

Summary

This decision grants the application Telava Acquisitions, Inc. (Telava), IBFA Acquisition Company, LLC (IBFA), James Grabowski and Casimir Wojciechowski, members of IBFA (together, Applicants) for approval of a transaction in which Telava will acquire 100% of the ownership of IBFA, pursuant to Sections 852 and 854.¹

Parties to the Transaction

IBFA is a Michigan limited liability company with its principal business office located in Elk Grove Village, Illinois. IBFA holds a certificate of public convenience and necessity (CPCN) authorizing the company to provide limited facilities-based and resold local exchange and interexchange services in California.²

¹ All Code references are to the Public Utilities Code, unless otherwise stated.

² See Decision (D.) 05-07-034.

James Grabowski and Casimir Wojciechowski are members of IBFA and are the sellers in this transaction.

Telava is a Delaware corporation and, according to the application, is not presently authorized to provide telecommunications services in any jurisdiction. Telava was formed on September 11, 2007 for the purpose of consummating a business combination in the telecommunications and technology sectors. The application states since its formation, Telava has reviewed and considered investment opportunities in the communications and high-technology industries, and has identified IBFA as an attractive candidate for a potential operating business combination.

Telava's parent company and sole shareholder is Telava Networks, Inc. (TNI), a Nevada corporation. According to the application, TNI is an integrated communications network provider (ICP) and owns a wireless broadband network covering more than 45 cities and towns in 22 states.

Proposed Transaction

According to the application, IBFA and Telava intend to execute a Membership Interest Purchase Agreement, in which Telava will purchase from IBFA all of its membership interests for cash. As a result, IBFA will become a direct, wholly-owned subsidiary of Telava.

IBFA will continue to hold its CPCN authorizing the provision of limited facilities-based and resold local exchange and interexchange telecommunications services in California.

Applicants represent that this change in ownership is in the public interest and will not harm the provision of telecommunications services by IBFA, and will benefit the customers of IBFA.

Applicants further represent that the transaction will be transparent to customers. There will be no change in the name or day-to-day management of IBFA because the transaction will affect only the corporate structure of the company. Customers will continue to receive service from IBFA under the same rates, terms, and conditions after the transaction is approved.

Discussion

Under Section 852, no public utility, and no subsidiary, affiliate of, or corporation holding a controlling interest in, a public utility, shall purchase or acquire, take or hold, any part of the capital stock of any other public utility, organized or existing under the laws of this state, without prior Commission authorization. Section 854 further requires Commission authorization before a company may “merge, acquire, or control . . . any public utility organized and doing business in this state” The purpose of these and related sections is to enable the Commission, before any transfer of a public utility is consummated, to review the situation and to take such action, as a condition of the transfer, as the public interest may require. (San Jose Water Co. (1916) 10 CRC 56.)

In a situation in which a person or company that does not possess a CPCN desires to acquire control of a company that does possess a CPCN, we will apply the same requirements as in the case of an applicant seeking a CPCN to exercise the type of authority held by the company being acquired. Therefore, since Telava does not hold a CPCN to provide telecommunications services in California, it must meet the requirements for issuance of a CPCN because it is acquiring control of IBFA.

The Commission has established two major criteria for determining whether a CPCN should be granted. An applicant who desires to operate as a limited facilities-based and resale provider of local exchange and interexchange

service must demonstrate that it has a minimum of \$100,000 in cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up costs. In addition, the applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business.

The application includes financial documents and other evidence that demonstrates that Telava has access to sufficient resources to meet our financial requirements. Since IBFA is expected to continue to operate under the same day-to-day management, we find that our requirement for technical expertise is satisfied, for the purposes of this transaction only.³ The transaction will improve IBFA's access to additional capital and the management experience of Televa's management team. In addition, this transaction will be transparent to customers. Therefore, the proposed transaction is in the public interest.

Therefore, we will grant the application pursuant to Section 854.

Categorization and Need for Hearings

In Resolution ALJ 176-3209, dated February 28, 2008, 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.

³ We made no determination that Telava would otherwise meet the technical and managerial requirements for authorization to provide telecommunications services in this state.

Comments on Draft Decision

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

Rachelle B. Chong is the assigned Commissioner and Myra J. Prestidge is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. IBFA is a Michigan limited liability company with its principal business offices located in Elk Grove Village, Illinois.
2. Telava is a Delaware corporation formed in September 2007 for the purpose of consummating a business combination in the telecommunications and technology sectors.
3. TNI is a Nevada corporation and is the parent and sole shareholder of Telava.
4. TNI is an ICP and owns a wireless broadband network covering more than 45 cities and towns in 22 states.
5. In D.05-07-034, we granted IBFA a CPCN authorizing the company to provide limited facilities-based and resold local exchange and interexchange services in California.
6. As a result of the transaction, Telava will acquire a 100% ownership interest in IBFA and will therefore have ultimate control of IBFA.
7. Telava does not hold a CPCN that authorizes the provision of telecommunications services in California.
8. There will be no change in the name or day-to-day management of IBFA as a result of the transaction.

9. IBFA's customers will continue to receive service under the same rates, terms, and conditions after the transaction.

10. Telava has access to sufficient financial resources to meet the Commission's requirements to provide resold local exchange and interexchange services.

11. This transaction will give IBFA access to increased capital and the management experience of Telava and TNI's management team.

12. Since IBFA's day-to-day management will remain the same, Telava has met the requirements for technical and managerial expertise to provide telecommunications services, for the purposes of this transaction only.

13. Notice of this application appeared on the Commission's Daily Calendar on February 21, 2008. There were no protests to this application.

14. No hearings are necessary.

Conclusions of Law

1. The Commission will apply the same requirements to a request for approval of an agreement to acquire control of a provider of limited facilities-based and resold local exchange and interexchange telecommunications services within California as it does to an applicant for authority to provide such services.

2. Telava meets the Commission's requirements for the issuance of a CPCN to provide limited facilities-based and resold local exchange and interexchange telecommunications services, for the purposes of this transaction only.

3. This transaction is in the public interest.

4. In order to avoid delaying this transaction, the approval of the application should be made effective immediately.

O R D E R

IT IS ORDERED that:

1. Pursuant to Public Utilities Code Section 854, the application of IBFA Acquisition Company (U6961-C) (IBFA), James Grabowski and Casimir Wojciechowski, and Telava Acquisitions, Inc. (Telava) for approval of the transfer of ownership of IBFA to Telava is approved.

2. Application 08-02-012 is closed.

This order is effective today.

Dated June 12, 2008, at San Francisco, California.

MICHAEL R. PEEVEY
President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners