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Decision 89 02 028 FEB 8 1989

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ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application)
of Cable & Wireless Management)
Services, Inc. (U-5131-C) for a)
Certificate of Public Convenience)
and Necessity to Operate as a)
Reseller of Telecommunications)
Services Within California.)

Application 88-11-014
(Filed November 7, 1988)

OPINION

Summary

This decision grants applicant, Cable & Wireless Management Services, Inc. (CWMS) a certificate of public convenience and necessity (CPCN) to provide intraLATA 1.544 mbps high speed digital private line service in accordance with the rates and charges and special conditions set forth in its proposed advice letter and associated tariff sheets in Appendix A hereto. These tariff provisions are to become effective five days after filing, but not earlier than February 15, 1989.

Background

On November 7, 1988, CWMS filed Application (A.) 88-11-014 in which it seeks a CPCN to provide intraLATA 1.544 mbps high speed digital private line service at 1.544 mbps or higher in accordance with the modified settlement adopted by this Commission in Decision (D.) 88-09-059, dated September 28, 1988, which approved with certain modifications a settlement reached by many of the parties in Phase I of Investigation (I.) 87-11-033.¹

¹ I.87-11-033 is the Commission's investigation of alternative regulatory frameworks for local exchange telephone companies.

Appendix A of D.88-09-059 prescribes the following conditions for competition for intraLATA high speed digital private line services:

"Competitive providers in high speed digital markets may hold out the availability of and provide multiplexing equipment or services, including voice services, as part of such high speed digital services.

"For purposes of this document, digital private line services at 1.544 megabits per second (mbps) or above are considered to be 'high speed digital private line' service. As used herein, 'intraLATA high speed digital private line' service is defined as the dedicated connection of two or more end user premises within a LATA for the purpose of providing intraLATA high speed digital nonswitched services. Competitive carriers may provide multiplexing service for voice and/or data at the end user's premises such that the transmission speed from or to the end user's premises is at 1.544 mbps or above.

"This document does not permit the transport from or to the end user's premises for intraLATA service of either analog or digital transmissions at speeds less than 1.544 mbps." (D.88-09-059, Appendix A, mimeo. p. 8.)

In D.88-09-059 we also concluded that authorizations granted for provision of competitive intraLATA high speed digital private line services should be coincident with the effectiveness of local exchange carrier pricing flexibility for such services (D.88-09-059, mimeo. p. 8). Since that time, Pacific Bell (Pacific) and GTE California, Incorporated (GTEC) have requested pricing flexibility for these services in A.88-10-012 and A.88-10-017, respectively. Workshops were held in those matters and they are scheduled for Commission consideration at today's meeting as well. The parties appearing at the recent Pacific and GTEC workshops, including a representative of CWMS, agreed that it would be most desirable if all of the current applications for

authority to provide competitive intraLATA high speed digital private line services were approved with the same effective date for commencing service.

Description of Applicant

CWMS is a Texas Corporation whose principal place of business is 1919 Gallows Road, Vienna, Virginia 22180.

CWMS is also a telecommunications company, in good standing, and actually doing business in California, coordinated through its home office in Vienna, Virginia.

CWMS is a wholly-owned subsidiary of Cable & Wireless North America, Inc., which is the United States arm of Cable & Wireless plc. of London, England.

Another affiliated company Cable & Wireless Communications, Inc. (CWC) is a certificated resale common carrier in California. CWC currently serves switched voice subscribers with originating traffic in the San Francisco and Los Angeles LATAs.

CWMS began business in 1984 in order to form and manage a fiber optic and digital microwave network called the "Digital Highway" which provides direct links to 47 U.S. cities coast to coast. CWMS received intrastate operating authority by D.87-08-022 issued August 12, 1987 and is currently a provider of intrastate interLATA telecommunications services in California.

In support of this application CWMS provided evidence of its authority to do business in California including a copy of its Articles of Incorporation on file with this Commission. CWMS also appended its unaudited Statement of Operations for the year ended March 31, 1988 listing gross revenues of \$30,009,000, expenses of \$29,103,000, and resulting income from operations \$906,000. After adjustments for interest income and taxes, CWMS listed \$799,000 in net income for the 12 months ending March 31, 1988. In its unaudited balance sheet, for the same period, CWMS listed total assets of \$73,696,000, of which property and equipment at net book

value represented \$62,485,000. Its liabilities of \$73,696,000 were largely made up of shareholders' investment and equity in the amount of \$67,011,000.

Essentially, the data supplied with and referenced in the application confirms that CWMS has the financial resources, broad communications knowledge, and technical expertise to effectively undertake this new communications business activity in California.

Currently CWMS offers interLATA service to and from San Diego, San Francisco, and Los Angeles to long distance carriers and to high volume corporate and government users who need bulk capacity. CWMS' services are offered on a point-to-point basis between its network service centers (points of presence) within LATAs. CWMS' digital transmission segments are designed to provide 99.98% availability through maintenance of backup facilities in standby ready condition for immediate switching when any failures of the operating system occur.

Description of Proposed Service

IntraLATA 1.544 mbps high speed digital private line service² is a dedicated full period data communications service as previously discussed herein.

CWMS proposes to use its own existing facilities and special access services of the local exchange telephone companies to provide these intraLATA high speed digital private line services. All services furnished by CWMS will be provided by dedicated, nonswitched facilities.

CWMS estimates that it will have 20 and 100 customers at the end of the first and fifth full year of operation, respectively.

² CWMS refers to this service as intraLATA DS-1 (1.544 MBPS) dedicated point to point service in its Tariff Schedule II.

CWMS is not seeking authority for construction of facilities in this application; therefore, granting this application would not likely have a significant adverse impact on the environment.

CWMS believes that the approval of this application will bring competition to the intraLATA market and the following long-term benefits to California telephone users:

- o Development of an expanded telecommunications supply industry in California with attendant employment opportunities for California residents.
- o Better quality service at lower cost.
- o Increased consumer choice for innovative telecommunications service and offered equipment, and
- o More reliable and diversified supply of communications services and more efficient use of existing communications resources.

Notice of Application and Protests Received

CWMS opines that it is likely to compete with existing carriers and prospectively with other telecommunications providers when it offers this new service. Therefore, in accordance with Rule 18b of the Commission's Rules of Practice and Procedure, it served copies of this application on an extensive list of other carriers with which it is likely to compete.

Subsequently on December 9, 1988 the Commission's Division of Ratepayer Advocates (DRA) protested this application because CWMS did not include precise tariff rates and charges in its application. DRA contends that under the present procedures CWMS' initial tariffs for this service would become effective five days after filing, and five days is not an adequate amount of time for the Commission, DRA and other interested parties to properly evaluate whether or not CWMS' proposed rates and charges are reasonable.

DRA recommends that CWMS be required to amend its application to include proposed rates and charges for review by DRA and others. DRA also requests that CWMS be required to furnish a rate comparison exhibit to compare its rates with those proposed by Pacific Bell and GTEC. In addition, DRA recommends that we institute the following reporting requirements for CWMS:

- "a. Quarterly reports for a two-year period beginning with the effective date of CWMS' rates and charges, be filed with the Commission's Advisory and Compliance Division (CACD) with copies to the DRA - Telecommunications Rate Design Branch which provide the following recorded data for CWMS' Hicap Service:
 - "i. monthly in-service volumes.
 - "ii. monthly inward movement volumes.
 - "iii. monthly recurring billings by tariff rate item.
 - "iv. monthly nonrecurring billings by tariff rate item.
 - "v. monthly costs by rate element for recurring rates.
 - "vi. monthly costs by rate element for nonrecurring charges on a work function by work function basis.
- "b. The format of these quarterly reports should be determined in consultation with CACD.
- "c. CWMS shall file the quarterly reports 45 days after the end of the respective quarter for which the report applies."

DRA asserts that the Commission will need this information to keep abreast of developments in the intraLATA

Hicap³ market and to determine whether or not intraLATA Hicap service is competitive. Additionally, DRA believes the Commission needs this information to protect competitors against anticompetitive behavior, e.g. below cost pricing.

Lastly DRA requests that any advice letter and associated tariff revisions filed by CWMS for this new offering be made effective on not less than five (5) days' notice of the filing. DRA contends that such filings should include a supporting rate comparison exhibit as well.

On December 9, 1988 Pacific also filed a protest to this application.

In its protest, Pacific notes that multiplexing on this service must only occur at speeds of 1.544 mbps or above, under the provisions of Section IV of Appendix A to D.88-09-059. Thus, it seeks assurances that CWMS will abide by the multiplexing and transmission speed limitations set forth in Section IV.A.1.a of Appendix A to D.88-09-059.

Lastly, Pacific asks that CWMS' tariff not be approved prior to the revised tariffs for its own 1.544 mbps high speed digital private line services in A.88-10-012.

On January 13, 1989, CWMS prepared and submitted to the ALJ and to the interested parties its final draft advice letter and associated tariff sheets for adoption in this proceeding, and on that same date it also filed its response to the protests of DRA and Pacific.

In response to Pacific CWMS stated that no written assurances were necessary regarding multiplexing and digital transmission speed because:

"Paragraph 5 of CWMS' application is clear that it is applying to provide intraLATA high speed

3 Hicap is still another name being used to refer to high speed digital private line service.

digital private line service 1.544 mbps consistent with Decision 88-09-059. CWMS will comply with this decision and all other Commission requirements. Therefore, Pacific's concern in this regard is misplaced."

CWMS also asserted that its proposed rates, charges, and conditions do not differ from those currently authorized for its high speed interLATA service.

Finally, in response to DRA, CWMS asserted that DRA's proposed delayed effective dates and reporting requirements do not comport with the streamlined scheme of regulation of other non-dominant common carriers.

On January 26, 1989 DRA withdrew its protest of this application based on WCMS' January 13, 1989 letter and rate information; however, DRA has not withdrawn its reporting recommendations.

On January 27, 1989, Pacific, after reviewing CWMS' response to its protest, wrote a letter to the ALJ withdrawing the protest.

Discussion

CWMS currently provides interLATA high speed 1.544 mbps digital private line service between the cities of Los Angeles, San Diego, and San Francisco in California. The additional authorization sought herein would allow CWMS to compete in the intraLATA market for these cities and LATAs as well. CWMS will use its own existing facilities along with special access services of the local exchange telephone companies to provide these services. All services furnished by CWMS under this proposal will be provided via full period, dedicated, nonswitched facilities, as contrasted to time sharing of a private line service using switched satellite facilities, or traditional switched message toll telephone service.

In D.88-09-059 we concluded that competition to provide intraLATA high speed digital private line services according to the conditions in the adopted modified settlement is in the public

interest, and accordingly we allowed potential competitors to request such authorization.

We concur with the comments received from Pacific that CWMS' proposed service must be provided in compliance with the requirement of D.88-09-059 (Appendix A, Section IV. A.1.a.), and will limit the authority granted herein accordingly.

The reporting requirements suggested by DRA deserve careful review and consideration, and two points of view become apparent. On one hand, the Commission recognizes the presence of competitors in this marketplace and the need to address this presence with the proper regulatory framework, which we will adopt today. On the other hand this market structure is in its embryonic stage. While we will allow market forces to take their effect, we nevertheless cannot abandon our responsibility of regulating this industry. In order to provide adequate oversight, some monitoring is in order. A recent example is the monitoring program we adopted for AT&T - Communications of California (AT&T-C) in D.88-12-091. While we agree with DRA's recommendation for reporting in concept, we find that its specific recommendation may be burdensome, especially when we are moving toward an observation and monitoring approach for regulating even the dominant interexchange carrier, AT&T-C. Therefore, we will adopt a more modest version of that recommendation, as follows:

1. CWMS will be required to submit semiannual reports for a two-year period beginning with the effective date of CWMS' rates and charges. The reports will be filed with the CACD with copies to the DRA - Telecommunications Rate Design Branch and will contain the following recorded data for CWMS' intraLATA 1.544 mbps high speed digital private line service:
 - a. Monthly in-service volumes.
 - b. Monthly inward movement volumes.

- c. Monthly recurring billings by tariff rate item.
 - d. Monthly nonrecurring billings by tariff rate item.
2. The format of these semiannual reports should be determined in consultation with CACD.

This reporting requirement will sunset with the submission of the report for the semiannual period ending December 31, 1990.

In D.88-09-059, we agreed to take action on all conforming requests for authority to provide competitive intraLATA high speed digital private line services which were filed no later than October 31, 1988, with any resulting authorizations to be effective coincident with the effectiveness of local exchange carrier pricing flexibility for these services. To that end, we will coordinate the effectiveness of CWMS' expanded authority and the local exchange carriers' pricing flexibility to become effective at the same time, namely on February 15, 1989.

We conclude that the authority which CWMS requests should be granted as provided by this order.

Since there is a need to make the tariffs for this service effective on the same date (February 15, 1989) as that for local exchange carrier pricing flexibility for these services, and DRA's and Pacific's timely protests to this application have been withdrawn, we will make this order effective today.

Findings of Fact

1. CWMS is a nondominant carrier (telephone corporation) organized under California law and a regulated utility as defined under PU Code § 234.

2. CWMS is requesting a CPCN to provide 1.544 mbps high speed digital private line service on an intraLATA basis in California, as a complement to its current interLATA service offerings.

3. All timely protests filed relative to this application have been withdrawn; therefore no hearing is deemed necessary for processing this application.

4. CWMS will initially offer these services to customers within the Los Angeles, San Diego, and San Francisco LATAs, and may later extend these services to customers in other California LATAs consistent with demand for such service and its business interests. CWMS proposes to file an advice letter with appropriate tariff revisions, prior to any expansion from its initial service areas.

5. CWMS forecasts that it will have 20 and 100 customers to this service at the end of the first and fifth full year of operation, respectively.

6. CWMS has the technical ability to provide this proposed service on a safe, effective, reliable, and continuous basis.

7. CWMS asserts that it has the financial integrity to effectively implement the proposed service without any significant impact on its other telephone utility operations.

8. It can be seen with reasonable certainty that granting this application will not have a significant adverse impact on the environment.

9. In D.88-09-059, we concluded that competition to provide intraLATA high speed digital private line services as provided in the adopted modified settlement in Phase I of I.87-11-033 is in the public interest and should be authorized.

10. CWMS has agreed that it will not multiplex this service below 1.544 mbps.

11. CWMS has also agreed not to switch intraLATA voice or data traffic pursuant to this application.

12. In D.88-09-059, we concluded that it is reasonable to coordinate the effectiveness of any authorization granted to interexchange carriers to provide intraLATA high speed digital private line services with the effectiveness of local exchange carrier pricing flexibility for such services.

13. There is no reason to treat CWMS differently than other interexchange carriers regarding the granting of authority to provide intraLATA high speed digital private line services.

14. Public convenience and necessity require the granting of A.88-11-014 to the extent set forth in the Ordering Paragraphs which follow.

Conclusions of Law

1. CWMS' request for authority to provide intraLATA 1.544 mbps high speed digital private line service is consistent with the provisions of D.88-09-059 and should be granted to the extent set forth in the Ordering Paragraphs hereof.

2. CWMS should be prohibited from holding out the availability of other intraLATA services it is not authorized to provide and should be required to advise its customers that intraLATA communications it is not authorized to provide should be placed over the facilities of an authorized carrier.

3. The effective date of CWMS' statewide intraLATA high speed digital private line service authority should be coincident with the effective date of similar tariffs to be filed by Pacific and GTEC pursuant to decisions in A.88-10-012 and A.88-10-017, respectively.

4. In order to allow CWMS to make these services available on February 15, 1989 this order should be effective today.

5. Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to applicant Cable & Wireless Management Services, Inc. (CWMS) to provide intraLATA high speed digital private line services at 1.544 mbps or higher within all LATAs in California subject to the following conditions:

- a. CWMS may hold out the availability of and provide multiplexing equipment or services, including voice services, as part of such high speed digital services.
- b. Digital private line services at 1.544 megabits per second (mbps) or above are considered to be "high speed digital private line service." "IntraLATA high speed digital private line" service is defined as the dedicated connection of two or more end user premises within a LATA for the purpose of providing intraLATA high speed digital nonswitched services.
- c. CWMS may provide multiplexing service for voice and/or data at the end user's premises such that the transmission speed from or to the end user's premises is at 1.544 mbps or above.
- d. This authority does not permit the transport from or to the end user's premises for intraLATA service of either analog or digital transmissions at speeds less than 1.544 mbps.
- e. CWMS must establish rates and charges for its intraLATA high speed digital private line service above its cost of providing such service.
- f. CWMS shall refrain from holding out to the public the provision of any intraLATA services it is not authorized to provide.

