

Decision 13-01-013 January 10, 2013

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Citrix Communications LLC for a Certificate of Public Convenience and Necessity to Provide Limited Facilities-Based and Resold Competitive Local Exchange Service, Intrastate Switched Access Service, and IntraLATA and InterLATA Interexchange Service Throughout the State of California.

Application 12-09-003
(Filed September 7, 2012)

DECISION GRANTING CITRIX COMMUNICATIONS LLC A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE RESOLD AND LIMITED FACILITIES BASED LOCAL EXCHANGE SERVICE AND INTEREXCHANGE SERVICE

1. Summary

Pursuant to Public Utilities Code § 1001, we grant Citrix Communications LLC a Certificate of Public Convenience and Necessity to provide resold and limited facilities-based local exchange telecommunications services and interexchange service in California subject to the terms and conditions set forth in the Ordering Paragraphs.

2. Background

On September 7, 2012, Citrix Communication LLC (Citrix LLC), a Delaware limited liability corporation authorized to do business in California, filed an application for a Certificate of Public Convenience and Necessity (CPCN) to provide resold and limited facilities-based telecommunications services in the service territories of Pacific Bell Telephone Company d/b/a

AT&T California (AT&T), and Verizon California Inc. (Verizon), and interexchange service in California.

Citrix LLC proposes to provide local exchange services to business and residential customers by purchasing unbundled network elements from incumbent local exchange carriers and proposes to sell the services of other certificated carriers. Citrix LLC also proposes offering intraLATA and interLATA interexchange service through the resale of services of other certificated carriers. Additionally, Citrix LLC proposes to offer intrastate switched access service which will allow interexchange carriers to interconnect on a switched and dedicated basis with the local exchange network in order to originate and terminate calls on Citrix LLC's network. All services will be routed solely over transmission facilities owned by other certificated carriers.

Citrix LLC's principal place of business is located at 499 Washington Boulevard, Suite 1401, Jersey City, New Jersey 07310. Applicant's telephone number is 201-420-1155.

3. 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 in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible. Since Citrix LLC states that it does not intend to construct any facilities other than equipment to be installed in existing buildings or structures, 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, Citrix LLC 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 limited facilities-based and resold local exchange and interexchange services must demonstrate that it has a minimum of \$100,000 cash or cash equivalent to meet the firm's start-up expenses.¹ 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.² In the application, Citrix LLC provided supporting documentation that \$100,000 plus an amount equal to the deposit required by AT&T and Verizon would be available to Citrix LLC for one year following certification. Since Citrix LLC has provided documentation that it possesses a minimum of \$100,000 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.

Citrix LLC proposed to initially interconnect with AT&T and Verizon. Citrix LLC stated that no deposit is required by AT&T or Verizon.

Therefore, no additional resources are required at this time to cover deposits.

5. Technical Qualifications

To be granted a CPCN for authority to provide local exchange and interexchange service, an applicant must make a reasonable showing of

¹ The financial requirement for Competitive Local Exchange Carriers is contained in Decision (D.) 95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIEC) is contained in D.91-10-041.

² The requirement for Competitive Local Carrier applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local

Footnote continued on next page

managerial and technical expertise in telecommunications or a related business.³ Citrix LLC supplied biographical information on its management in Exhibit 5 to its application that demonstrated that it has sufficient expertise and training to operate as a telecommunications provider.

In its application, Citrix LLC verified that no one associated with or employed by Citrix LLC as an affiliate, officer, director, partner, or owner of more than 10% of Citrix LLC was previously associated with a telecommunications carrier that filed for bankruptcy, was sanctioned by the Federal Communications Commission 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 Citrix LLC is in compliance with the requirements of D.95-12-056.

6. Tariffs

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

Exchange Carriers and/or Interexchange Carriers is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

³ D.95-12-056 at Appendix C, Rule 4.A.

7. Map of Service Territory

To be granted a CPCN for authority to provide local exchange service, an applicant must provide a map of the service territories it proposes to serve.⁴ In its application, Citrix LLC provided a map of the location of its proposed service territory, in compliance with this requirement.

8. Expected Customer Base

Citrix LLC provided its estimated customer base for the first and fifth years of operation in the answer to item 13 of its application. Therefore, Citrix LLC has complied with this requirement.

9. Conclusion

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant Citrix LLC a CPCN to provide limited facilities-based and resold local exchange telecommunications service in the service territory of AT&T and Verizon, and interexchange service in California subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

10. Categorization and Need for Hearings

In Resolution ALJ 176-3301, dated September 27, 2012, 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.

⁴ D.95-12-056 at Appendix C, Rule 4.E.

