

TENNESSEE PUBLIC SERVICE COMMISSION

60 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-0505

STEVE HEWLETT, CHAIRMAN
SARA KYLE, COMMISSIONER
MELVIN J. MALONE, COMMISSIONER



Company ID: 00116464
Excel Telecommunications, Inc.
9101 LBJ Freeway
Ste. 800
Dallas, TX 75243

BEFORE THE TENNESSEE PUBLIC SERVICE COMMISSION
Nashville, Tennessee June 26, 1996

IN RE: CASE NUMBER: 96-01030

Application for Authority for Operator Services and/or Resell
Telecommunications Service and/or Telecommunications Operator Services
Services in Tennessee Pursuant to Rule 1220-4-2-.57.

---ORDER---

This matter is before the Tennessee Public Service Commission upon the application of the above-mentioned company for certification as a reseller or telecommunication operator service provider in Tennessee. The Commission considered this application at its regularly scheduled Commission Conference held on June 25, 1996 and concluded that the applicant has met all the requirements for certification and should be authorized to provide the resell of telecommunications service and/or an operator service on an intrastate basis.

IT IS THEREFORE ORDERED:

1. That the above-mentioned company is issued a Certificate of Convenience and Necessity as a telecommunications reseller and/or an operator service provider for state-wide service in Tennessee as specified in its application on file with the Commission.
2. That said company shall comply with all applicable Commission rules and regulations.
3. That this order shall be retained as proof of certification with this Commission, and may be used to obtain appropriately tariffed access service and billing arrangements from Commission authorized telecommunications service providers.
4. That any party aggrieved with the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within ten (10) days from and after the date of this Order.
5. That any Party aggrieved with the Commission's decision in this matter has the right of judicial review by filing a petition with the Tennessee Court of Appeals, Middle Section within sixty (60) days from and after the date of this Order.

Executive Director


Chairman


Commissioner


Commissioner

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EXECUTIVE DIRECTOR

June 10, 1996

VIA OVERNIGHT DELIVERY

Paul Allen, Executive Director
Tennessee Public Service Commission
460 James Robertson Parkway
Nashville, Tennessee 37219

Re: Application of Excel Telecommunications, Inc.

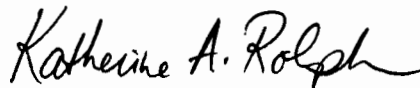
Dear Mr. Allen:

Enclosed for filing on behalf of Excel Telecommunications, Inc. ("Excel") are an original and eight (8) copies of its application to amend its certificate of public convenience and necessity to authorize Excel to resell local exchange telecommunications services in the State of Tennessee. Also enclosed is a check in the amount of \$50.00 in payment of the requisite filing fee.

Please date stamp the extra copy of this filing and return it in the self-addressed stamped envelope provided.

Should any questions arise concerning this application, please do not hesitate to contact Katherine Rolph at 202-424-7788.

Respectfully submitted,



Julia A. Waysdorf
Katherine A. Rolph
Counsel for Excel Telecommunications, Inc.

cc: Mr. J. Christopher Dance

Enclosures

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BEFORE THE TENNESSEE PUBLIC SERVICE COMMISSION

In the Matter of the Application of)
Excel Telecommunications, Inc.)
to Expand its Certificate of)
Convenience and Necessity to)
Include Authority to Provide)
Local Exchange Resale Services)

Docket No. 96-1036

APPLICATION

I. INTRODUCTION

Pursuant to the provisions of T.C.A. §§ 65-4-123 and 65-4-201(b), (c) and (d) (1995), Administrative Rules Chapter 1220-4-8, and the federal Telecommunications Act of 1996 ("Federal Act" or "Act"), 47 U.S.C. § 251 *et seq.*, Excel Telecommunications, Inc. ("Excel" or "Applicant") respectfully seeks to amend its certificate of convenience and necessity to include authority to provide resold local exchange services in the State of Tennessee as a Competing Telecommunications Service Provider, as defined by T.C.A. § 65-4-101(e).

The recently enacted Federal Act presents this Commission with the unique opportunity to expand upon existing pro-competitive telecommunications policies to ensure that all consumers -- both residential and business -- will have access to high quality, low cost, and innovative telecommunications services. The Federal Act was adopted to promote competition and reduce regulation in order to secure lower prices and higher quality telecommunications services for the American populace.

In accordance with these goals, Congress included provisions in the Federal Act designed to facilitate increased competition in local exchange markets. Section 253 of the Act prohibits states

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from imposing any requirements that would constitute any barriers to entry into the local exchange market. The Federal Act also imposes several requirements on the incumbent local exchange carriers (“LECs”) to assist new entrants in the market. Specifically, the Federal Act prohibits all LECs from imposing unreasonable or discriminatory conditions or limitations on the resale of telecommunications services. 47 U.S.C. § 251(b)(1). Incumbent LECs also must enter into reciprocal compensation arrangements for the origination and termination of telecommunications services. 47 U.S.C. §§ 251, 252. Finally, incumbent LECs are required to offer for resale, at wholesale rates (based on retail prices minus avoided costs), any telecommunications services that the carrier provides to subscribers who are not telecommunications carriers. *Id.* Applicant seeks authority from the Commission to provide local exchange services as soon as these wholesale rates are available.

The Federal Act’s prohibition against barriers to entry clearly contemplates that the State will not impose any requirements that are more burdensome than necessary. In light of Excel’s extensive experience in providing telecommunications in the State and its intent to provide nonfacilities-based services only, Applicant requests that a certificate be granted without hearing or any other formal proceeding that would delay its expansion into the local resale market.

Approval of this Application will further the purposes of the Federal Act as well as the pro-competitive policies set forth in T.C.A. § 65-4-123 (1995). Therefore, Applicant respectfully requests that the Commission amend its certificate of authority to permit it to provide resold local exchange service. In support thereof, Excel provides the following information:

II. QUALIFICATIONS

1. Applicant's legal name is Excel Telecommunications, Inc. Applicant maintains its principal place of business at:

Excel Telecommunications, Inc.
8750 North Central Expressway
Dallas, Texas 75231
(214) 705-5500

2. Correspondence or communications pertaining to this application should be directed to Applicant's attorney of record:

Julia A. Waysdorf, Esq.
Katherine A. Rolph, Esq.
Swidler & Berlin, Chartered
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
(202) 424-7500 (Tel)
(202) 424-7645 (Fax)

3. Questions concerning the ongoing operations of Dial & Save following certification should be directed to:

J. Christopher Dance
Vice President, Legal Affairs
Excel Telecommunications, Inc.
8750 North Central Expressway
Dallas, TX 75231
(214) 863-8210

4. Excel's principle corporate officers are:

Kenny A. Troutt	--	Chief Executive Officer, President, Chairman of the Board, Director, and founder of Excel
John J. McLaine	--	Executive Vice President, Chief Financial Officer, Secretary, and Director
Stephen R. Smith	--	Executive Vice President of Marketing and Director

Craig E. Holmes -- Vice President and Chief Accounting Officer

J. Christopher Dance -- Vice President, Legal Affairs and Assistant Secretary

Steven J. Troutt -- Vice President and Treasurer

Daniel Martignon, Jr. -- Vice President, Network Operations

M. Kathy Delahoussaye -- Vice President, Teleservices

All of the corporate officers listed above may be reached at:

Excel Telecommunications, Inc.
8750 North Central Expressway
Dallas, Texas 75231
(214) 705-5500

5. Excel, a Texas corporation, is a wholly owned subsidiary of Excel Telephone, Inc., which in turn is a wholly owned subsidiary of Excel Communications, Inc., a Delaware corporation. Excel is authorized to provide resold interexchange long distance service in the State.¹ A copy of the Company's Articles of Incorporation and a copy of the Company's authorization to transact business in the State of Tennessee were filed with the Commission in connection with its application to provide interexchange service in Tennessee. Excel currently operates as an interexchange service reseller in Tennessee. By this application, Excel proposes to add resold local exchange services to its previously approved interexchange offerings.

6. Applicant is financially qualified to provide resold telecommunications services in the state. In particular, Applicant has access to the financing and capital necessary to conduct its telecommunications operations as specified in this application. Excel will rely upon the financial

^{1/} See Case No. 95-03337 (certificate issued November 10, 1995).

resources of its parent company Excel Communications, Inc. Excel will also rely upon Excel Communication Inc.'s existing personnel and technological resources to provide intrastate services. Accordingly, no additional investment will be needed to offer the proposed services. In support of Excel's application, attached hereto as Exhibit 1 is a copy of the most recent audited financial statements for Excel Communications, Inc. and its subsidiaries. This exhibit is offered to demonstrate Applicant's financial ability to provide the proposed service.

7. Excel is technically and managerially qualified to provide local exchange resale services within the State. Excel is authorized by virtue of certification, registration, or (where appropriate) on an unregulated basis to provide resold intra- and interstate long distance telecommunications services in every state, except Hawaii. The successful provision of this service in Mississippi and throughout the country is proof in the first instance of Excel's technical qualifications. Descriptions of the backgrounds of Excel's officers and directors, which demonstrate the extensive telecommunications experience and expertise of Excel's management team, are attached hereto as Exhibit 2.

8. Applicant is familiar with and will adhere to all applicable Commission rules, policies and orders governing the provision of local exchange telecommunications services.

III. PROPOSED SERVICES

1. Excel proposes to provide resold local exchange services throughout the State of Tennessee in all geographic locations permitted by the provisions of T.C.A. § 65-4-201. Specifically, Excel seeks authority to resell local exchange services in the existing service areas of BellSouth Telecommunications, Inc. and any other relevant carriers.

2. Excel intends to provide all forms of intrastate telecommunications resale services including: (1) Basic Residential Exchange Services (Local Exchange Flat Rate, Measured Rate Service, operator access, etc.); (2) Residential Custom and Class Features (call waiting, caller ID, call forwarding, etc.); (3) Basic Business Exchange Services; (4) Business Custom Calling and Class Features; (5) Adjunct Provided Features (voice messaging, etc.); and (6) Business and Residential Ancillary Services (911, directory listing, directory assistance, etc.).

3. Excel's local traffic will be routed entirely over the networks of its underlying local carriers. The quality of service that Excel's local exchange customers will receive will therefore be equivalent to that provided by the incumbent LECs.

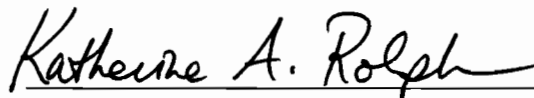
4. The Federal Act establishes the framework for incumbent LECs to provide resellers of local exchange service with unbundled service at wholesale rates. 47 U.S.C. §§ 251, 252. These rates must be based on current retail rates minus the avoided costs, as prescribed by the Federal Act. Until such time as commercially viable wholesale rates are available from the incumbent LECs, Excel is unable to file a proposed tariff. As soon as such rates are available, and prior to the commencement of service, Applicant will file a proposed tariff (containing its rates, terms, and conditions of service) with the Commission for its review.

IV. CONCLUSION

The telecommunications industry is growing and changing at an impressive pace. The entry of Excel into the local exchange resale market will enhance competition in the provision of telecommunications services within the State of Tennessee as prescribed by the Tennessee legislature in Chapter 408 of the Public Acts of 1995 and the Federal Act. Excel will bring significant benefits to telecommunications users in the State of Tennessee. Applicant's expertise in the telecommunications sector will permit it to select the most economic and efficient services, thereby providing customers with a better combination of price, quality, and customer service than other carriers. Accordingly, Applicant anticipates its proposed service will provide subscribers with better quality services and will increase consumer choice of innovative, diversified, and reliable service offerings.

Wherefore, Excel Telecommunications, Inc. requests that the Tennessee Public Service Commission approve the requested authority to amend its certificate of public convenience and necessity to include resold local exchange services in Tennessee.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Katherine A. Rolph". The signature is written in dark ink and is positioned above the printed name and address.

Julia A. Waysdorf, Esq.
Katherine A. Rolph, Esq.
SWIDLER & BERLIN, CHARTERED
3000 K Street, N.W., Suite 300
Washington, D.C. 20007-5116
202/424-7500 (Tel)
202/424-7645 (Fax)

Dated: June 10, 1996

VERIFICATION

Dallas, Texas

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I, J. Christopher Dance, being duly sworn, declare that I am Vice President, Legal Affairs and Assistant Secretary of Excel Telecommunications, Inc. the applicant in the subject proceeding; that I have read the foregoing application and exhibits; and that the same are true and correct to the best of my knowledge, information, or belief.

Chris Dance

J. Christopher Dance
Vice President, Legal Affairs and Assistant Secretary

Subscribed and sworn to me, this 7th day of May, 1996.

Donna L. Bommarito

Notary Public

My Commission expires on 2-27-99.

