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Arizona Corporation Commission

April 6, 2000

DOCKETED

APR 07 2000

DOCKETED BY 

VIA OVERNIGHT DELIVERY

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Re: Docket No. T-03768A-99-0443
Application and Petition of ReFlex Communications, Inc. for a Certificate of
Convenience and Necessity to Provide Resold and Facilities-Based Local
Exchange, Exchange Access and Interexchange Telecommunications Service

Enclosed please find an original and 10 copies of ReFlex Communications, Inc.'s responses to the Arizona Corporation Commission Data Request of February 28, 2000.

Please date stamp the enclosed extra copy of this letter and return it in the self-addressed, postage-paid envelope provided.

Should you have any questions concerning this filing, please do not hesitate to contact us.

Very truly yours,

Paul B. Hudson

Counsel for ReFlex Communications, Inc.

Enclosures

cc: Kevin Mosier (ACC)
Sherrey St. John (ReFlex)
Gregg Strumberger

RESPONSES TO ARIZONA CORPORATION COMMISSION
DATA REQUEST OF FEBRUARY 28, 2000

- 1 A list of states in which ReFlex is approved and/or offering facilities-based telecommunication services, along with a description of the approved services.**

ReFlex Communications, Inc. ("ReFlex") is authorized to provide facilities-based and resold local exchange and interexchange services in the States of California and Oregon.

Certificates of Authority for California and Oregon are attached as Exhibit DR-1.

- 2 Please correct the reference to the State of South Carolina in the ACC Tariff No. 2 (Sheet No. 37).**

Amended Tariff Sheets are attached as Exhibit DR-2.

- 3 Please explain why no prices are listed for the various CLASS/custom calling features in ACC Tariff No. 1 (see Sheet No. 40).**

ReFlex provided ACC Tariff No. 1 as an illustrative tariff. ReFlex will file its rate inclusive tariff at a later date.

EXHIBIT DR-1

Certificates of Authority

Decision 99-10-025 October 7, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion into Competition for
Local Exchange Service.

Rulemaking 95-04-043
(Filed April 26, 1995)

Order Instituting Investigation on the
Commission's Own Motion into Competition for
Local Exchange Service.

Investigation 95-04-044
(Filed April 26, 1995)
(Petition Nos. 141, 142, 143,
144, 145, 146, 147, 148
149, 150, 151, 152 and 153)

O P I N I O N

By this decision, we grant the petitions for certificates of public convenience and necessity (CPCN) as competitive local carriers (CLCs) to offer resold local exchange services within the territories of Pacific Bell (Pacific), GTE California Incorporated (GTEC), Roseville Telephone Company (RTC), and Citizens Telephone Company (CTC), for those petitioners as set forth in Appendix B of this decision, subject to the terms and conditions included herein. We also grant petitioners' requests for intrastate interLocal Access and Transport Areas (interLATA) and intraLATA authority on a statewide basis as designated in Appendix B. We defer granting full facilities-based local exchange authority at this time pending resolution of environmental issues as discussed in Section II below. In this order, we grant only limited facilities-based authority restricted to the use of equipment located within previously existing structures.

I. Background

We initially established rules for entry of facilities-based CLCs in Decision (D.) 95-07-054. Under those procedures, we processed a group of candidates that

filed petitions for CPCNs by September 1, 1995, and granted authority effective January 1, 1996, for qualifying CLCs to provide facilities-based competitive local exchange service in the territories of Pacific and GTEC. We authorized CLCs seeking to provide resale-based services to begin operations on March 1, 1996. We further advised prospective entrants that any filings from nonqualifying CLCs, and any filing for CLC operating authority made after September 1, 1995, would be treated as standard applications and processed in the normal course of the Commission's business.

By D.96-12-020, effective January 1, 1997, we instituted quarterly processing cycles for granting CPCN authority for facilities-based CLCs in order to streamline the approval process for these particular carriers. Since we had been processing the environmental impact review required under the California Environmental Quality Act (CEQA) on a consolidated basis for groups of qualifying facilities-based CLCs, we concluded in D.96-12-020 that it would be more efficient and consistent to process other aspects of the CLC filings on a consolidated basis, as well. Accordingly, we directed that any CLC filing on or after January 1, 1997, for facilities-based CPCN authority was to make its filing in the form of a petition to be docketed in Investigation (I.) 95-04-044 that would be processed quarterly on a consolidated basis. CLCs seeking only resale authority continued to file individual applications.

On September 24, 1997, we adopted D.97-09-115 in which we extended the coverage of our adopted rules for local exchange competition to include the service territories of California's two midsized local exchange carriers (MSLECs), RTC and CTC. In that decision, we also authorized candidates seeking CLC CPCN authority within the MSLECs' territories to immediately begin making filings following the applicable entry rules previously adopted in D.95-07-054 and subsequent decisions. Specifically, requests for CLC CPCN authority for

facilities-based service were to be filed in the form of a petition docketed in I.95-04-044, while resellers have sought authority through applications. In D.98-01-055, we approved the first group of petitions for facilities-based CPCNs to offer local exchange service within the MSLEC territories.

In this decision, we approve CPCNs for those facilities-based CLCs which filed petitions during the second quarter of 1999 and satisfied all applicable rules for certification as established in Rulemaking (R.) 95-04-043. The Petitioners identified in Appendix B will be authorized to begin offering service upon the filing of tariffs and compliance with the terms and conditions set forth in this order.

II. CEQA Review

We have reviewed the petitions for compliance with CEQA. CEQA requires the Commission 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. To achieve this objective, Rule 17.1 of the Commission's Rules requires the proponent of any project subject to Commission approval to submit with the petition for approval of such project a Proponent's Environmental Assessment (PEA). The PEA is used by the Commission to focus on any impacts of the project which may be of concern, and prepare the Commission's Initial Study to determine whether the project needs a Negative Declaration or an Environmental Impact Report (EIR).

Based on its assessment of the facilities-based petitions and PEAs, the Commission staff prepared a Negative Declaration and Initial Study generally describing the facilities-based Petitioners' projects and their potential environmental effects. The Negative Declaration prepared by the Commission

staff is considered a Mitigated Negative Declaration (MND). This means that, although the initial study identified potentially significant impacts, revisions which mitigate the impacts to a less than significant level have been agreed to by the Petitioners. (Pub. Res. Code § 21080(c)(2).)

A. Results of the Negative Declaration

On July 30, 1999, the Negative Declaration and Initial Study were sent to various city and county planning agencies, as well as public libraries throughout the state for review and comment by August 30, 1999. The Commission staff prepared a public notice which announced the preparation of the draft negative declaration, the locations where it was available for review, and the deadline for written comments. The public notice was advertised in newspapers throughout the state. The draft Negative Declaration was also submitted to the Governor's Office of Planning and Research where it was circulated to affected state agencies for review and comment.

Comments on the Negative Declaration were filed by various agencies.¹ The comments have identified a number of issues regarding claimed deficiencies in the Negative Declaration. The issues raised in filed comments include questions concerning the adequacy of petitioners' project descriptions, the claimed "piecemeal" nature of the projects presented, and other related concerns. Based on a preliminary review of the claimed deficiencies identified in comments, we conclude that additional time will be required to adequately

¹ Comments were received from the following state agencies: Department of Justice, Parks and Recreation Resources Management Division, Business, Transportation and Housing Agency, Department of Transportation, and the Department of Fish and Game. The Department of Fish and Game filed a motion on July 29, 1999, for leave to intervene in the proceeding. There is no opposition. The motion is granted.

review, address, and resolve the various issues raised in the filed comments on the Negative Declaration. Until these issues are resolved the Negative Declaration cannot be finalized and approved.

Until the Negative Declaration can be finalized, the CEQA requirements for certification of the petitioners' projects remain unsatisfied, and granting of full facilities-based local exchange authority to the petitioners identified in Appendix B must be deferred. We shall direct our staff to expeditiously undertake the necessary steps to review the claimed deficiencies in the Negative Declaration and to notify the CLC petitioners concerning any additional information required to rectify deficiencies in the project descriptions and any related information required to finalize the Negative Declaration. Once the identified deficiencies can be resolved, and a revised Negative Declaration can be presented for our consideration, we will at that time reconsider the pending requests of the petitioners for full facilities-based local exchange authority.

In comments in response to the draft decision, various CLC petitioners have pointed out that at least for their initial start up operations, they do not anticipate undertaking any new construction. Instead, they intend to collocate their network equipment within the existing structure of the central offices of the ILECs, and to provide service by purchasing the ILEC's existing local loop as an unbundled network element (UNE) under federal law. Because UNEs are considered "facilities" under federal law, a facilities-based CPCN is still necessary for a CLC to operate utilizing collocation purchasing UNEs. Thus, the CLCs argue that the deficiencies identified in the negative-declaration should not prevent the Commission from granting such limited facilities-based authority at this time where no construction is involved.

Late filed comments were submitted on October 4, 1999, by Cmetric, -Inc. (Cmetric).

Cmetric generally supports the requests of other Petitioners who have asked to be granted facilities-based local exchange authority on the condition that such Petitioners agree to undertake no new construction in public rights-of-way until the environmental issues raised in the Draft Decision are resolved by this Commission.

Cmetric claims, however, its circumstances are unique in that Cmetric is planning to provide an innovative data access service that is not otherwise available, and Cmetric's business plan relies in part on the imminent construction of particular projects in partnership with other carriers, public utilities, municipalities, and others.

Specifically, Cmetric requests that it be authorized to provide facilities-based local exchange services in the following circumstances: (1) by using existing facilities of other carriers, public utilities, municipalities, or railroads; (2) by undertaking minimal construction for which it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment (i.e., service that requires construction entirely within existing buildings, structures, conduit, etc.); (3) by obtaining authority to conduct specific, planned, and imminent projects for specified routes and delineated geographic areas pursuant to the Commission's Environmental Impact Report (EIR) process; and/or (4) by partnering with other existing certificated carriers, public utilities, municipalities, or railroads that would construct any necessary facilities in the public rights-of-way pursuant to their existing authority.

Concurrent with its late-filed comments, Cmetric also filed a Motion for Permission to Submit Late-Filed Comments pursuant to Rules 77.5 and 45. Cmetric's motion is granted.

We agree that under the limited definition of facilities-based service utilizing equipment installed in previously existing structures, no material adverse environmental impacts would result since no external construction would be involved. Accordingly, for purposes of this decision, we shall grant each of the petitioners "facilities-based" authority in this restricted manner only. Under the limited authority granted herein, the CLC petitioners are prohibited from engaging in any construction of buildings, towers, conduits, poles, or trenches pending resolution of the environmental issues related to the negative declaration as identified above. The authorization for full facilities-based authority involving actual construction shall be deferred pending resolution of the alleged deficiencies identified in the negative declaration pursuant to CEQA.

We appreciate the concerns raised by Cmetric as to the business risk to its investment as a result of the timing uncertainties in resolving outstanding CEQA issues. We shall seek to resolve these issues in the most expeditious manner possible. We shall also consider ways to prioritize the environmental review and approval of carriers' more time-sensitive projects for specific routes and geographic areas.

We cannot at this time, however, authorize Cmetric to conduct "specific, planned, and imminent projects for specified routes and delineated geographic areas" on a contingent basis. Under the law, we must assess whether an EIR or Negative Declaration is required for the projects proposed by Cmetric. Only after proper compliance with CEQA can we approve the projects and grant the related facilities-based authority sought by Cmetric. Likewise, we cannot simply grant Cmetric authority to engage in construction activities through a partnership arrangement with other certificated carriers. Whether Cmetric engages in construction directly or indirectly through an agent or partner, the

environmental impacts of the resulting construction must be studied and appropriately mitigated.

In the meantime, we will grant the petitioners' requests for authority to provide interexchange services and local exchange services utilizing resale of other carriers' services or unbundled network elements and equipment installed solely within existing structures.

B. Required Payment of CEQA Deposit

Commission Decision 97-04-046 stipulates that all petitioners for CLC authority must submit with their filing an initial payment of \$2000 to cover CEQA costs. The \$2000 payment is used to cover the Commission's costs for preparing and publishing the Mitigated Negative Declaration for each qualifying petitioner, as required by CEQA law. As of the date of this order, the Commission has received payment of the required \$2000 deposit from each of the CLCs, as identified in Appendix B.

III. Review of CPCN Petitions

A. Overview

The CLC petitions have been reviewed for compliance with the certification-and-entry rules (Rules) adopted in Appendices A and B of D.95-07-054 and subsequent decisions in R.95-04-043/I.95-04-044. Consistent with our goal of promoting a competitive market as rapidly as possible, we are granting authority to all of the facilities-based CLCs that filed during the second quarter of 1999 and met the Rules. The Rules are intended to protect the public against unqualified or unscrupulous carriers, while also encouraging and easing the entry of CLC providers to promote the rapid growth of competition.

Petitioners had to demonstrate that they possessed the requisite managerial qualifications, technical competence, and financial resources to provide facilities-based local exchange service. Petitioners were also required to submit proposed tariffs which conform to the consumer protection rules set forth in Appendix B of D.95-07-054. In response to a notice of tariff deficiencies, the various petitioners submitted tariff corrections. Except for the outstanding deficiencies noted in Appendix C, the petitioners' proposed tariffs are found to be satisfactory with no deficiencies noted.

As prescribed in Rule 4.B.(1), prospective facilities-based CLCs must also show that they possess a minimum of \$100,000 in cash or cash-equivalent resources, as defined in the Rules. In order to demonstrate that they possess the requisite financial resources, petitioners submitted copies of recent financial statements. Because the financial statements contain commercially sensitive information, the petitioners filed motions for limited protective orders to restrict the financial statements and related documents containing commercially sensitive information from public disclosure pursuant to General Order (GO) 66-C. We grant those motions as prescribed in our order below.

Based upon our review, except for the unresolved CEQA issues noted above, we conclude that each of the Petitioners identified in Appendix B, has satisfactorily complied with our certification requirements for entry, including the consumer protection rules set forth in D.95-07-054, subject to correcting any tariff deficiencies in Appendix C, and satisfying the additional conditions set forth in the ordering paragraphs below. Accordingly, we herein grant these Petitioners authority to offer local exchange service utilizing resale of other carriers' services or unbundled network elements and equipment located solely within existing structures within the territories of Pacific and GTEC and, where requested, within the CTC and RTC territories. We also grant the

statewide inter- and intraLATA authority as requested. With respect to full facilities-based local authority, petitioners request shall be deferred pending resolution of outstanding CEQA issues and finalization of the Negative Declaration, as noted above.

Pursuant to D.97-09-115, CLC resale authority within the RTC and CTC territories was authorized to become effective on or after April 1, 1998. As we stated in D.97-09-115, until the time that tariffed wholesale discount rates are adopted for RTC and CTC, individual CLCs certificated to resell local service within the CTC/RTC territories may enter into negotiations with each of the MSLECs to seek agreement on an interim wholesale discount rate. Disputes over the terms of resale arrangements may be submitted to the Commission for arbitration pursuant to the provisions of Section 252(b)(1) of the Telecommunication Act of 1996 and Commission Resolution ALJ-174.

B. Motion of DSLnet

DSLnet Communications, LLC ("DSLnet"), attempted to file a petition (# 142) for CLC local exchange authority on March 31, 1999, with the intention of being included in the Commission's quarterly "batch" review of such petitions filed during the first quarter of 1999. However, DSLnet subsequently learned that, due to certain confusion surrounding whether DSLnet's Petition was complete for purposes of the Commission's review, the Commission did not technically accept DSLnet's petition until April 13, 1999. As a result, it was too late for DSLnet's Petition to be included in the Commission's quarterly review process for such petitions filed during the first quarter of 1999, at least to the extent DSLnet seeks facilities-based authority.

Nonetheless, in order to allow DSLnet to initiate competitive telecommunications service in California as soon as possible, DSLnet filed a

motion on May 4, 1999, asking the Commission to: (1) immediately consider the portion of DSLnet's Petition seeking authority to resell local exchange telecommunications services, and (2) consider the portion of DSLnet's Petition seeking facilities-based authority in the Commission's quarterly review process for Petitions filed during the second quarter of 1999.

No party objected to the motion of DSLnet. We thus approved the request of DSLnet for consideration of the resale portion of its petition in the first quarterly review period of 1999 to be reasonable, granting DSLnet resale-only authority at that time.

Due to the timing requirements relating to the Mitigated Negative Declaration, DSLnet's request for facilities-based was deferred to the current quarter. We therefore have reviewed the facilities-based portion of the DSLnet petition, and find that it has met our requirements subject to resolution of outstanding CEQA issues noted above.

IV. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g) and Rule 77.1 of the Rules of Practice and Procedure. Comments were filed between September 21 and September 25, 1999. We have taken the comments into consideration as appropriate in finalizing the decision.

