

Decision 09-12-023 December 17, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of United Telecom, Inc. for
Registration as an Interexchange Carrier
Telephone Corporation pursuant to the
provisions of the Public Utilities Code
Section 1013.

Application 09-07-007
(Filed July 6, 2009)

**DECISION GRANTING APPLICATION
FOR REGISTRATION**

1. Summary

United Telecom, Inc. sought registration under Pub. Util. Code § 1013 for authority to provide voice and data telecommunications as a switchless reseller in California. By this decision, we grant a certificate of public convenience and necessity subject to the terms and conditions set forth below.

2. Background

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 § 1013 for carriers whose applications conformed to certain requirements. United Telecom, Inc. (Applicant), a California corporation, filed its application pursuant to the registration process. Applicant seeks authority to provide resold interexchange services as a nondominant interexchange carrier (NDIEC).

Applicant's principal place of business is located at 3550 Wilshire Blvd, 17th Floor, Los Angeles, California 90010. Applicant's telephone number is (213) 381-7160.

3. Protest Previously Filed and Withdrawn by Commission Consumer Protection and Safety Division

On August 10, 2009, the Consumer Protection and Safety Division (CPSD) filed a protest to this application on the grounds that Applicant may have failed to disclose its association with other companies, all the names of its officers, that a current officer may have served as an officer of a company that filed for bankruptcy, and that it and its affiliates received sanctions from various other state regulatory agencies in violation of Rule 1.1 of the Commission's Rules of Practice and Procedure.

Specifically, CPSD's research revealed that in addition to the two officers disclosed on the application, that the following persons may also have been officers of United Telecom, Inc.:

- Bill Freeman
- Scott Landis¹
- Richard Palmeri
- Diane Grajeda; and
- George Collins

CPSD's review further revealed that United Telecom was a dba for United Services and United Group Inc. CPSD believed that United Telecom also operated under the dba of Foxtel, Inc. CPSD's research showed these companies had been sanctioned by various state commissions.

On August 19, 2009, after discussions with CPSD, Applicant filed an amendment to the application explaining that CPSD's allegations were the result of mistaken identity. Applicant provided responses to CPSD's requests for

¹ CPSD's research revealed that Landis was president of NetVersant Solutions, Inc. during the time that company filed Chapter 11 bankruptcy.

additional information to show that it had not misrepresented itself in the pending application.

Applicant explained that California does not preclude the use of a corporate name when another corporate entity maintains a similar or like name. Applicant's research revealed that there were 11 entities that incorporated the name "United Telecom" as a part of their corporate name. Applicant confirmed that its sole officers are Sapina Quayum (President) and Imtiaz Hossain (Vice President), as stated in the company's pending application. Applicant clarified that Diane Grajeda and George Collins had been officers of Applicant, but that they were no longer employed by the company and both had surrendered their positions as officers.² Applicant explained that Bill Freeman, Scott Landis, and Richard Palmeri had never been affiliated with or otherwise associated with Applicant.

Applicant confirmed that it never had any relationship with Scott Landis and thus, it has no relationship or affiliation with the entity CPSD found had entered into bankruptcy. Applicant reiterated that, as it stated in its application, none of the entities listed in CPSD's protest are or have ever been affiliated with United Telecom, Inc.

Finally, applicant provided additional information regarding the alleged sanctions imposed by other state regulatory agencies many of which were imposed prior Applicant's formation or were imposed on a company not affiliated with Applicant.³ Applicant clarified that it had been the subject of

² Grajeda surrendered her position as an officer in August 2007. Collins surrendered his position as an officer in February 2008.

³ United Telecom Inc., the applicant, was not formed until October 2004.

limited state regulatory inquiries from time to time, but that in all instances it immediately responded to and adequately resolved any arising issue before it rose to the level requiring a formal sanction by a regulatory agency and that no formal sanctions have been levied on applicant. Applicant maintained that it accurately and truthfully represented itself to the Commission through its pending application.

Based on the above explanation of the issues raised by the protest, and CPSPD's statement that it no longer objects to this application, we find it appropriate to grant CPSPD's Motion to Withdraw its Protest to the Application of United Telecom, Inc.

4. Financial Qualifications

To be granted an application for registration, 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.⁴ An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers (LECs) and/or interexchange carriers (IECs) in order to provide the proposed service.⁵ Applicant provided an income statement, balance sheet and bank statement demonstrating that it has sufficient cash to satisfy the financial requirement.

5. Technical Qualifications

Applicants for NDIEC authority are required to make a reasonable showing of technical expertise in telecommunications or a related business. Applicant submitted biographical information on its management that

⁴ The financial requirement for NDIECs is contained in Decision (D.) 91-10-041.

⁵ For NDIECs, the requirement is found in D.93-05-010.

demonstrates that it possesses sufficient experience and knowledge to operate as a telecommunications provider.

Applicant represents that no one associated with or employed by Applicant as an affiliate, officer, director, partner, or owner of more than 10% of Applicant was previously associated with any telecommunications carrier that filed for bankruptcy, or was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order.

6. Tariffs

Commission staff reviewed Applicant's draft tariffs for compliance with Commission rules and regulations. The deficiencies are noted in Attachment A to this decision. Applicant must correct these deficiencies in its tariff compliance filing as a condition of our approval of its tariffs.

7. 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. Applicant 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.

8. Request to File Under Seal

Applicant requests that the financial information filed with the application be kept under seal. The financial information consists of an income statement, balance sheet and banking information. Applicant represents that the information is proprietary and sensitive. The information, if revealed, would

place Applicant at an unfair business disadvantage. We have granted similar requests in the past and will do so here.

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 subject to the terms and conditions set forth herein.

