BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Inmate Calling Solutions, LLC, a California Limited Liability Company, for a Certificate of Public Convenience and Necessity to Provide InterLATA and IntraLATA Telecommunications Service in California as a Switchless Reseller.	Application 03-05-031 (Filed May 20, 2003)

O P I N I O N

Inmate Calling Solutions, LLC, a California limited liability company, filed an application on May 20, 2003, 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. The applicant was qualified to and requested an exemption from tariffing requirements. Applicant also agreed to abide by the consumer protection rules adopted in D. 98-08-031, as modified from time to time. Therefore, pursuant to the authority granted to the Executive Director by Decision 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 20, 2003, and appeared in the Commission's Daily Calendar on May 27, 2003.

2. There were no timely protests to the application.

3. The applicant was qualified to and requested an exemption from tariffing requirements. Applicant also agreed to abide by the consumer protection rules adopted in D. 98-08-031, as modified from time to time.

Conclusions of Law

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

2. Applicant should be granted an exemption from the requirement to file tariffs.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Inmate Calling Solutions, LLC 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-6813-C which shall be included in the caption of all filings made with this Commission.

2. Applicant is exempt from the requirement to file tariffs subject to the conditions set forth in the attached appendices.

3. Application No. 03-05-031 is closed.

This order is effective today.

Dated September 4, 2003, at San Francisco, California.

WILLIAM AHERN
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 1.20% 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-16689, effective September 1, 2003);

b. The current 0.047% 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-16747, dated June 5, 2003);

c. The user fee provided in PU Code §§ 431-435, which is 0.11% of gross intrastate revenue for the 2000-2001 fiscal year (Resolution M-4800);

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-16702, effective April 17, 2003);

e. The current 2.700% 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,

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p. 191, App. B, Rule 6.F.; Resolution T-16690 effective April 17, 2003); and

f. The current 0.00% 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-16686, effective December 5, 2002).

These fees change periodically. You should access the Commission web site (WWW.CPUC.CA.GOV) at least semiannually for current values, use these as of the effective date in your customer bills, and update your tariff when you submit an advice letter for other changes.

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. 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.

8. 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.

9. 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.

10. 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.

11. 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.

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

13. 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.

14. 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.

15. 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.

16. You have requested an exemption from the requirement to file tariffs and have represented to the Commission that you are qualified for such an exemption and further that you will abide by the Commission's consumer protection rules adopted in D.98-08-031 as modified from time to time.

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17. You must abide by the Commission's consumer protection rules adopted in D.98-08-031 as modified from time to time. A copy of the currently effective rules is Appendix D to this decision.

18. 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.

(END OF 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 and two copies of the information requested in Attachment A 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 3251, 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.

    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.
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

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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)

Appendix D

Consumer Protection Rules

Detariffed Services (Contract Option)

Rule 1:

a. Rate information and information regarding the terms and conditions of service shall be provided in writing upon request by a current or potential customer. All of the rates, terms and conditions of service must be stated in a contract that must be signed by the customer and otherwise be enforceable. Although no terms may be incorporated by reference, formulae may be used to calculate rates or charges, where the components of the formulae can be readily ascertained from a public source. All ambiguities will be construed against the carrier. A carrier shall make available to any customer, who requests in writing, information about other service plans pertaining to the product(s) or service(s) the customer is ordering and for which the customer is eligible.

b. The contract must provide for written notice to the customer at least 7 calendar days prior to termination of service by the carrier, and refund of any customer deposits within 30 days after service has been terminated.

Rule 2:

No change in the rates, terms, and conditions of any service specified in such a contract shall be enforceable unless such change is set forth in a writing signed by the customer who signed the original contract, or that customer's duly authorized agent. As currently provided in D.97-06-096 (as may be amended or superceded), customers must be notified of any change of ownership of the company providing service to the customer as follows:

a. The notice must be in writing;

b. The carrier must provide it to customers no later than 30 days before the proposed transfer;

c. The notice must contain a straightforward description of the upcoming transfer, any fees the customer will be expected to pay, a statement of the customer's right to switch to another carrier, and a toll-free telephone number for questions; and

d. The notice and the carrier's description of service to customers must be included in the advice letter seeking approval of the change in ownership.

Rule 3:

a. Pursuant to Public Utilities Code § 2889.5, no carrier or any person, firm, or corporation representing a carrier, shall change a customer's presubscribed telephone service provider without the customer's authorization. All carriers shall comply with the provisions of § 2889.5 as well as other applicable state and federal law as they may be amended or superceded from time to time. Carriers shall be held liable for any violation of § 2889.5 including, but not limited to, the unauthorized termination of a customer's service with an existing carrier and the subsequent unauthorized transfer of the customer to the carrier's own service. Violations may incur a penalty or fine pursuant to Public Utilities Code § 2107 as well those allowed pursuant to other law and Commission policy.

b. No carrier whose service has been terminated by a customer shall re-establish service for that customer without the express consent of the customer, which consent may not be founded upon any purported term in an agreement for service that binds the customer to take service from the carrier for a specified term, or continually.

c. All solicitations by carriers or their agents provided to customers must be legible and printed in 10 point type at a minimum.

d. All promotional and marketing materials used in the offering of detariffed telecommunications services shall be wholly separate from the written contract the customer signs. All terms must be plainly stated in understandable language, and must be in the same language employed when the carrier negotiated the contract with the customer.

Rule 4:

a. Each bill must prominently display a toll-free number for service or billing inquiries, along with an address where the customer may write to the carrier.

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b. In case of a billing dispute between a customer and the carrier, the carrier will comply with any customer request for the carrier to undertake an investigation and review of the disputed amount.

c. If a customer fails to pay the undisputed portion of the bill by the Due By Date (no sooner than fifteen days of the date of presentation) shown on the bill, the carrier may notify the customer in writing of such delinquency and indicate that service may be terminated

d. A carrier may not disconnect service to a customer who has submitted a claim to CSD for investigation and decision, has either paid the disputed amount or has deposited the amount in dispute with the Commission within seven calendar days after the date the carrier notifies the customer that the carrier's investigation and review are completed. However, in no event shall the carrier disconnect service prior to the Due By Date shown on the bill.

e. In no event shall a carrier disconnect service to a customer who has deposited the full amount in dispute with the Commission so long as the undisputed amount is paid.

Rule 5:

Carriers are restricted from releasing nonpublic customer information in accordance with PU Code §§ 2891, 2891.1, and 2893, and any other applicable state or federal statutes or regulations, as they may be amended from time to time, that pertain to customer privacy. Carriers shall also comply, so long as those rules remain generally applicable to other carriers, with the Commission's rules set forth in Appendix B of Decision Nos. 92860 and 93361, as modified, which generally prohibit, with certain exceptions, the release of calling records and credit information of all subscribers – both residential and business –absent the receipt of a search warrant under federal or state or in response to a subpoena or subpoena duces tecum authorized by a federal or state judge.

Rule 6:

Consistent with our authority over all other carriers, IECs offering detariffed service are directed to cooperate fully by responding in a timely fashion to any request by the Commission or its staff for documents including but not limited to the customer-carrier

contract, billing records, customer calling records, solicitations and correspondence from the carrier to the customer, applicable third party verifications, and any other information or documentation regarding a customer complaint. The carrier shall fully comply with a request for such documents or information by the Commission or its staff no later than ten business days from the date of request. Failure by an IEC to comply with this rule may result in penalties as set forth in PU Code §§ 2107, 2110, and 2111. 7.

Any limitation of liability provision contained in a contract for detariffed services shall in no way limit the ability of a complainant to recover reparations before the Commission.

(END OF APPENDIX D)