Findings of Fact

1. Thirteen petitioners filed requests for the second quarter of 1999 seeking a CPCN to provide competitive local exchange services in the territories of various California incumbent local exchange carriers as set forth in Appendix B.
2. One of the petitioners, DLSnet, attempted to file during the first quarter, but the filing was not actually docketed until April 13, 1999. DSLnet thus had its

request for CLC resale authority considered as part of the first quarterly group of CLCs for calendar year 1999, and is having its request for facilities-based authority being considered in the current second quarterly group.

3. Although no formal protests to the CLC petitions have been filed, various public agencies filed comments challenging the Negative Declaration regarding compliance with CEQA. Further inquiry is required to resolved these CEQA issues before full facilities-based authority can be considered.

4. By prior Commission decisions, we authorized competition in providing local exchange telecommunications service within the service territories of Pacific, GTEC, RTC, and CTC for carriers meeting specified criteria.

5. The Petitioners listed in Appendix B have demonstrated that each of them has a minimum of \$100,000 in cash or cash equivalent reasonably liquid and readily available to meet its start-up expenses.

6. Petitioners' technical experience is demonstrated by supporting documentation which provides summary biographies of their key management personnel.

7. Except as noted in Appendix C, Petitioners have each submitted a complete draft of their initial tariff which complies with the requirements established by the Commission, including prohibitions on unreasonable deposit requirements.

8. Commission D.97-04-046 stipulates that all petitioners for CLC authority must submit with their filing an initial payment of \$2,000 to cover the Commission's costs for preparing and publishing the Mitigated Negative Declaration pursuant to CEQA.

9. Each of CLCs, as identified in Appendix B, has submitted the required \$2,000 CEQA deposit as of the date of this order.

10. By D.97-06-107, petitioners or applicants for CLC authority are exempt from Rule 18(b).

11. Exemption from the provisions of Pub. Util. Code §§ 816-830 has been granted to other nondominant carriers. (*See, e.g.*, D.86-10-007 and D.88-12-076.)

12. The transfer or encumbrance of property of nondominant carriers has been exempted from the requirements of Pub. Util. Code § 851 whenever such transfer or encumbrance serves to secure debt. (*See* D.85-11-044.)

13. The provision of local exchange telecommunications service by resale, or by the utilization of existing unbundled loops and electronic equipment located in existing indoor structures would not have a significant effect on the environment.

Conclusions of Law

1. Each of the Petitioners listed in Appendix B has the financial ability to provide the proposed services, and has made a reasonable showing of technical expertise in telecommunications.

2. Public convenience and necessity require the competitive local exchange services to be offered by Petitioners for resale subject to the terms, conditions, and restrictions set forth below.

3. Each Petitioner is subject to:

a. The current 0.0% 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 (Pub. Util. Code § 879; Resolution T-16245, December 3, 1998);

b. The current 0.192% 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; Resolution T-16234; D.98-12-073, , December 17, 1998);

- c. The user fee provided in Pub. Util. Code §§ 431-435, which is 0.11% of gross intrastate revenue for the 1999-2000 fiscal year (Resolution M-4796);
 - d. The current 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 § 739.30; D.96-10-066, pp. 3-4, App. B, Rule 1.C; Resolution T-16242 at 0.0% for 1999, December 3, 1998);
 - e. The current 3.8% 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., Resolution T-16244, December 3, 1998); and,
 - f. The current 0.05% 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-16165; August 1, 1998).
4. Petitioners should be exempted from Rule 18(b).
 5. Petitioners should be exempted from Pub. Util. Code §§ 816-830.
 6. Petitioners should be exempted from Pub. Util. Code § 851 when the transfer or encumbrance serves to secure debt.
 7. The Negative Declaration cannot be finalized at this time due to outstanding challenges by members of the public which remain to be resolved.
 8. Each of the Petitioners must agree to, and is required to, carry out any specific mitigation measures adopted in the Mitigated Negative Declaration (MND), once it is finalized, in compliance with CEQA.
 9. The Petitioners should be granted CPCNs for interexchange service and for local exchange service utilizing resale of other carriers' service or unbundled network elements and equipment installed within existing structures subject to the terms, conditions, and restrictions set forth in the order below. Petitioners'

request for full facilities-based authority should be deferred pending resolution of alleged deficiencies in the Negative Declaration.

10. Any CLC which does not comply with our rules for local exchange competition adopted in R.95-04-043 shall be subject to sanctions including, but not limited to, revocation of its CLC certificate.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPCN), shall be granted to each of the Petitioners listed in Appendix B (Petitioners) to permit each of them to provide competitive local exchange telecommunications services utilizing resale of other carriers' services or unbundled network elements and equipment installed solely within existing structures within the service territories as noted in Appendix B and, as a statewide nondominant interexchange carrier (NDIEC), as noted in Appendix B, contingent on compliance with the terms identified in Appendix B and in the remainder of this order. Authorization for full facilities-based authority involving construction work is deferred pending resolution of outstanding CEQA issues raised pursuant to comments on the Negative Declaration.

2. Each Petitioner shall file a written acceptance of the certificate granted in this proceeding prior to commencing service.

3. a. The Petitioners are authorized to file with this Commission tariff schedules for the provision of competitive local exchange, intraLATA (Local Access Transport Area) toll and intrastate interLATA services, as applicable. The Petitioners may not offer these services until tariffs are on file, and until any applicable deficiencies as noted in Appendix C have been corrected. Petitioners'

initial filing shall be made in accordance with General Order (GO) 96-A, excluding Sections IV, V, and VI, and shall be effective not less than one day after approval by the Telecommunications Division.

b. The Petitioners are competitive local carriers (CLCs). The effectiveness of each of their future tariffs is subject to the schedules set forth in Decision (D.) 95-07-054, Appendix A, § 4E.

A. "E. CLCs shall be subject to the following tariff and contract-filing, revision and service-pricing standards:

- "(1) Uniform rate reductions for existing tariff services shall become effective on five (5) working days' notice to the Commission. Customer notification is not required for rate decreases.
- "(2) Uniform major rate increases for existing tariff services shall become effective on thirty (30) days' notice to the Commission, and shall require bill inserts, or a message on the bill itself, or first class mail notice to customers at least 30 days in advance of the pending rate increase.
- "(3) Uniform minor rate increases, as defined in D.95-07-054, shall become effective on not less than five (5) working days' notice to the Commission. Customer notification is not required for such minor rate increases.
- "(4) Advice letter filing for new services and for all other types of tariff revisions, except changes in text not affecting rates or relocations of text in the tariff schedules, shall become effective on forty (40) days' notice to the Commission.
- "(5) Advice letter filings revising the text or location of text material which do not result in an increase in any rate or charge shall become effective on not less than five (5) days' notice to the Commission.
- "(6) Contracts shall be subject to GO 96-A rules for NDIECs, except interconnection contracts.

“(7) CLCs shall file tariffs in accordance with Public Utilities (Pub. Util.) Code Section 876.”

4. The Petitioners may deviate from the following provisions of GO 96-A:
 - (a) paragraph II.C.(1)(b), which requires consecutive sheet numbering and prohibits the reuse of sheet numbers, and
 - (b) paragraph II.C.(4), which requires that “a separate sheet or series of sheets should be used for each rule.”Tariff filings incorporating these deviations shall be subject to the approval of the Commission’s Telecommunications Division. Tariff filings shall reflect all fees and surcharges to which Petitioners are subject, as described in Conclusion of Law 3. Petitioners are also exempt from GO 96-A Section III.G.(1) and (2) which require service of advice letters on competing and adjacent utilities, unless such utilities have specifically requested such service.
5. Each Petitioner shall file as part of its initial tariffs, after the effective date of this order and consistent with Ordering Paragraph 3, a service area map.
6. Prior to initiating service, each Petitioner shall provide the Commission’s Consumer Services Division with the Petitioner’s designated contact persons for purposes of resolving consumer complaints and the corresponding telephone numbers. This information shall be updated if the names or telephone numbers change or at least annually.
7. Where applicable, each Petitioner shall notify this Commission in writing of the date local exchange service is first rendered to the public within five days after service begins. The same procedure shall be followed for the authorized intraLATA and interLATA services, where applicable.
8. Each Petitioner shall keep its books and records in accordance with generally accepted accounting principles.

9. Petitioners shall each file an annual report, in compliance with GO 104-A, on a calendar-year basis using the information-request form developed by the Commission Staff and contained in Appendix A.

10. Petitioners shall ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

11. 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.

12. The corporate identification number assigned to each Petitioner, as set forth in Appendix B, shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

13. Within 60 days of the effective date of this order, each Petitioner shall comply with Pub. Util. Code § 708, Employee Identification Cards, reflecting its authority, and notify the Director of the Telecommunications Division in writing of its compliance.

14. Each Petitioner is exempted from the provisions of Pub. Util. Code §§ 816-830.

15. Each Petitioner is exempted from Pub. Util. Code § 851 for the transfer or encumbrance of property, whenever such transfer or encumbrance serves to secure debt.

16. If any Petitioner is 90 days or more late in filing an annual report or in remitting the fees listed in Conclusion of Law 4, Telecommunications Division shall prepare for Commission consideration a resolution that revokes that Petitioner's CPCN, unless that Petitioner has received written permission from Telecommunications Division to file or remit late.

17. The Mitigated Negative Declaration, including the Mitigation Monitoring Plan, shall be finalized and adopted in a subsequent decision.

18. Petitioners shall comply with the consumer protection rules set forth in Appendix B of D.95-07-054.

19. Petitioners shall comply with the Commission's rules for local exchange competition in California that are set forth in Appendix C of D.95-12-056, including the requirement that CLCs shall place customer deposits in a protected, segregated, interest-bearing escrow account subject to Commission oversight.

20. Petitioners shall comply with the customer notification and education rules adopted in D.96-04-049 regarding the passage of calling party number.

21. Petitioners' respective motions for a limited protective order keeping designated documents containing financial and other operating information confidential are granted. Such documents will remain under seal for one year from today unless a petitioner makes a timely request for extension of confidential treatment of its documents by filing a separate motion with good cause shown.

22. The petitions listed in Appendix B are granted only as set forth above.

23. The motion of the Department of Fish and Game for leave to intervene in the proceeding is granted.

24. The motion of Cmetric to accept late-filed comments is granted.

This order is effective today.

Dated October 7, 1999, at Los Angeles, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL W. WOOD
Commissioners

APPENDIX A

Page 1 of 2

**TO: ALL COMPETITIVE LOCAL CARRIERS AND 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:

California Public Utilities Commission
Auditing and Compliance Branch, Room 3251
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) 703-1961.

APPENDIX A

Page 2 of 2

Information Requested of California Competitive Local Carriers and Interexchange Telephone Utilities.

To be filed with the 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.
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.

(END OF APPENDIX A)

APPENDIX B

Page 1 of 2

LISTING OF PETITIONERS GRANTED CPCN AUTHORITY

Requested Authority
Granted

Name of Petitioner	Petition No.	Utility U-No.	Requested Authority Granted		Statewide Inter/Intra- LATA
			Local Exchange ² Facilities-based	Resale	
1. Com Express, Inc. ³	141	U-6231-C	X	X	
2. DSLNET Communications, LLC ⁴	142	U-6169-C	X		
3. International Telcom, Ltd.2	143	U-5964-C	X	X	X

² Full facilities-based approval for each of the 13 petitioners is being deferred pending resolution of outstanding CEQA issues as discussed in II.A of the decision. Local exchange authority granted herein is limited to local exchange resale service and local exchange service utilizing unbundled network elements and equipment located solely within existing structures. Unless otherwise indicated, the authorized local exchange service territory of each CLC petitioner is limited to the ILEC service territories of Pacific, GTEC, RTC, and CTC.

³ The authorized local exchange territory for this carrier is limited to the ILEC service territories of Pacific and GTEC.

⁴ The resale portion of the DSLnet petition was approved during the previous quarterly review period.

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Page 2 of 2

LISTING OF PETITIONERS GRANTED CPCN AUTHORITY
Requested Authority
Granted

Name of Petitioner	Petition No.	Utility U-No.	Requested Authority Granted		
			Local Exchange ⁵ Facilities-based	Resale	Statewide Inter/Intra-LATA
4. J.W.E., Corp.	144	U-6233-C	X	X	X
5. Intellectual Operator Services, Inc.	145	U-5168-C	X	X	X
6. Cmetric, Inc.	146	U-6234-C	X	X	X
7. JATO Operating Two Corp. 2	147	U-6235-C	X	X	
8. Teligent, Inc. 3 ⁶	148	U-5803-C	X	X	
9. 2 nd Century Communications, Inc.	149	U-6236-C	X	X	X
10. Universal Access, Inc.	150	U-6237-C	X	X	X
11. Wilshire Connection, LLC	151	U-6238-C	X	X	X
12. ReFlex Communications, Inc.	152	U-6230-C	X	X	
13. Allied Riser of California, Inc.	153	U-6239-C	X	X	X

(END OF APPENDIX B)

⁵ Full facilities-based approval for each of the 13 petitioners is being deferred pending resolution of outstanding CEQA issues as discussed in II.A of the decision. Local exchange authority granted herein is limited to local exchange resale service and local exchange service utilizing unbundled network elements and equipment located solely within existing structures. Unless otherwise indicated, the authorized local exchange service territory of each CLC petitioner is limited to the ILEC service territories of Pacific, GTEC, RTC, and CTC.

⁶ The previously authorized territory for Teligent is extended by this order to cover that of RTC and CTC.

APPENDIX C

Page 2 of 3

- 6.B.1 of Appendix B which allows a customer to notify the company of their desire to discontinue service on or before the date of disconnection.
5. Sheet 24-T, rule 7.1: Advance payments cannot be required for usage. It is allowed only on non-recurring charges and 1st month's recurring charges. Also, rule 7.2.1 states "the deposit will not exceed an amount equal to three months charges for a service or facility which has a minimum payment of one month." Per Rule 5 of Appendix B of D. 95-07-054 deposit shall be no greater than twice the estimated monthly bill for the class of service applied for.
 6. Sheet 25-T, rule 7.2.D: The interest on deposits is to be set at the 3-month commercial paper rate published by the Federal Reserve Board, under Rule 5 of Appendix B.
 7. Sheet 26-T, rule 7.4.A must be changed to reflect that the deposit balance must be returned within 30 days after discontinuance of service, not 30 days following rendition of the final bill.
 8. Sheet 32-T, rule 10.B : Statement relating to costs must be replaced with the following language "The non-prevailing party may be liable for reasonable court costs and attorney fees as determined by the CPUC or by the court."
 9. Sheet 37-T, rule 13.B, an interruption period begins once the company is aware of it not when the customer reports it.
 10. Sheet 54-T, rule 23: Per D. 95-12-057, the tariff must be revised to state which provider the company will use to administer the Deaf and Disabled Distribution Program.
 11. The company must include its own Switched Access Tariff or concur in another carrier's tariff.

APPENDIX C

Page 1 of 3

List of Deficiencies to Petition No. 142 filed by DSLnet Communications, LLC to be corrected in Tariff Compliance Filing.

Include sample forms.

1. Need to include all CPUC mandated surcharges in the tariff.
2. Per D.95-12-057, the tariff must be revised to state which provider the company will use to administer the Deaf and Disabled Equipment Distribution Program.
3. Sheet 40: An interruption period begins when the company is aware of it not when the user reports it.
4. Sheet 47, Change of Service Provider: Include tariff language on the applicable penalty or fine for violation of rule on change of service provider. (See Rule 11, Appendix B of Decision 95-07-054.)
5. Sheet 50: Each Promotional Offerings must be tariffed before it is offered to customers and filed according to G.O. 96-A.

Corrected tariff sheets with sidebars indicating changes must be provided for the following items:

1. Need to delete Advice Letter No.1 from the draft tariff sheets. The company's compliance tariff will be the Advice Letter filing.
2. Sheet 8-T: Update the surcharge amounts for California Relay Service and Communications Device Fund to 0.192%, California High Cost Fund B to 3.8%, California Teleconnect Fund to 0.05% and Universal Lifeline service to 0.0%.
3. Sheet 17-T, rule 2.3, Backbilling: Decision 86-12-025 provides for a five month backbilling for collect calls, credit card and third party calls.
4. Sheet 19-T, rule 3.1 says that carrier will provide all residential customers with information regarding the Universal Lifeline Program. This language is contradictory to Sheet 5-T, Preliminary Statement and Sheet 15-T, Description of Service which says that service is provided to business customers. Please clarify the applicability of each tariff and eliminate any contradictions. Also rule 3.4 indicates applications for service are noncancellable unless the company otherwise agrees. This violates Rule

APPENDIX C

Page 3 of 3

List of deficiencies in tariffs filed by Wilshire Connection, LLC in I.95-04-044
Petition 151.

1. Sheet 8 - Place a map of intended service territory here.
2. Sheet 10 #4 - Use actual rates, not rate ranges.
3. Sheet 15 - Same as Item 2 above.
4. Sheet 17 - Same as Item 2 above.
5. Sheet 32 B3 - Include provisions for paying interest on deposits when returned to customers. The rate is that of current 3-month commercial paper.
6. Sheet 33 B5 2nd Line - After the word "agreement" add the words, "or 12 months, whichever comes first."
7. Sheet 37 - Expand Rule 9 to give a fuller description of the dispute procedure, including contacting Consumer Affairs Branch, depositing disputed amount there, etc.
8. Sheet 39 B1 - Discontinuance of service for nonpayment of bills requires 7 days written prior notice.
9. Sheet 47 A - Wilshire's limitation of liability needs to be \$10,000 to be consistent with the PacBell tariff.

(END OF APPENDIX C)

Decision 99-09-044**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of ReFlex Communications, Inc., a Washington Corporation, for a Certificate of Public Convenience and Necessity to Provide InterLATA and IntraLATA Telecommunications Service in California as a Facilities-based Carrier.

Application 99-07-047
(Filed July 28, 1999)

O P I N I O N

ReFlex Communications, Inc., a Washington corporation, filed an application on July 28, 1999, 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 period is being waived.

Findings of Fact

1. The application was filed on July 28, 1999, and appeared in the Commission's Daily Calendar on August 3, 1999.
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 appendix.
2. Applicant should be granted an exemption from the requirement to file tariffs.

O R D E R

IT IS ORDERED that:

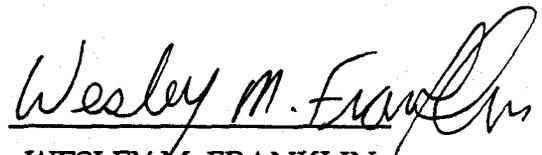
1. A certificate of public convenience and necessity is granted to ReFlex Communications, Inc. to operate as a facilities-based carrier of inter-Local Access and Transport Area (LATA) and, to the extent authorized by Decision 94-09-065, intra-LATA telecommunications services offered by communication common carriers in California subject to the conditions set forth in the attached appendices. Applicant is assigned corporate identification number U-6230-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. 99-07-047 is closed.

This order is effective today.

Dated September 7, 1999, at San Francisco, California.


WESLEY M. FRANKLIN
Executive Director

APPENDIX A

Page 1

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 which must be regularly remitted:

- a. The current 0.0% 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-16245, December 3, 1998);
- b. The current 0.192% 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; D.98-12-073, December 17, 1998 (.012%); Resolution T-16257 (.18%), December 17, 1998);
- c. The user fee provided in PU Code §§ 431-435, which is 0.11% of gross intrastate revenue for the 1998-1999 fiscal year (Resolution M-4789);
- d. The current 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-16242 at 0.0% for 1999, effective December 3, 1998);
- e. The current 3.8% 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.; Resolution T-16244, effective December 3, 1998); and
- f. The current 0.05% 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-16235, effective November 19, 1998).

These fees may change periodically. You will be notified of such changes.

APPENDIX A

Page 2

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.
7. Prior to initiating service, you shall provide the Commission's Consumer Services Division with the your designated contact person(s) for purposes of resolving consumer complaints and the corresponding telephone number. This information shall be updated if the name or telephone number changes or at least annually.
8. You shall notify this Commission 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, in compliance with GO 104-A, on a calendar-year basis using the information request form developed by the Commission Staff and contained in Appendix B.
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.

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Page 3

14. Within 60 days of the effective date of this order, you shall comply with PU Code § 708, Employee Identification Cards, and notify the Director of the Telecommunications Division in writing of its compliance.

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.

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 C to this decision.

(END OF APPENDIX A)

APPENDIX B

Page 1

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:

California Public Utilities Commission
Auditing and Compliance Branch, Room 3251
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) 703-1961.

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Page 2

Information Requested of California Interexchange Telephone Utilities.

To be filed with the 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.
 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
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

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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.

Appendix C

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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.
- 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

Appendix C

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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 C)

PUBLIC UTILITIES COMMISSION505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

September 7, 1999

**TO: PARTIES OF RECORD IN RULEMAKING 95-04-043 AND
INVESTIGATION 95-04-044**

This is the draft decision of Administrative Law Judge Pulsifer. It will be on the Commission's agenda at the next regular meeting 30 days after the above date. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in the attached section of the Commission's "Rules of Practice and Procedure." Please read them carefully and note the filing dates, the limitations on content of comments, and the requirement of service on all other parties. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served on the ALJ separately, and I suggest hand delivery, overnight mail, or other expeditious method of service on the ALJ.

A handwritten signature in cursive script that reads "Lynn T. Carew".

Lynn T. Carew, Chief
Administrative Law Judge

LTC:avs

Attachments

Article 19. Decisions, Proposed Decisions, and Commission Meetings

77. (Rule 77) Issuance of Decisions.

A proceeding shall stand submitted for decision by the Commission after the taking of evidence, and the filing of such briefs or the presentation of such oral argument as may have been prescribed by the Commission or the presiding officer.

77.1. (Rule 77.1) Filing Proposed Decision.

The Administrative Law Judge shall prepare a proposed decision, whether interim or final, setting forth the recommendations, findings and conclusions. After discussion with the assigned commissioner, the proposed decision of the administrative law judge shall be filed with the Commission and served on all parties without undue delay, not later than 90 days after submission.

This procedure will apply to all matters which have been heard, except those initiated by customer or subscriber complaint unless the Commission finds that such procedure is required in the public interest in a particular case.

Applicants in matters involving passenger buses, sewer utilities, or vessels may make an oral or written motion to waive the filing of and comment on the proposed decision. Any party objecting to such waiver will have the burden of demonstrating that such filing and comment is in the public interest.

77.2. (Rule 77.2) Time for Filing Comments.

Parties may file comments on the proposed decision within 20 days of its date of mailing. An original and 12 copies of the comments with a certificate of service shall be filed with the Docket Office and copies shall be served on all parties. The administrative law judge shall be served separately.

An applicant may file a motion for an extension of the comment period if it accepts the burden of any resulting delay. Any other party requesting an extension of time to comment must show that the benefits of the extension outweigh the burdens of the delay.

77.3. (Rule 77.3) Scope of Comments.

Except in general rate cases, major plant addition proceedings, and major generic investigations, comments shall be limited to 15 pages in length plus a subject index listing the recommended changes to the proposed decision, a table of authorities and an appendix setting forth proposed findings of fact and conclusions of law. Comments in general rate cases, major plant addition proceedings, and major generic investigations shall not exceed 25 pages.

Comments shall focus on factual, legal or technical errors in the proposed decision and in citing such errors shall make specific references to the record. Comments which

merely reargue positions taken in briefs will be accorded no weight and are not to be filed.

New factual information, untested by cross-examination, shall not be included in comments and shall not be relied on as the basis for assertions made in post publication comments.

77.4. (Rule 77.4) Specific Changes Proposed in Comments.

Comments proposing specific changes to the proposed decision shall include supporting findings of fact and conclusions of law.

77.5. (Rule 77.5) Late-Filed Comments and Replies to Comments.

Late-filed comments will ordinarily be rejected. However, in extraordinary circumstances a motion for leave to file late may be filed. An accompanying declaration under penalty of perjury shall be submitted setting forth all the reasons for the late filing.

Replies to comments may be filed five days after comments are filed and shall be limited to identifying misrepresentations of law, fact or condition of the record contained in the comments of other parties. Replies shall not exceed five pages in length, and shall be filed and served as set forth in Rule 77.2.

77.6. (Rule 77.6) Review of and Comment on Alternates.

(a) For purposes of this rule, "alternate" means either:

(1) a substantive revision to an administrative law judge's proposed decision circulated under Rule 77.1 that materially changes the resolution of a contested issue, or

(2) any substantive addition to the findings of fact, conclusions of law, or ordering paragraphs of an administrative law judge's proposed decision circulated under Rule 77.1.

(b) A revision or addition to an administrative law judge's proposed decision will be considered "substantive" for purposes of this rule if the sponsoring Commissioner determines that the revision or addition is substantive. If the sponsoring Commissioner determines that a revision or addition is not substantive, the President of the Commission in consultation with the Chief Administrative Law Judge may nevertheless determine that the revision or addition is substantive, in which case the President's determination is controlling. The President may delegate this review function to another Commissioner and must delegate it when the President is the sponsoring Commissioner.

(c) An alternate will be filed and served on all parties to the proceeding and, except as provided in subsection (g), will be subject to public review and comment before the

Commission may vote on it. The date of the Commission meeting when the alternate is first scheduled to be considered will be indicated on the first page of the alternate.

(d) If the alternate is served with the administrative law judge's proposed decision, or if the alternate is served at least 30 days before the Commission meeting at which the administrative law judge's proposed decision is scheduled to be considered, the provisions of Rules 77.1 through 77.5 concerning comments on the proposed decision will also apply to comments on the alternate. The page limits of Rule 77.3 apply separately to comments on the proposed decision and to comments on the alternate.

(e) If the alternate is served less than 30 days, but at least 14 days, before the Commission meeting at which the administrative law judge's proposed decision is scheduled to be considered, parties may file comments on the alternate at least seven days before the Commission meeting. The provisions of Rules 77.3, 77.4, and 77.5 on comments on proposed decisions and replies to comments will also apply to comments on alternates and corresponding replies. Comments and replies must comply with Rules 2, 3, 4, and 7. Comments and replies must be served on all parties in compliance with Rule 5, and must be separately served on the administrative law judge and all Commissioners.

(f) If service of the alternate occurs less than 14 days before the Commission meeting at which the administrative law judge's proposed decision is scheduled to be considered, consideration of the proposed decision and the alternate will be rescheduled to a later Commission meeting. Comments on the alternate will be governed by either subsection (d) or subsection (e) of this Rule, depending on the time between the date the alternate is served and the date of the rescheduled consideration of the proposed decision and alternate.

(g) The administrative law judge may waive or reduce the comment period on alternates in an unforeseen emergency situation (Rule 81), and may extend the comment period in appropriate circumstances.

ORDER NO.

99 - 461

ENTERED

AUG 04 1999

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

CP 643

RECEIVED

AUG 5 1999

Public Utility Commission of Oregon
Administrative Hearings Division

In the Matter of the Application of REFLEX)
COMMUNICATIONS, INC., for a)
Certificate of Authority to Provide)
Telecommunications Service in Oregon and)
Classification as a Competitive Provider.)

ORDER

DISPOSITION: APPLICATION GRANTED

Note: By issuing this certificate, the Commission makes no endorsement or certification regarding the certificate holder's rates or service.

The Application

On April 14, 1999, ReFlex Communications, Inc. (applicant) filed with the Commission an application for certification to provide telecommunications service in Oregon as a competitive provider. Applicant seeks to provide intraexchange (local exchange) telecommunications service in areas coextensive with local exchanges of U S WEST Communications, Inc. (USWC), GTE Northwest Incorporated (GTE), CenturyTel of Oregon, Inc. (CenturyTel), and United Telephone Company of the Northwest dba Sprint (United). Applicant also seeks to provide interexchange telecommunications service, including private line service, statewide in Oregon.

The local exchanges of USWC encompassed by the application are listed in Appendix A to this order. The local exchanges of GTE encompassed by the application are listed in Appendix B. The local exchanges of CenturyTel encompassed by the application are listed in Appendix C. The local exchanges of United encompassed by the application are listed in Appendix D.

Applicant proposes to provide intraexchange (local exchange) switched service (i.e., local dial tone) and nonswitched private line service (dedicated transmission service) in exchanges listed in Appendices A, B, C, and D to this order. Applicant also proposes to provide interexchange switched telecommunications service (i.e., long distance toll) and nonswitched private line service (dedicated transmission service) statewide in

Oregon. Applicant will operate as a reseller of the above services. Applicant may also purchase unbundled network elements (building blocks), as well as finished services, from other certified carriers. Applicant may also operate as a facilities based provider of telecommunications service.

Operator services are part of switched telecommunications service. Applicant will not directly provide operator services, however, applicant will be an 'operator service provider' as defined in ORS 759.690(1)(d). A statement of compliance with Commission rules and with state law, including ORS 759.690 and OAR 860-032-0005 (regarding operator services), was included in the application.

The Commission served notice of the application on the Commission's telecommunications mailing list on May 12, 1999. The Commission did not receive any protests. However, USWC, GTE, CenturyTel, and United will be considered parties to this proceeding. On June 22, 1999, an Administrative Law Judge (ALJ) with the Commission issued a ruling that adopted procedures for the processing of this docket. The ALJ set forth a procedural schedule. On June 25, 1999, the Commission Staff (Staff) distributed a proposed order for review by the parties. No exceptions to the proposed order were filed.

The Commission has reviewed the proposed order and the record in this matter. Based on a preponderance of the evidence, the Commission makes the following:

FINDINGS AND CONCLUSIONS

Applicable Law

Applications to provide telecommunications service and for classification as a competitive telecommunications service provider are filed pursuant to ORS 759.020. ORS 759.020 provides that:

(1) No person [or] corporation * * * shall provide intrastate telecommunications service on a for-hire basis without a certificate of authority issued by the commission under this section.

* * * * *

(5) The commission may classify a successful applicant for a certificate as a * * * competitive telecommunications services provider. If the commission finds that a successful applicant for a certificate has demonstrated that its customers or those proposed to become customers have reasonably available alternatives, the commission shall classify the applicant as a competitive telecommunications services provider. * * * For purposes of this section, in determining whether there are reasonably available alternatives, the commission shall consider:

- (a) The extent to which services are available from alternative providers in the relevant market.
- (b) The extent to which services of alternative providers are functionally equivalent or substitutable at comparable rates, terms, and conditions.
- (c) Existing economic or regulatory barriers to entry.
- (d) Any other factors deemed relevant by the commission.

Applications to provide local exchange (intraexchange) telecommunications service are reviewed pursuant to ORS 759.050, the "competitive zone law." Under ORS 759.050(2)(a), the Commission may:

Certify one or more persons, including another telecommunications utility, to provide local exchange telecommunications service within the local exchange telecommunications service area of a certified telecommunications utility, if the commission determines that such authorization would be in the public interest. For the purpose of determining whether such authorization would be in the public interest, the commission shall consider:

- (A) The effect on rates for local exchange telecommunications service customers both within and outside the competitive zone.
- (B) The effect on competition in the local exchange telecommunications service area.
- (C) The effect on access by customers to high quality innovative telecommunications service in the local exchange telecommunications service area.
- (D) Any other facts the commission considers relevant.

Under ORS 759.050(2)(b), the Commission shall:

Upon certification of a telecommunications provider under paragraph (a) of this subsection, establish a competitive zone defined by the services to be provided by the telecommunications provider and the geographic area to be served by the telecommunications provider.

Under ORS 759.050(2)(c), the Commission may:

Impose reasonable conditions upon the authority of [the applicant] to provide competitive zone service within the competitive zone * * * at the time of certification of a telecommunications provider, or thereafter.

Subsection (5)(a) of ORS 759.050 provides that:

Unless the commission determines that it is not in the public interest at the time a competitive zone is created, upon designation of a competitive zone, price changes, service variations, and modifications of competitive zone services offered by a telecommunications utility in the zone shall not be subject to ORS 759.180 to ORS 759.190 [notice, hearing and tariff suspension procedures], and at the telecommunications utility's discretion, such changes may be made effective upon filing with the commission.

ORS 759.690 and OAR 860-032-0005 establish certain requirements providers of operator services must meet. Included are the following conditions:

The certificate holder involved in the provision of operator services shall:

1. Notify all callers at the beginning of the call of the telecommunications provider's name and allow a sufficient delay period to permit a caller to terminate the call or advise the operator to transfer the call to the customer's preferred carrier.
2. Disclose rate and service information to the caller when requested.
3. Not transfer a call to another operator service provider without the caller's notification and consent.
4. Not screen calls and prevent or "block" the completion of calls which would allow the caller to reach an operator service company different from the certificate holder. In addition, the certificate holder shall, through contract provisions with its reseller clients, prohibit the reseller from blocking a caller's access to his or her operator service company of choice.
5. When entering into operator service contracts or arrangements with call aggregators include in each contract provisions for public notification. A sticker or nameplate identifying the name of the certificate holder shall be attached to, or in close proximity to, each telephone that has public access.

OAR 860-032-0015(1) authorizes the Commission to suspend or cancel the certificate if the Commission finds that (a) the holder made misrepresentations when it filed the application, or (b) the applicant fails to comply with the terms and conditions of the certificate.

Designation as a Competitive Provider

Applicant has met the requirements for classification as a competitive telecommunications service provider. Applicant's customers or those proposed to become customers have reasonably available alternatives. The incumbent telecommunications utilities, USWC, GTE, CenturyTel, and United provide the same or similar local exchange services in the local service area requested by applicant. AT&T, MCI, Sprint Communications, USWC, and others provide interexchange toll, private line and operator services in the service area requested by the applicant. Subscribers to applicant's services can buy comparable services at comparable rates from other vendors. Economic and regulatory barriers to entry are relatively low.

Conditions of the Certificate

As part of the application, the applicant agreed to, or acknowledged, several conditions listed in the application. Those conditions are adopted and made conditions of this certificate of authority.

The Commission first applied the competitive zone law, ORS 759.050, in dockets CP 1, CP 14, and CP 15. After full evidentiary hearings and consideration of the public interest criteria set forth in ORS 759.050(2)(a), the Commission designated three competitive providers of switched local exchange services as alternate exchange carriers (AECs or competitive local exchange carriers (CLECs)) in the Portland metropolitan area. See Order No. 96-021. The Commission subsequently applied those findings and conclusions to dockets CP 132, CP 139, and CP 149, and certified two CLECs to provide switched local exchange services in areas located throughout the state.

The Commission takes official notice of the record in dockets CP 1, CP 14, and CP 15.¹ In Order No. 96-021, the Commission established conditions applicable to CLEC certificates. Since applicant, ReFlex Communications, Inc., proposes to offer switched local exchange services, it seeks certification as a CLEC. Pursuant to ORS 759.050(2)(c) and Order No. 96-021, applicant as a CLEC shall comply with the following conditions:

1. Applicant shall terminate all intrastate traffic originating on the networks of other telecommunications service providers that have been issued a certificate of authority by the Commission.
2. Whenever applicant terminates intrastate long distance traffic directly or indirectly from interexchange carriers or from its own toll network to its end user customers, applicant shall contribute to the Oregon Customer Access Fund (OCAF), or its equivalent, in accordance with provisions of

¹ Under OAR 860-014-0050(2), a party may object to facts noticed within 15 days of notification that official notice has been taken. The objecting party may explain or rebut the noticed facts.

the Oregon Customer Access Plan (OCAP) or any successor plan approved by the Commission. Applicant shall contribute using rates approved by the Commission on intrastate terminating carrier common line access minutes, or on any other basis determined by the Commission. Applicant may not participate in (i.e., receive money from) pooling arrangements established under the OCAP or any successor plan unless authorized by the Commission.

3. Applicant shall comply with the Oregon Exchange Carrier Association's (OECA) informational and operational needs as specified by the OCAP or any successor plan approved by the Commission.
4. Applicant shall offer E-911 service. Applicant has primary responsibility to work with the E-911 agencies to make certain that all users of their services have access to the emergency system. Applicant will deliver or arrange to have delivered to the correct 911 Controlling Office its customers' voice and dialable Automatic Number Identification (ANI) telephone numbers so the lead 911 telecommunications service provider can deliver the 911 call to the correct Public Safety Answering Point (PSAP). Applicant agrees to work with each 911 district and lead 911 telecommunications service provider to develop database comparison procedures to match applicant's customer addresses to the 911 district's Master Street Address Guide in order to obtain the correct Emergency Service Number (ESN) for each address. Applicant agrees to provide the lead 911 telecommunications service provider with daily updates of new customers, moves, and changes with the corresponding correct ESN for each.
5. Applicant shall not take any action that impairs the ability of other certified telecommunications service providers to meet service standards specified by the Commission.
6. At the request of the Commission, applicant shall conduct, and submit to the Commission, traffic studies regarding traffic exchanged with telecommunications service providers and other entities designated by the Commission.
7. For purposes of distinguishing between local and toll calling, applicant shall adhere to local exchange boundaries and Extended Area Service (EAS) routes established by the Commission. Further, applicant shall not establish an EAS route from a given local exchange beyond the EAS area for that exchange.
8. When applicant is assigned one or more NXX codes, applicant shall limit each of its NXX codes to a single local exchange and shall establish a toll

rate center in each exchange that is proximate to the toll rate center established by the telecommunications utility serving the exchange.

9. Applicant shall comply with universal service requirements as determined by the Commission.
10. Unless otherwise provided pursuant to an interconnection agreement adopted by the Commission pursuant to Section 252 of the Telecommunications Act of 1996, applicant shall enter into interconnection agreements with telecommunications utilities for exchange of local and EAS traffic, ancillary services (i.e., directory listings, directory assistance, 911 arrangements, mutual repair referral) and other interconnection matters in accordance with requirements the Commission established in Order No. 96-021 as otherwise modified by the Commission.
11. If applicant provides services to a subscriber who, in turn, resells the services, including operator services, then applicant and the subscriber must comply with ORS 759.690 and OAR 860-032-0005.

Public Interest

In Order No. 93-1850, docket UM 381, the Commission considered the public interest aspects of local exchange competition for dedicated transmission service similar to that described in the application before us now. In dockets CP 1, CP 14, and CP 15, Order No. 96-021, the Commission made several public interest findings regarding local exchange competition in general.

The Commission's Findings of Fact and Opinion in docket UM 381, Order No. 93-1850, at pages 4 - 6, and the Commission's Findings and Decisions in dockets CP 1, CP 14, and CP 15, Order No. 96-021 at pages 6 - 21, entered pursuant to ORS 759.050(2)(a)(A) - (C), are adopted. The Commission takes official notice of the record in dockets UM 381, CP 1, CP 14, and CP 15.² Based on a review of those findings, as well as information contained in the application, the Commission concludes that it is in the public interest to grant the application of ReFlex Communications, Inc., to provide local exchange telecommunications service as a competitive telecommunications provider in the exchanges listed in Appendices A, B, C, and D. Further, it is in the public interest to grant the application to provide intrastate, interexchange switched (toll) telecommunications service and dedicated transmission service statewide as described in the application.

² Under OAR 860-014-0050(2), a party may object to facts noticed within 15 days of notification that official notice has been taken. The objecting party may explain or rebut the noticed facts.

Competitive Zones

The exchanges listed in Appendices A, B, C, and D to this order are designated competitive zones pursuant to ORS 759.050(2)(b).

Pricing Flexibility

In Order No. 93-1850, docket UM 381, the Commission granted pricing flexibility for dedicated transmission service at the time the Commission granted the certificate of authority. Applicant seeks authority to provide intraexchange dedicated transmission service. Accordingly, USWC, GTE, CenturyTel, and United are granted pricing flexibility for dedicated transmission service in the exchanges listed in Appendices A, B, C, and D.

For intraexchange, switched telecommunications service the following applies. The Commission's Findings and Decisions in dockets CP 1, CP 14, and CP 15, Order No. 96-021 at pages 82 and 83, entered pursuant to ORS 759.050(5)(a) - (d), are adopted.

Accordingly, USWC will gain pricing flexibility in an exchange listed in Appendix A when:

1. Applicant, or an authorized CLEC, has received a certificate of authority to provide local exchange service.
2. USWC files a tariff that satisfies the Commission's requirements regarding the provision of interim number portability, as set forth in Order No. 96-021, and the Commission approves the tariff. USWC satisfied this requirement. *See* Order No. 96-277.
3. Staff notifies the Commission that a mutual exchange of traffic exists between USWC and an authorized CLEC, including but not limited to, applicant. If Staff previously provided the required notice regarding an exchange, no additional notice is required for that exchange.

(a) As used in paragraph 3 above, "mutual exchange of traffic" means a mutual exchange of traffic between USWC and the CLEC within each exchange on an exchange-by-exchange basis. For example, if there is a mutual exchange of traffic in the Bend exchange, USWC would get pricing flexibility in the Bend exchange only.

(b) As used in paragraph 3 above, for a CLEC who is a reseller (i.e., the CLEC does not use its own lines or switches to provide the particular service at issue), a "mutual exchange of traffic" exists when the CLEC

orders and receives one service, at a wholesale rate, from the LEC for resale pursuant to a certificate granted under ORS 759.050.

Similarly, GTE will gain pricing flexibility in an exchange listed in Appendix B when:

1. Applicant, or an authorized CLEC, has received a certificate of authority to provide local exchange service.
2. GTE files a tariff that satisfies the Commission's requirements regarding the provision of interim number portability, as set forth in Order No. 96-021, and the Commission approves the tariff. GTE satisfied this requirement. *See* Order No. 96-278.
3. Staff notifies the Commission that a mutual exchange of traffic exists between GTE and an authorized CLEC, including but not limited to, applicant. If Staff previously provided the required notice regarding an exchange, no additional notice is required for that exchange. The definitions in paragraphs 3.(a) and 3.(b) above, also apply here.

Similarly, CenturyTel will gain pricing flexibility in an exchange listed in Appendix C when:

1. Applicant, or an authorized CLEC, has received a certificate of authority to provide local exchange service.
2. CenturyTel files a tariff that satisfies the Commission's requirements regarding the provision of interim number portability, as set forth in Order No. 96-021, and the Commission approves the tariff.
3. Staff notifies the Commission that a mutual exchange of traffic exists between CenturyTel and an authorized CLEC, including but not limited to, applicant. If Staff previously provided the required notice regarding an exchange, no additional notice is required for that exchange. The definitions in paragraphs 3.(a) and 3.(b) above, also apply here.

Similarly, United will gain pricing flexibility in an exchange listed in Appendix D when:

1. Applicant, or an authorized CLEC, has received a certificate of authority to provide local exchange service.

2. United files a tariff that satisfies the Commission's requirements regarding the provision of interim number portability, as set forth in Order No. 96-021, and the Commission approves the tariff.
3. Staff notifies the Commission that a mutual exchange of traffic exists between United and an authorized CLEC, including but not limited to, applicant. If Staff previously provided the required notice regarding an exchange, no additional notice is required for that exchange. The definitions in paragraphs 3.(a) and 3.(b) above, also apply here.

ORDER

IT IS ORDERED that:

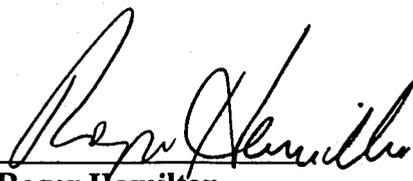
1. The application of ReFlex Communications, Inc., to provide intraexchange switched service and dedicated transmission service, and to provide interexchange switched (toll) service and dedicated transmission service, as described in the application, is in the public interest and is granted with conditions described in this order.
2. Applicant is designated as a competitive telecommunications provider for intraexchange service in the exchanges listed in Appendices A, B, C, and D, and for intrastate, interexchange service statewide in Oregon.
3. The local exchanges of USWC listed in Appendix A, those of GTE listed in Appendix B, those of CenturyTel listed in Appendix C, and those of United listed in Appendix D are designated as competitive zones.
4. USWC, GTE, CenturyTel, and United shall receive pricing flexibility on an exchange-by-exchange basis as set forth in this order.

5. Pursuant to ORS 759.050(2)(c), applicant shall comply with Commission imposed universal service requirements as a condition of authority to provide local exchange service.

Made, entered, and effective AUG 04 1999.



Ron Eachus
Chairman



Roger Hamilton
Commissioner



Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to ORS 756.580.

APPENDIX A

CP 643

EXCHANGES OF U S WEST COMMUNICATIONS, INC.
ENCOMPASSED BY THE APPLICATION

Albany
Ashland
Astoria
Athena/Weston
Baker
Bend
Blue River
Burlington
Camp Sherman
Cannon Beach
Central Point
Corvallis
Cottage Grove
Culver
Dallas
Eugene/Springfield
Falls City
Florence
Gold Hill
Grants Pass
Harrisburg
Hermiston
Independence/Monmouth
Jacksonville
Jefferson
Junction City
Klamath Falls
Lake Oswego
Lapine
Leaburg
Lowell
Madras

Mapleton
Marcola
Medford
Milton-Freewater
Newport
North Plains
Oak Grove/Milwaukie
Oakland/Sutherlin
Oakridge
Oregon City
Pendleton
Phoenix/Talent
Portland
Prineville
Rainier
Redmond
Rogue River
Roseburg
St. Helens
Salem
Seaside
Siletz
Sisters
Stanfield
Sumpter
Toledo
Umatilla
Veneta
Walla Walla
Warrenton
Westport
Woodburn/Hubbard

APPENDIX B

CP 643

EXCHANGES OF GTE NORTHWEST INCORPORATED
ENCOMPASSED BY THE APPLICATION

Amity	Lakeside
Aumsville/Turner	Langlois
Bandon	Lostine
Beaverton	McMinnville
Brookings	Mill City
Clatskanie	Murphy/Provolt
Coos Bay/North Bend	Myrtle Point
Coquille	Newberg
Cove	Port Orford
Dayton	Powers
Detroit	Reedsport
Elgin	Sandy
Enterprise	Scholls
Forest Grove	Sherwood
Gold Beach	Silverton
Grand Island	Stafford
Gresham	Sunnyside
Hillsboro	Tigard
Hoodland	Union
Imbler	Vernonia
Joseph	Wallowa
La Grande	Yamhill

APPENDIX C

CP 643

EXCHANGES OF CENTURY TEL OF OREGON, INC.
ENCOMPASSED BY THE APPLICATION

Aurora	Long Creek
Bly	Malin
Boardman	Maupin
Bonanza	Merrill
Brownsville	Mitchell
Burns	Monument
Camas Valley	North Powder
Charbonneau	North Umpqua
Chemult	Paisley
Chiloquin	Paulina
Creswell	Pilot Rock
Depoe Bay	Pine Grove
Drain	Rocky Point
Durkee	Scappoose
Echo	Seneca
Fort Klamath	Shedd
Fossil	Silver Lake
Gilchrist	Sprague River
Gleneden Beach	Spray
Glide	Starkey
Government Camp	Sweet Home
Harney	Tygh Valley
Heppner	Ukiah
Huntington	Wamic
Ione	Yoncalla
Jewell	
John Day	
Knappa	
Lakeview	
Lebanon	
Lexington	

APPENDIX D

CP 643

EXCHANGES OF UNITED TELEPHONE COMPANY OF THE NORTHWEST
ENCOMPASSED BY THE APPLICATION

Arlington
Bay City
Beaver
Butte Falls
Carlton
Cascade Locks
Cloverdale
Crater Lake
Diamond Lake
Fish Lake
Garibaldi
Grand Ronde
Grass Valley
Hood River
Lincoln City
Moro
Mosier
Odell
Pacific City
Parkdale
Prospect
Rockaway
Rufus
Shady Cove
Sheridan
The Dalles
Tillamook
Wasco
White City
Willamina

EXHIBIT DR-2

Amended Tariff Sheets

CHECK SHEET

The sheets of this tariff are effective as of the date shown at the bottom of the respective sheets. Original and revised sheets as named below comprise all changes from the original tariff that are currently in effect as of the date at the bottom of this sheet.

<u>Sheet</u>	<u>Revision</u>	<u>Sheet</u>	<u>Revision</u>
1	Original	26	Original
2	Original	27	Original
3	Original	28	Original
4	Original	29	Original
5	Original	30	Original
6	Original	31	Original
7	Original	32	Original
8	Original	33	Original
9	Original	34	Original
10	Original	35	Original
11	Original	36	Original
12	Original	37	April 7, 2000
13	Original	38	Original
14	Original	39	Original
15	Original	40	Original
16	Original	41	Original
17	Original	42	Original
18	Original	43	Original
19	Original		
20	Original		
21	Original		
22	Original		
23	Original		
24	Original		
25	Original		

* Indicates new or revised sheet submitted with this filing.

Issued: July 28, 19999

Effective:

Issued by: James M. Miller, President
ReFlex Communications, Inc.
830 4th Avenue South, Suite 310
Seattle, Washington 98134

SECTION 4 - DESCRIPTION OF SERVICES OFFERED (Cont'd)

4.3 Long Distance Interexchange Services (Message Telecommunications Service)

4.3.1 Nature of Service

ReFlex Communications, Inc. offers long distance interexchange telephone services that allow customers to originate and terminate calls at locations within the State of Arizona. Usage charges are generally based on the distance, duration, and time of day of each call.

4.3.2 Availability

ReFlex Communications, Inc. offers long distance interexchange services throughout the State of Arizona.

4.3.3 Dialing Procedures

Long distance interexchange services may be accessed by dialing the digit "1", followed by the NPA/area code, then the desired 7-digit local telephone number. Customers may also need to employ 101XXXX dialing, using a code to be supplied by the Company, to direct intraLATA calls to the Company. Those calls may otherwise be carried by another carrier.

Issued: July 28, 19999

Effective:

Issued by: James M. Miller, President
ReFlex Communications, Inc.
830 4th Avenue South, Suite 310
Seattle, Washington 98134