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), and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

12. Assignment of Proceeding

Catherine J.K. Sandoval is the assigned Commissioner and Richard W. Clark is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Notice of the application appeared on the Daily Calendar on September 14, 2012. No protests have been filed. A hearing is not required.
2. The Commission is the Lead Agency for this project under CEQA.
3. Citrix LLC's authority to provide local exchange services will not have a significant adverse effect upon the environment.
4. Citrix LLC has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.
5. Citrix LLC 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, however no such deposits are required at this time.
6. Citrix LLC's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.
7. No one associated with or employed by Citrix LLC as an affiliate, officer, director, partner, or owner of more than 10% of Citrix LLC was: previously associated with a telecommunications carrier that filed for bankruptcy; was

sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order; or 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, nor is currently under investigation for similar violations.

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

9. Citrix LLC provided a map of the location of its proposed service territory.

10. Citrix LLC provided an estimate of its customer base for the first and fifth year of operation.

Conclusions of Law

1. Citrix LLC should be granted a CPCN to provide resold and limited facilities-based local exchange telecommunications service in the service territories of AT&T and Verizon and interexchange service in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

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

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

O R D E R

IT IS ORDERED that:

1. A Certificate of Public Convenience and Necessity is granted to Citrix Communications LLC to provide resold and limited facilities-based local exchange telecommunications services in the territories of Pacific Bell Telephone and Verizon California Inc. and interexchange service in California, subject to the terms and conditions set forth below.

2. Citrix Communications LLC may not offer competitive local exchange 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 Exhibit A.

3. The corporate identification number assigned to Citrix LLC, U-7241-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 competitive local exchange carriers and interexchange carriers included in Attachments B, C, and D to this decision, Citrix Communications LLC 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. Citrix Communications LLC 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.

6. Citrix Communications LLC must annually pay the user fee and public programs surcharges regularly even if the amount due is \$0. Instructions on the remittance and payment of surcharges and user fees are provided in Attachment B. Under Public Utilities 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 should report user fees even if the amount due is \$0.

7. Prior to initiating service, Citrix Communications LLC 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.

8. Citrix Communications LLC 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.

9. Citrix Communications LLC 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 using the form contained in Attachment D.

10. Citrix Communications LLC 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.

11. Citrix Communications LLC must file a tariff within 12 months of the effective date of this order, or its certificate will be cancelled.

12. Application 12-09-003 is closed.

This order is effective today.

Dated January 10, 2013, at San Francisco, California.

MICHAEL R. PEEVEY

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners

ATTACHMENT A

List of deficiencies in draft tariff filed by Citrix Communications LLC (U-7241-C), in A.12-09-003 to be corrected in its tariff compliance filing.

A. CLC Tariff

1. GO 96-B Sect 8.5.1 - U-7241-C needs to be on the upper left corner of each page.
2. GO 96-B Sect 8.5.5 - Tariff must set forth its tariff schedules, etc.
3. GO 96-B Sect 8.5.7 - Item 12 - Tariff must include office hours, telephone number and e-mail address on receiving information on services and promotional offerings.
4. GO 96-B Sect 8.5.7 - Item 15 - Tariff must include conditions to provide line extensions, advances and utility contributions to individuals and developers, deposits, refunds, ownership and maintenance.
5. D.95-07-054 App B - Rule 3 - Tariff must include the minimum number of days wherein which late payment charge will be imposed; must also include details on customer bills such as when to pay the bill, billing detail, etc., and refund of deposit receipts.
6. D.95-07-054 App B - Rule 5 - Tariff must include Interest on deposits using 3-month paper rate published by Federal Reserve Board which has to be mentioned.
7. D.95-07-054 App B - Rule 9 - Tariff must establish the due date of bills, when these are considered late and when payments are to be credited.
8. D.95-07-054 App B - Rule 12 - Tariff must mention refusal of service due to lack of deposit.

9. GO 153 Appendix A - Item 12 - Tariff must mention the availability of white pages directory.

B. IEC Tariff

1. GO 96-B Sect 8.5.1 - U-7241-C needs to be on the upper left corner of each page.

2. GO 96-B Sect 8.5.4 - Service area and exchange boundaries must be specified in the tariff, including a map and description of the service area.

3. GO 96-B Sect 8.5.5 - Tariff must set forth its tariff schedules, etc.

4. GO 96-B Sect 8.5.7 - Item 12 - Tariff must include office hours, telephone number and email address on receiving information on services and promotional offerings.

5. GO 96-B Sect 8.5.7 - Item 15 - Tariff must include conditions to provide line extensions, advances and utility contributions to individuals and developers, deposits, refunds, ownership and maintenance.

6. GO 96-B Sect 8.5.8 - Tariff needs to include sample forms that are used for service, billing etc.

7. D.95-07-054 App B - Rule 2 - Tariff must include availability of lifeline service to customers and must explain reason(s) for denial of service to customers.

8. D.95-07-054 App B - Rule 3 - Tariff must include the minimum number of days wherein which late payment charge will be imposed; must also include details on customer bills such as when to pay the bill, billing detail, etc., and refund of deposit receipts.

9. D.95-07-054 App B - Rule 5 - Tariff must include Interest on deposits using 3 month paper rate published by Federal Reserve Board which has to be mentioned.

10. D.95-07-054 App B - Rule 12 - Tariff must mention refusal of service due to lack of deposit.

11. D.95-07-054 App B - Rule 15 - Tariff must mention that blocking of 900/976 information service access will be made at the customer's request.

12. D.96-10-066 App B. 4 B. 10&11 - Tariff must mention free annual directory provision to customers.

13. GO 153 Appendix A - Item 12 - Tariff must mention the availability of white pages directory.

14. GO 153 Sec 3.3, D.95-07-054 App A Sect E7, Public Utilities Code § 876 - Tariff must include the availability of the ULTS and the schedule of rates and charges.

15. Res T - 16901 - Information regarding surcharges, taxes and fees must be included in the tariff.

(End of Attachment A)

ATTACHMENT B

REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS

1. Applicant must file, in this docket with reference to this decision number,¹ a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

2. All carriers authorized by this Commission to operate in California are required to assess surcharges and user fees on their end-user intrastate service revenue, and must comply with the reporting and payment filing requirements in accordance with the directions of the Commission.

Citrix Communications LLC is subject to the following fees and telephone surcharges that must be filed and remitted on a regular basis, even if the amount due is zero.

- a. The Universal Lifeline Telephone Service Trust Administrative Committee Fund (Pub. Util. Code § 879);
- b. The California Relay Service and Communications Devices Fund (Pub. Util. Code § 2881; D.98-12-073);
- c. The California High Cost Fund-A (Pub. Util. Code § 739.3; D.96-10-066, at 3-4, App. B, Rule 1.C);
- d. The California High Cost Fund-B (D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);
- e. The California Advanced Services Fund (D.07-12-054);
- f. The California Teleconnect Fund (D.96-10-066, at 88, App. B, Rule 8.G).
- g. The User Fee provided in Pub. Util. Code §§ 431-435.

¹ Written acceptance filed in this docket does not reopen the proceeding.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must 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 bills until further revised. Current and historical surcharge rates can be found at <http://www.cpuc.ca.gov/PUC/Telco/Consumer+Information/surcharges.htm>.

- Carriers must report and remit CPUC telephone program surcharges online using the CPUC Telecommunications and User Fees Filing System (TUFFS). Information and instructions for online reporting and payment of surcharges are available at <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/Surcharge+Remittance.htm>. To request a user ID and password for TUFFS online filing and for questions, please e-mail Telco_surcharges@cpuc.ca.gov.
- Carriers must file and pay the PUC User Fee (see above item 2g) upon receiving the User Fee statement sent by the Commission. User Fees cannot be reported or paid online. Instructions for reporting filing are available at <http://www.cpuc.ca.gov/PUC/Telco/Consumer+Information?userfee.htm>. Please call (415) 703-2470 for questions regarding User Fee reporting and payment.

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 requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

5. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in #2 above.

6. Applicant must file a service area map as part of its initial tariff.
7. Prior to initiating service, Applicant 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.
8. Applicant 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.
9. Applicant must notify the Director of the Communications Division in writing of the date local service is first rendered to the public within five days after service begins.
10. Applicant must 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 must 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 must 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 must 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 must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

15. Within 60 days of the effective date of this order, Applicant must 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, and has not received written permission from the Communications Division to file or remit late, the Communications Division must prepare for Commission consideration a resolution that revokes Applicant's CPCN.

17. Applicant is exempt from Rule 3.1(b) of the Commission Rules of Practice and Procedure.

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 must immediately notify the Communications Division's Bankruptcy Coordinator.

21. Applicant must send a copy of this decision to concerned local permitting agencies no 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 must 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 Pub. Util. Code §§ 2107 and 2108.

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.
12. Cash Flow statement as of December 31st of the calendar year for which information is submitted, for California operations only.

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 and a machine readable, copy using Microsoft Word and Excel, or compatible format must 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 May 1st of the year following the calendar year for which the annual report is submitted.

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 must 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 must 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)