

Decision 11-06-027 June 23, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of eKit.com, Inc. (U7100C)
and Jersey Telecom for Authorization of
Transfer of Control Pursuant to Public
Utilities Code Section 854.

Application 11-02-008
(Filed February 8, 2011)

**DECISION AUTHORIZING TRANSFER OF CONTROL
OF E.KIT.COM, INC. TO JT GROUP LIMITED**

1. Summary

This decision grants the joint unopposed joint application of eKit.com, Inc. (eKit) and JT Group Limited (JTG) for authorization pursuant to Public Utilities Code Section 854¹ to transfer the control of eKit, a California certificated telecommunications carrier, to JTG, through its subsidiaries Jersey Telecom (UK) Limited (JTUK) and Jersey Telecom, Inc., (JTI).

This proceeding is closed.

2. Parties to the Transaction

eKit.com, Inc. (eKit), a Delaware corporation, holds a certificate of public convenience and necessity (CPCN) authorizing the company to operate as a limited facilities-based interexchange carrier in California. eKit's principal place of business is located in Boston, Massachusetts.

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

eKit provides domestic telecommunications services within the United States, but primarily focuses on providing telecommunication services for international travelers. eKit provides integrated communications services, including mobile phones, subscriber identity module cards, global calling cards, internet calling, voicemail, text messaging and email solutions.

eKit has four subsidiaries: ekit.com UK Limited, KK ekit.com Japan, ekit.com (Isle of Man) Limited, and ekit.com Pty Ltd, which operates in Australia.

JTG, a company organized under the laws of Jersey in the United Kingdom, serves as a holding company for the government of the Bailiwick of Jersey. JT's principal place of business is located in St. Helier, Jersey. JT Group is not publicly traded and is wholly owned by the State of Jersey in the United Kingdom.

JTG owns several regional subsidiaries that provide internet and broadband services, mobile services, hosting and co-location services, and wholesale telecommunications services in Jersey. JTG does not directly provide telecommunications services in the United States and does not hold a CPCN authorizing the provision of telecommunications services in California.

JTUK is a wholly-owned subsidiary of JTG and was formed for the purpose of facilitating the transaction authorized in this decision. JTI is a wholly-owned subsidiary of JTUK and was organized under the laws of the State of Delaware for the purpose of facilitating the merger of eKit and JTI. Neither JTUK nor JTI are authorized to provide telecommunications services in the United States or any other country or holds a CPCN issued by this Commission.

3. Proposed Transaction

Under the proposed transaction, JTG, through its subsidiary JTUK, will acquire a 100 percent ownership interest in eKit through a merger of eKit with JTI. As a result, JTI will be merged with and into eKit pursuant to Delaware law. After the merger, JTI will cease to exist, and eKit will be the surviving corporation and an indirect wholly-owned subsidiary of JTG.

Applicants represent that the proposed transfer of control will be transparent to customers. Applicants state that after the merger, eKit will retain its current day-to-day management and will continue to provide the same range of telecommunications services to customers in this state. EKit will retain its CPCN, and will provide service in California under its existing tariffs on file with the Commission.

Applicants state that this transaction will benefit both eKit's and JTG's competitive positions in the telecommunications market, because the merger will increase eKit's access to capital and will combine the market access and the expertise of both companies.

4. Discussion

The Applicants request Commission authorization pursuant to § 854 for the transfer of control of eKit to JTG. Section 854 states, in relevant part, as follows:

No person or corporation...shall merge, acquire, or control either directly or indirectly any public utility organized and doing business in this state without first securing authorization to do so from the commission...Any merger, acquisition, or control without that prior authorization shall be void and of no effect.

The purpose of § 854 is to enable the Commission to review a proposed transaction, before it takes place, in order to take such action as the public interest may require. The Commission has broad discretion under § 854 to approve or reject a proposed transaction. If necessary and appropriate, the Commission may attach conditions to a transaction in order to protect and promote the public interest.²

When a company that does not possess a CPCN desires to acquire control of a company or companies that do possess a CPCN, the Commission will apply the same requirements to the acquiring company as would be applied to an initial applicant seeking the type of CPCN held by the company being acquired. An applicant who desires to operate as a provider of limited facilities-based interexchange services must demonstrate that it has a minimum of \$100,000 in cash or cash equivalent for operations of the company, plus the costs of deposits to be paid to other carriers. In addition, the applicant is required to make a reasonable showing of technical expertise in telecommunications or a related business.

In confidential exhibits to the application, Applicants have provided financial statements which demonstrate that JTG meets the Commission's financial requirements for the issuance of a CPCN authorizing the provision of limited facilities-based services. Since, after the merger, eKit's day- to-day management will remain the same, and JTG has experience in providing telecommunications services through its regional subsidiaries in the State of

² D.01-06-007, 2001 Cal. PUC LEXIS 390, *24.

Jersey, United Kingdom, Applicants have met the Commission's requirement for a showing of technical expertise in telecommunications.

This transaction will provide eKit with increased access to capital and with the business expertise of JTG, which will allow eKit to become a stronger competitor in California's telecommunications marketplace. The transaction will be transparent to customers, and will not harm the public. In addition, the application is unopposed.