10. Comments on Proposed 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.

11. Categorization and Need for Hearing

In Resolution ALJ 176-3237 dated July 9, 2009, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests remain. 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.

12. Assignment of Proceeding

Rachelle B. Chong is the assigned Commissioner and Katherine Kwan MacDonald is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Notice of the application appeared in the Daily Calendar on July 9, 2009.
2. On October 14, 2009, CPSD filed a motion to withdraw its protest filed and now has no objections to this application being granted.
3. A hearing is not required.

4. In prior decisions the Commission authorized competition in providing interexchange services for carriers meeting specified criteria.

5. Applicant 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. Applicant has sufficient additional cash or cash equivalent to cover any deposits that may be required by other telecommunications carriers in order to provide the proposed service.

7. Applicant possesses sufficient experience and knowledge to provide telecommunications services.

8. Based on Applicant's explanation and CPSD's motion to withdraw its protest, the allegations stated in CPSD's protest are not grounds to deny Applicant a CPCN authorizing the provision of telecommunications services in this state.

9. As part of its application, Applicant submitted a draft of its initial tariff that contained the deficiencies identified in Attachment A to this decision. Except for those deficiencies, its draft tariffs complied with the Commission's requirements.

10. Applicant will not be constructing facilities.

11. Public disclosure of the financial information filed under seal would place Applicant at an unfair business disadvantage.

Conclusions of Law

1. Applicant has the financial ability to provide the proposed service.

2. Applicant has sufficient technical expertise to operate as a telecommunications carrier.

3. Based on the circumstances of this case, it is appropriate to grant CPSD's motion to withdraw its protest.

4. Public convenience and necessity require that Applicant's interexchange services be subject to the terms and conditions set forth herein.

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

6. The application should be granted to the extent set forth below.

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

8. Applicant's initial tariff filing should correct the deficiencies in its draft tariffs as indicated in Attachment A to this decision.

9. Applicant's request to file its financial information under seal should be granted for two years.

10. 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. The application for registration of United Telecom, Inc. is granted to operate as a resale provider of competitive interexchange services, subject to the terms and conditions set forth below.

2. The motion of the Consumer Protection and Safety Division to withdraw its protest to this application is granted.

3. United Telecom, Inc. is authorized to file tariff schedules for the provision of competitive interexchange services with the deficiencies noted in Attachment A corrected. United Telecom, Inc. may not offer services until tariffs are on file. The initial filing of United Telecom, Inc. must be made in accordance

with General Order 96-B and the Telecommunications Industry Rules (Decision 08-09-019). United Telecom, Inc. shall comply with its tariffs.

4. 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.

5. The corporate identification number assigned to United Telecom, Inc., U-7170-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.

6. United Telecom, Inc. must comply with the Commission's rules and regulations for nondominant interexchange carriers set forth in Decision 93-05-010 and Decision 90-08-032, as well as all other applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities, subject to the exemptions granted in this decision.

7. United Telecom, Inc. must comply with the requirements applicable to competitive local exchange carriers and nondominant interexchange carriers included in Attachment B to this decision.

8. United Telecom, Inc. is not authorized to construct facilities.

9. All sealed information shall remain sealed for two years from the effective date of this decision. After two years, all such information shall be made public. If United Telecom, Inc. believes that further protection of sealed information is needed beyond two years, United Telecom, Inc. may file a motion stating the justification for further withholding of the sealed information from public inspection. This motion shall be filed no later than 30 days before the expiration of the two-year period granted by this order.

10. Application 09-07-007 is closed.

This order is effective today.

Dated December 17, 2009, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners

Attachment A
Page 1

List of deficiencies in draft tariff submitted by United Telecom, Inc., in A.09-07-007 to be corrected in its initial tariff compliance filing.

1. Tariff Sheet Format: CPUC assigned utility ID number (U#) must be included on each sheet in the upper left header along with Company name and address. (General Order 96B, Section 8.4.1)

(END OF ATTACHMENT A)

ATTACHMENT B

REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND NON-DOMINANT 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 fee and surcharges that must be regularly remitted per the instructions in Appendix E to D.00-10-028. The Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is zero.

- a. The current 1.15% 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 0.20% 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 (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 0.18% of gross intrastate revenue (Resolution M-4819), dated June 7, 2007, effective July 1, 2007;
- d. The current 0.13% 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-17128, dated December 20, 2007, effective January 1, 2008);
- e. The current 0.45% 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-17215, dated October 15, 2009, effective December 1, 2009;

- f. The current 0.25% 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); 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, check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised.

3. Applicant is a nondominant 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).

4. Tariff filings shall reflect all fees and surcharges to which Applicant is subject, as reflected in 3 above.

5. 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.

6. Applicant shall keep its books and records in accordance with the Generally Accepted Accounting Principles.

7. 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.

8. 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 A to this decision.

9. 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 C.

10. Applicant shall ensure that its employees comply with the provisions of Public Utilities (Pub. Util.) Code § 2889.5 regarding solicitation of customers.

11. 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.

12. If Applicant is 90 days or more late in filing an annual report, or in remitting the surcharges and fee listed in 3 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.

13. Applicant is exempt from Commission Rules of Practice and Procedure 3.1(b).

14. Applicant is exempt from Pub. Util. Code §§ 816-830.

15. 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.

16. If Applicant decides to discontinue service or file for bankruptcy, it shall immediately notify the Communications Division's Bankruptcy Coordinator.

17. 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 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 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 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. The number and date of the Commission decision granting the Utility's CPCN.
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. 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) 703-1923.

(END OF ATTACHMENT C)

**ATTACHMENT D
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)
- Voting rights held by the utility and percent; and
- 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 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 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)