- g. CWMS shall advise its subscribers that intraLATA communications which CWMS is not authorized to provide should be placed over the facilities of an authorized carrier.

2. CWMS is hereby authorized to file an advice letter and associated tariff sheets identical to Appendix A to this order for its initial offering of intraLATA high speed 1.544 mbps digital private line service.

3. The advice letter and associated tariff sheets described in Ordering Paragraph 2, above, shall be filed in compliance with the provisions of General Order 96-A after the effective date of this order. The revised schedules shall apply only to service rendered after their effective date which shall be at least five days after filing, but not earlier than February 15, 1989.

4. The requirements of G.O. 96-A relative to the effectiveness of tariffs after filing are waived in order that future tariff revisions for this competitive intraLATA service may become effective on five days notice after filing.

5. Within 30 days after this order is effective, applicant shall file a written acceptance of the certificate granted in this proceeding; absent such filing, the authority granted by this certificate may be revoked.

6. Applicant shall notify the Commission Advisory and Compliance Division (CACD) Director in writing of the date service is first rendered to the public within 5 days after service begins.

7. Applicant shall monitor the implementation of its intraLATA 1.544 mbps high speed digital private line service and shall submit semiannual reports for a two-year period beginning with the effective date of the rates and charges for this service. These reports shall be filed with the CACD with copies to the DRA-Telecommunications Rate Design Branch and shall include the following recorded data for applicant's intraLATA 1.544 mbps high speed digital service:

- a. Monthly in-service volumes.

- b. Monthly inward movement volumes.
- c. Monthly recurring billings by tariff rate item.
- d. Monthly nonrecurring billings by tariff rate item.

The format of these semiannual reports shall be determined in consultation with the CACD staff.

8. The reporting requirement of Ordering Paragraph 7 shall commence within 45 days after June 30, 1989, and shall terminate upon submission of the report for the semiannual period ending December 31, 1990, to be submitted on or before February 14, 1991.

9. Within 60 days after the effective date of this order, CWMS shall prepare and issue to every employee who, in the course of his or her employment, has occasion to enter the premises of customers or subscribers of the corporation an identification card in a distinctive format having a photograph of the employee. CWMS shall require every employee to present the card upon requesting entry into any building or structure on the premises of a customer or subscriber, as set forth in PU Code § 708.

10. The certificate granted and the authority to render service under the rates, charges, and rules authorized herein will expire if not exercised within 12 months after the effective date of this order.

11. The corporate identification number currently assigned to CWMS is U-5131-C, which should continue to be included in the caption of all original filings with this Commission, and in the title of other pleadings filed in existing cases.

12. IntraLATA 1.544 mbps high speed digital private line service is a utility service and is subject to the user fee as a percentage of gross intrastate revenue under PU Code §§ 431 through 435.

13. This proceeding is closed.

This order is effective today.

Dated FEB 8 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. CHANTIAN
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Edith Weiss
Edith Weiss, Executive Director
PB

DUPLICATE

 CABLE & WIRELESS
NORTH AMERICA, INC.

DRAFT

1/13/89

Advice Letter No. 3
Cable & Wireless Management Services, Inc. (U-5131)
Public Utilities Commission of the State of California
Process Office
505 Van Ness Avenue, Room 2000
San Francisco, California 94102

Cable and Wireless North America, on behalf of its subsidiary, Cable & Wireless Management Services, Inc. (CWMS), hereby transmits for filing an original and four copies of Original Tariff Schedule II. Pursuant to Sections 15-18 of the Commission's Rules of Practice and Procedure and the Public Utilities Commission of California Decision 88-09-059, dated September 28, 1988, CWMS requests that the attached intralATA high speed digital private line tariff be effective on February 1, 1989.

In compliance with Section III, paragraph G of General Order No. 96-A, we are mailing a copy of this advice letter and related tariff sheets to all competing utilities.

A duplicate letter is enclosed to acknowledge receipt. If you should require any additional information, please do not hesitate to call.

Sincerely yours,

Laura C. Burley
Legal Analyst, Regulatory Affairs
(703) 847-4884

cc: Peter Casciato, Esq.

A.88-11-014 ALJ/GAA/tg
1919 Gallows Road
Vienna, Virginia 22180
(703) 790-5200

APPENDIX A

Schedule 11

Page 2 of Original Cal. P.U.C. Sheet No. 1-T

Cancels _____ Cal. P.U.C. Sheet No. _____

DRAFT

1/13/89

TARIFF SCHEDULE
APPLICABLE TO
CALIFORNIA INTRALATA
DEDICATED POINT-TO-POINT
COMMUNICATIONS SERVICE
OF
CABLE & WIRELESS MANAGEMENT SERVICES, INC.

Issued By:

Date Filed _____

Christopher Everest
President

Advice Letter No. 3

Effective _____

Decision No. _____

Resolution No. _____

A 88-11-014 ALJ/GAA/EOJ
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APPENDIX A

Schedule 11

Page 3

Original Cal. P.U.C. Sheet No. 2-T

Cancels _____ Cal. P.U.C. Sheet No. _____

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1/13/89

Check Sheet

The Title Page and Pages 1 through 26 inclusive of this tariff are effective as of the date shown. Original and revised pages as named below contain all changes from the original tariff that are in effect on the date hereof.

<u>Page</u>	<u>Number of Revisions</u>
Title	Original
1	Original
2	Original
3	Original
4	Original
5	Original
6	Original
7	Original
8	Original
9	Original
10	Original
11	Original
12	Original
13	Original
14	Original
15	Original
16	Original
17	Original
18	Original
19	Original
20	Original
21	Original
22	Original
23	Original
24	Original
25	Original
26	Original

* New or revised page.

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President

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Cancels _____

Cal. P.U.C. Sheet No. _____

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A-88-11-Q14 ALJ/GAA/tcg
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APPENDIX A
Page 6

Schedule II

Original Cal. P.U.C. Sheet No. 5-T

Cancels _____ Cal. P.U.C. Sheet No. _____

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1/13/89

PRELIMINARY STATEMENT

This Tariff contains all effective rates and rules together with information relating to, and applicable to Cable & Wireless Management Services, Inc.'s ("CWMS" or "Carrier") services.

CWMS provides intraLATA DS-1 (1.544 MBPS) dedicated point-to-point service for communication between specified locations under terms of this tariff.

CWMS, when acting at the customer's request and as his/her authorized agent, will order local distribution from the Local Facilities Operators.

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SYMBOLS USED IN THIS TARIFF

- (C) To signify change listing, rule, or condition which may affect rates or charges
- (D) To signify discontinued material, including listing, rate, rule, or condition.
- (I) To signify an increase
- (L) To signify material relocated from or to another part of the tariff schedule with no change in text, rate, rule or condition.
- (N) To signify new material including listing, rate, rule or condition.
- (R) To signify reduction.
- (T) To signify change in wording of text but not change in rate, rule or condition.

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President

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Effective _____

Decision No. _____

Resolution No. _____

THE NEXT 1
DOCUMENTS ARE
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APPENDIX A
Page 8

Schedule II

Original Cal. P.U.C. Sheet No. 7-T

Cancels _____ Cal. P.U.C. Sheet No. _____

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SERVICE AREA MAP

CWMS provides intraLATA telecommunications service to customers in the Los Angeles, San Diego and San Francisco LATAs. Communications may terminate at points in the Los Angeles, San Diego and San Francisco LATAs.



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President

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1/13/89

-RULES-

Rule 1 - DEFINITIONS

Access Coordination

Provides for the ordering, installation, coordination, service turn-up and maintenance of Carrier-provided local access for Voice Private Line Service configured as the open end of a Foreign Exchange circuit.

Carrier or Company

Cable & Wireless Management Services, Inc. ("CWMS") unless specifically stated otherwise.

Central Office Connection

Connects the Inter-Office Channel of a Digital Highway circuit to the Local Channel.

Channel or Circuit

A communication path between two points.

Channel Termination

The point at which carrier's channel originates or terminates.

Customer

The person, firm, corporation, or other entity which orders service -- either for its own use, as a resale or other common carrier or as a non-profit manager of a sharing group -- and which is responsible for the payment of charges and compliance with CWMS tariff regulations.

Customer Premises

The space designated by the customer at its place(s) of business to receive CWMS service.

CWMS Operations Center

The physical point of access to the CWMS network.

Digital Highway

Cable & Wireless coast-to-coast digital transmission network.

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Effective _____

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-RULES-

Rule 1 - DEFINITIONS

Exemption Certificate

A written notification provided by the customer certifying that its dedicated facility should be exempted from the monthly Special Access Surcharge because a) the facility terminates in a device not capable of interconnecting CWMS' service with the local exchange network, or b) the facility is associated with a Switched Access Service that is subject to Carrier Common Line Charges.

Force Majeure

Fire, flood, epidemic, earthquake, other acts of God, explosion, strike or other labor dispute, riot or civil disturbance, war (whether declared or undeclared) or armed conflict, failure of common carrier or "carrier's carrier" or municipal ordinance, any state or federal law, governmental order to regulation or order of any court of competent jurisdiction, or any other similar thing or occurrence not within the control of customer or CWMS, as the case may be.

Installation

The connection of a circuit or dedicated access line for new or additional service.

Intercity Channel

The long-haul portion of a dedicated circuit that connects Network Service Points (as defined herein) in distant cities.

Joint-User

A person, firm, or corporation designated by the customer as a user of communications facilities furnished to the customer by CWMS to whom a portion of the charges for such facilities is billed under a joint user arrangement, subject to the conditions set forth in Rule 20.

Local (Access) Channel

The dedicated line that connects the customer's premises to CWMS' Network Point.

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-RULES-

Rule 1 - DEFINITIONS

Local Facilities Operators

Provide service between CWMS Operations Centers and customer premises.

Local Loop

That part of the communication circuit between the CWMS Operation Center and the customer premises which is provided by the Local Facilities Operators (defined herein).

Other Common Carrier

A person, firm, corporation or entity which subscribers to CWMS's communication services and facilities and resells these communication services and facilities to the public for profit. Unless otherwise indicated herein, the term "other common carrier" when used in this tariff also means "customer" and includes entities which are brokers of the service (act as intermediaries for the purpose of reselling), those entities which are processors of the service (enhance the value of the service through substantial incurred costs) and those entities which are underlying carriers (own transmission facilities).

Special Access Surcharge

Surcharge imposed by the Local Exchange Carrier on dedicated facilities that terminate on an end-user's PBX or other device where, through a function of the device, the dedicated facility interconnects to the local exchange network.

DS-1 Service, DS-1 Channel or DS-1 Facilities

Provides services for the transmission of large volumes of communications at 1.544 megabits per second. DS-1 Service conforms to the operational specifications and standards contained in the AT&T Publication 41451, dated August 1983.

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A.88-11-014 ALJ/GVV/tcg
Cable & Wireless Management Services, Inc.
1919 Callows Road
Vienna, Virginia 22180
(703) 790-5300

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-RULES-

Rule 2 - DESCRIPTION OF SERVICE

Cable & Wireless Management Services, Inc. provides 24 hour intraLATA, point-to-point 1.544 MBPS service between specified locations in the State of California.

Rule 3 - APPLICATION FOR SERVICE

See Digital Highway Order Form under Sample Forms.

Rule 4 - CONTRACTS - CONTRACTUAL REQUIREMENTS

a. Terms and Conditions

Service is provided on a month-to-month basis. Yearly term contracts from 1 to 5 years are available. Upon expiration of the minimum lease period or multi-year order period, the lease shall convert to a month-to-month lease until terminated by CWMS or customer pursuant to the termination provisions contained in Section 5.

DS-1 Month-to-Month term is available with a 90 day minimum service period.

b. DS-1 Service

Rule 5 - SPECIAL INFORMATION REQUIRED ON FORMS

See Digital Highway Order Form under Sample Forms.

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-RULES-

Rule 6 - ESTABLISHMENT AND REESTABLISHMENT OF CREDIT

The carrier reserves the right to examine the credit record of all applicants and customers. A customer whose service has been discontinued for non-payment of bills will be required to pay any unpaid balance due to the carrier and to reestablish credit before service is restored.

Rule 7 - DEPOSITS

Applicants or customers whose financial condition is not acceptable to CWMS, or is not a matter of general knowledge, may be required at any time to make a deposit up to an amount equalling the installation charges, if applicable, and/or up to six months actual or estimated charges for the service to be provided. In the case of a cash deposit, interest at the prevailing rate paid in that locality for deposit accounts, will be paid for the period during which the deposit is held by CWMS. At CWMS' option, such deposit may be refunded or credited to the customer at any time prior to termination of service.

Rule 8 - METHOD OF SERVING NOTICES

Any notice the carrier may give to a customer may be given orally to the customer or his authorized representative, or by written notice mailed to the customer's billing address or to such address as may be subsequently given by the customer to the carrier.

Unless otherwise provided by these Rules, any notice from any customer may be given to the carrier orally; to the carrier by the customer or any authorized representative, at the carrier's business office or by written notice mailed to the carrier's business office.

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-RULES-

Rule 9 - RENDERING AND PAYMENT OF BILLS

Customer will be billed monthly, in advance. Payments are due CWMS no later than 30 days from the date of the CWMS invoice. In the event the customer fails to pay CWMS any amount due pursuant to this tariff, a late payment charge of one and one-half (1 1/2) percent per month of the outstanding balance due CWMS will be charged. In the event of any termination made in accordance with the termination provisions contained in Rule 11 all payments owed to CWMS will be made no later than 30 days from the date of termination.

Rule 10 - DISPUTED BILLS

- a. If notice of a dispute as to charges is not received in writing, by CWMS within 90 days after an invoice is rendered, such invoice shall be deemed to be correct and binding upon the customer.
- b. In the case of a billing dispute between the customer and the carrier for service furnished to the customer, which cannot be settled with mutual satisfaction, the customer can take the following action:

First, the customer may request, and the carrier will comply with the request, an in-depth review of the disputed amount. The undisputed portion and subsequent bills must be paid on a timely basis or the service may be disconnected.

- c. Second, if there is still disagreement about the disputed amount after the investigation and review by a manager of the carrier, the customer may appeal to the C.P.U.C. for their investigation and decision.

The addresses of the C.P.U.C. are:

California Public Utilities Commission

State Building
San Francisco, Ca 94102

or State Office
107 S. Broadway
Los Angeles, CA 90012

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-RULES-

Rule 11 - DISCONTINUANCE & RESTORATION OF SERVICE

Circuits ordered under this tariff may be terminated without penalty as follows:

1. By CWMS if customer fails to pay any amounts due under this tariff within sixty (60) days from invoice date, at which time CWMS shall have the right immediately to deny customer access to the leased facilities.
2. By either customer or CWMS upon the other party's becoming the subject of a bankruptcy or other insolvency proceeding, or of any other act with respect to creditors in the nature of bankruptcy or insolvency.
3. By either customer or CWMS, upon or following the specified expiration date, and upon at least 30 days prior written notice.

Rule 12 - OPTIONAL RATES & INFORMATION TO BE PROVIDED
TO THE PUBLIC

In the event of adoption by the carrier of new or optional schedule of rates, the carrier will advise its customers that they are available.

From time to time, CWMS may provide certain special promotional offerings to its customers. These offerings may be limited to certain dates, times and locations.

A copy of this tariff schedule and advice letters will be available for public inspection in the carrier's business office during regular hours.

The carrier will post in conspicuous place in its business office, a notice to the effect that a copy of this tariff schedule and advice letters as filed with the C.P.U.C. are available for public inspection.

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-RULES-

Rule 13 - TEMPORARY SERVICE

None in effect.

Rule 14 - CONTINUITY OF SERVICE

1. In the event of an interruption, CWMS will proceed with all reasonable diligence to restore service promptly.
2. Where such interruption is not due to an act or omission of customer and exceeds thirty (30) continuous minutes, a credit will be made for the affected facilities. Such credit will be made for each single thirty (30) minute period and will be equal to one part in 1440 of the monthly payment due for the facility affected.
3. Where an interruption or other type of emergency situation occurs concerning the leased facilities, no liability or obligation on the part of CWMS shall be incurred unless Customer has notified CWMS or unless CWMS has prior knowledge of such condition.
4. The duration of any interruption will be calculated from the time the report is made to carrier, or from the time the outage is known to CWMS.
5. In the event of an emergency or interruption, Customer must, immediately upon request, grant CWMS personnel access to Customer's premises and equipment thereon, and fully assist and cooperate in order to remedy any emergency or interruption.

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88-11-014 AD/CWMS
Cable & Wireless Management Services, Inc.
1919 Gallows Road
Vienna, Virginia 22180
(703) 790-5300

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-RULES-

Rule 15 - EXTENSIONS

None in Effect

Rule 16 - TERMINAL EQUIPMENT

None in Effect

Rule 17 - MEASUREMENT OF SERVICE

Monthly rate is distance-sensitive. Channel mileage calculation is based predominantly on route miles and is rounded to the next highest mile.

Rule 18 - INSPECTION, TESTING AND ADJUSTMENT

See Rule 14

Rule 19 - ACCESS TO FACILITIES

Customer shall have no right of access to the facilities or any other property of CWMS without the specific consent of CWMS, and shall refrain from any contact whatsoever with said facilities and/or other CWMS property.

Rule 20 - SUPPLY TO SEPARATE PREMISES AND RESALE

Services offered herein may be used for transmission of communications by one or more of the following: customer or end-user; to or from an authorized user or joint user; or to or from a customer of another common carrier, which has subscribed to CWMS's service for purposes of resale.

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-RULES-

Rule 20 - SUPPLY TO SEPARATE PREMISES AND RESALE

- a. Joint-user or authorized user shall be permitted to use such service in the same manner as the customer, but subject to the following:
- 1) One joint-user or authorized user must be designated as the customer and will be responsible for all payments to CWMS. The designated customer must specifically name all joint users or authorized users in the application for service. In the event that the designated customer fails to pay the carrier, each joint user or authorized user shall be liable to the company for all charges incurred as a result of its use of CWMS service.
- b. Other common carriers shall be permitted to use such service in the same manner as the customer, but subject to the following:
- 1) Other Common Carriers will be responsible for charges, costs, etc. incurred by CWMS with respect to Special Arrangements as referred to in Section 10.
 - 2) Other Common Carriers will be responsible for all interaction and interface with their own subscribers or customers.

Rule 21 - LIABILITY

Neither CWMS nor customer are liable one to the other for any consequential, indirect, special or incidental damages whatsoever (including, without limitation, any loss of revenues, good will, or profits or claims by third-parties) in connection with or related to any of the leased facilities used or provided pursuant to this tariff.

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Cable & Wireless Management Services, Inc.
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-RULES-

Rule 22 - FORCE MAJEURE

If the performance of the respective obligations of CWMS or customer shall be prevented or interfered with by reason of a Force Majeure, then Customer and/or CWMS, as the case may be shall not be liable to the other for its failure to perform.

Rule 23 - LIMITATIONS ON SERVICE

- a. Service is offered subject to the availability of facilities and/or equipment and the provisions of this tariff. Carrier reserves the right to refuse to provide service to or from any location where necessary services or facilities are not available.
- b. Carrier reserves the right to discontinue furnishing service, upon written notice, when necessitated by conditions beyond its control or when the customer is using the service in violation of the provisions of this tariff, or in violation of the law.

Rule 24 - SPECIAL ARRANGEMENTS

In cases where a customer requests special arrangements which may include engineering, installation, construction, facilities, assembly, purchase or lease of facilities, and/or special services not offered under this tariff, CWMS, at its option will provide the requested services. Appropriate recurring and/or non-recurring charges will be developed on a case by case basis and set forth in this tariff.

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SERVICE DESCRIPTION AND RATES - DS-1 SERVICE1. Service Description

Service is offered on a point-to-point, intraLATA basis for voice, data and/or video transmission at a combined rate of 1.544 mbps.

2. Service Configurations

Service may be configured with DS-1 access, voice grade analog, and/or digital local distribution. Local Exchange carrier-provided multiplexing is employed to support configurations as required. Multiplexing at CWMS points of presence may be arranged on an individual case basis.

3. Monthly Recurring CWMS DS-1 Intercity Channel Rates

- .01 Monthly recurring charge is dependent on contract length with a discount applied to the monthly rate for contract terms from 2 to 5 years. Month-to-Month term is available with a 90 day minimum service period. In addition, customer is eligible for volume discounts as set forth in Section 4. (Month-to-Month customers are not eligible for the Network Discount Plan.) Monthly rate is distance-sensitive. Channel mileage is calculated using V and H coordinates and is rounded to the highest mile.

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Monthly DS-1 Intercity Channel Rates

Month-to-Month

Los Angeles - Anaheim	\$2055	Los Angeles - San Diego	\$2935
Los Angeles - San Francisco	\$5641	Anaheim - San Diego	\$2699
Anaheim - San Francisco	\$5898	San Diego - San Francisco	\$6831

Los Angeles - Anaheim

<u>1 Year Contract</u>	<u>2 Year Contract</u>	<u>3 Year Contract</u>
\$1,868.00	\$1,775.00	\$1,719.00
<u>4 Year Contract</u>	<u>5 Year Contract</u>	
\$1,700.00	\$1,682.00	

Los Angeles - San Diego

<u>1 Year Contract</u>	<u>2 Year Contract</u>	<u>3 Year Contract</u>
\$2,668.00	\$2,534.00	\$2,454
<u>4 Year Contract</u>	<u>5 Year Contract</u>	
\$2,428.00	\$2,401.00	

Los Angeles - San Francisco

<u>1 Year Contract</u>	<u>2 Year Contract</u>	<u>3 Year Contract</u>
\$5,128.00	\$4,872.00	\$4,718.00
<u>4 Year Contract</u>	<u>5 Year Contract</u>	
\$4,667.00	\$4,615.00	

Anaheim - San Diego

<u>1 Year Contract</u>	<u>2 Year Contract</u>	<u>3 Year Contract</u>
\$2,454.00	\$2,331.00	\$2,258.00
<u>4 Year Contract</u>	<u>5 Year Contract</u>	
\$2,233.00	\$2,209.00	

Anaheim - San Francisco

<u>1 Year Contract</u>	<u>2 Year Contract</u>	<u>3 Year Contract</u>
\$5,362.00	\$5,094.00	\$4,933.00
<u>4 Year Contract</u>	<u>5 Year Contract</u>	
\$4,879.00	\$4,826.00	

San Diego - San Francisco

<u>1 Year Contract</u>	<u>2 Year Contract</u>	<u>3 Year Contract</u>
\$6,210.00	\$5,900.00	\$5,713.00
<u>4 Year Contract</u>	<u>5 Year Contract</u>	
\$5,651.00	\$5,589.00	

*Corrected 1/30/89 PAC

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A.88-11-014 ALJ/GAA/tcg
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Volume Discounts

Quantity Discount - Depending on the total number of DS-1 circuits in service at the time of billing, a quantity discount may apply. Discount calculation is cumulative, based on the net cost for service after any contract length discounts have been applied. Discount is rounded to the next highest cent.

Quantity Discount

<u>Number of DS-1 Circuits in Service</u>	<u>% Discount</u>
2	5
3	7
4	9
5 or more	10

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Network Discount Plan Option

Network Discounts are based on minimum monthly revenue commitments over a selected service term. Network Discount Plan minimum monthly revenue is defined as the total DS-1 Intercity Channel charges after any term discounts have been applied. Network Discount Plan is not available for month-to-month service terms.

Network Discount Plan Option

Minimum Monthly Revenue Level	* Reduction off the applicable term rate				
	1 Year	2 Year	3 Year	4 Year	5 Year
\$ 20,000	3%	12%	13%	15%	18%
\$ 50,000	5%	15%	16%	18%	21%
\$ 75,000	9%	18%	19%	21%	24%
\$ 100,000	13%	21%	22%	23%	32%
\$ 200,000	16%	24%	25%	27%	35%
\$ 500,000	18%	29%	30%	32%	45%
\$1,000,000	23%	34%	35%	37%	50%
\$2,000,000	28%	39%	40%	42%	55%

The Network Discount Plan cannot be used in conjunction with the standard quantity discount.

Non-Recurring Charges

Installation

\$1,000.00 per circuit

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RATE SCHEDULE A
SURCHARGE TO FUND PUBLIC
UTILITIES COMMISSION REIMBURSEMENT FEE

APPLICABILITY

This surcharge is for the purpose of funding C.P.U.C. and applies to the aggregate amount of customer billings associated with intrastate billings which appear on the customer's bills.

TERRITORY

The areas within LATAs as defined on Sheet 16.

RATES

A .1% surcharge* will be applied to all intrastate customer billings as they appear on the customer's bill. The surcharge will be applied to the customer's bill for intrastate services, for all such services that appear on that particular bill.

* In 1983 the Legislature established the C.P.U.C. Reimbursement Fee to be paid by Utilities to fund their regulation by the Commission. (C.P.U.C. Code Section 401-403). The surcharge to recover the cost of the fee is ordered by the Commission under authority granted by C.P.U.C. Code Section 433.

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RATE SCHEDULE A

SURCHARGE TO FUND DISABLED EQUIPMENT ACQUISITION
FUND TRUST (D.E.A.F.)

APPLICABILITY

This surcharge is for the purpose of funding Disabled Equipment Acquisition Fund and applies to aggregate amount of customer billings associated with intrastate telecommunications services.

TERRITORY

Within the Los Angeles and San Francisco LATAs as defined on Sheet 16-T.

RATES

A .5% surcharge will be applied to all intrastate customer billings as they appear on the customer's bill for intrastate services, for all such services that appear on that particular bill.

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(END OF APPENDIX A)

13. There is no reason to treat CWMS differently than other interexchange carriers regarding the granting of authority to provide intraLATA high speed digital private line services.

14. Public convenience and necessity require the granting of A.88-11-014 to the extent set forth in the Ordering Paragraphs which follow.

Conclusions of Law

1. CWMS' request for authority to provide intraLATA 1.544 mbps high speed digital private line service is consistent with the provisions of D.88-09-059 and should be granted to the extent set forth in the Ordering Paragraphs hereof.

2. CWMS should be prohibited from holding out the availability of other intraLATA services it is not authorized to provide and should be required to advise its customers that intraLATA communications it is not authorized to provide should be placed over the facilities of an authorized carrier.

3. The effective date of CWMS' statewide intraLATA high speed digital private line service authority should be coincident with the effective date of similar tariffs to be filed by Pacific and GTEC pursuant to decisions in A.88-10-012 and A.88-10-017, respectively.

4. In order to allow CWMS to make these services available on February 15, 1989 this order should be effective today.

5. Absent a determination of original cost of plant for applicant, in an evidentiary hearing, only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.