We therefore find that the transaction is in the public interest and grant the application pursuant to §§ 854.

5. Request to File Documents Under Seal

Pursuant to Rule 11.4, Applicants have filed a motion for leave to file Exhibits 1, 2, 3, 11, and 12 to the application as confidential materials under seal. Applicants represent that the information is sensitive, and disclosure could place them at an unfair business disadvantage. We have granted similar requests in the past, and do so here.

6. Categorization and Need for Hearings

In Resolution ALJ 176-3269, dated February 24, 2011, the Commission preliminarily categorized this proceeding as ratesetting and preliminarily determined that hearings were not necessary. Based on the record, we affirm that this is a ratesetting proceeding and that hearings are not necessary.

7. Waiver of Comment Period

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

8. Assignment of Proceeding

Catherine J. K. Sandoval is the assigned Commissioner and Myra J. Prestidge is the assigned ALJ in this proceeding.

Findings of Fact

1. eKit is a Delaware corporation, which has its principal place of business in Boston, Massachusetts.

2. In D. 08-08-004, eKit was granted a CPCN authorizing the company to provide limited facilities-based telecommunications services in California.

3. JTG is a company organized under the laws of Jersey in the United Kingdom and operates as a holding company for the government of the Bailiwick of Jersey.

4. JTG is wholly owned by the State of Jersey in the United Kingdom.

5. JTG does not hold a CPCN authorizing the provision of telecommunications services in California and does not currently provide telecommunications services in the United States.

6. JTG owns several regional subsidiaries that provide telecommunications services in the State of Jersey, United Kingdom.

7. JTUK is a wholly-owned subsidiary of JTG and was formed for the purpose of facilitating the transaction approved in this decision.

8. JTI is a wholly-owned subsidiary of JTUK and was formed for the purpose of facilitating the merger of eKit and JTI approved in this decision.

9. Under the proposed transaction, JTG, through its subsidiary JTUK, will acquire a 100 percent ownership interest in eKit through a merger of eKit with JTI.

10. After the merger, JTI will cease to exist, and eKit will be the surviving corporation and a wholly-owned subsidiary of JTG.

11. After the merger, eKit will retain its CPCN and will provide the same range of services to California customers under the same terms.

12. ekit will retain its current day-to-day management after the merger.

13. Applicants have filed financial documents under seal which show that JTG meets the Commission's financial requirements for issuance of a CPCN authorizing the provision of limited facilities-based service.

14. Applicants have demonstrated sufficient technical expertise in telecommunications to meet Commission requirements for approval of this transaction.

15. The proposed transaction will strengthen eKit's competitive position by increasing the company's access to capital and will combine the market access and expertise of eKit and JTG.

16. Pursuant to Rule 11.4, Applicants have filed a motion for leave to file confidential materials contained in Exhibits 1, 2, 3, 11, and 12 to the application, under seal.

17. Notice of this application appeared on the Commission Daily Calendar on February 10, 2011.

18. No protests to this application were filed.

19. No hearing is necessary.

Conclusions of Law

1. Under Section 854, the Commission must approve any transfer of control of a regulated utility in order to ensure that the transfer is in the public interest and is not adverse to the interests of customers interested in receiving service.

2. The Commission will apply the same requirements to a request for approval of an agreement for the transfer of control of a provider of

telecommunications services within California as it does to an initial applicant for authority to provide such services.

3. Applicants have met the Commission's requirements for approval of a transfer of control.

4. This transaction is in the public interest.

5. Applicants' motion to file their Exhibits 1, 2, 3, 11, and 12 to the application under seal should be granted for two years.

6. Since this matter is uncontested, the decision should be effective on the date it is signed.

O R D E R

IT IS ORDERED that:

1. Pursuant to Pub. Util. Code § 854, the joint application of eKit.com, Inc., and JT Group Limited for authorization to transfer control of eKit.com to JT Group Limited, through its subsidiaries Jersey Telecom (UK) Limited and Jersey Telecom, Inc., is approved.

2. Within five days of the closing of the transaction, the surviving entities shall notify the Communications Division, by letter, of the consummation of the transaction.

3. The joint motion of eKit.com, Inc., and JT Group Limited to file their Exhibits 1, 2, 3, 11, and 12 to the application under seal is granted. The information will remain under seal for a period of two years after the date of issuance of this order. During this two-year period, this information may not be viewed by any person other than the assigned Commissioner, the assigned Administrative Law Judge, the Assistant Chief Administrative Law Judge, or the

Chief Administrative Law Judge, except as agreed to in writing by eKit.com, Inc. and JT Group Limited, or their successors in interest, or as ordered by a court of competent jurisdiction. If eKit.com, Inc. and JT Group Limited, or their successors in interest, believe that it is necessary for this information to remain under seal for longer than two years, they or their successors in interest may file a new motion at least 30 days before the expiration of this limited protective order.

4. Application 11-02-008 is closed.

This order is effective today.

Dated June 23, 2011, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners