

Decision 89 09 052 SEP 7 1989**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Oak Brook Fiber Systems, Inc.)
(U-5172-C) for a Certificate of)
Public Convenience and Necessity)
to Provide IntraLATA Private Line)
High-Speed Digital Transmission)
Services at Speeds of 1.544 Mbps)
or Higher Within all LATAs in)
California.)

Mailed

Application 89-06-031
(Filed June 21, 1989)

SEP 8 1989

OPINIONSummary

This decision grants applicant, Oak Brook Fiber Systems, Inc. (Oak Brook), a certificate of public convenience and necessity (CPCN) to provide intraLATA 1.544 megabits per second (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. These tariff provisions are to become effective five days after filing.

Background

On June 21, 1989, Oak Brook filed Application (A.) 89-06-031, in which it seeks a CPCN to provide intraLATA high speed digital private line service at 1.544 Mbps or higher within all LATAs in California 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 Pacific and GTEC were directed by D.89-02-023 and D.89-02-024, respectively, dated February 8, 1989 to file revised tariff schedules providing flexibility for the offering of 1.544 Mbps

intraLATA high speed digital private line service with an effective date of February 15, 1989.

On February 8, 1989 the Commission also granted CPCN's to six interexchange carriers thereby authorizing them to provide competitive intraLATA high speed digital private line services on or after February 15, 1989. Since that time various other carriers have been granted similar authority.

Description of Applicant

Oak Brook is a wholly-owned subsidiary of Metropolitan Fiber Systems, Inc. (MFS) a Delaware corporation headquartered in Oak Brook Terrace, Illinois. MFS is owned by Kiewit Communications Company, Inc., the Affiliated Banc Group Investors, and the MFS management team. The parent of Kiewit Communications Company is Peter Kiewit Sons', Inc. (Kiewit) of Omaha, Nebraska whose main areas of business are construction, mining and packaging.

Oak Brook was formed on October 12, 1988 to provide telecommunications services in California. Thereafter, Oak Brook (U-5172-C) was granted a CPCN as a nondominant interLATA interexchange carrier of telephone services by D.89-03-060 dated March 22, 1989.

Oak Brook proposes to provide this intraLATA service via facilities constructed primarily for the provision of interstate communications services. Any necessary extension of its present facilities will use existing underground conduits or ducts, utility poles and other existing facilities. Therefore, applicant asserts that it can be seen with reasonable certainty that the proposed services will not have a significant impact on the environment.

Any actual construction to extend Oak Brook's existing facilities would be performed by Kiewit Telecommunications Services, Inc. (KTS) another subsidiary of Kiewit. KTS has previously installed about 3,000 miles of fiber optic cable throughout the United States and therefore has the technical knowledge and experience to construct the necessary facilities for

applicant. Oak Brook anticipates that the estimated annual operating cash level required for each major metropolitan area served will be \$1.5 to 2.0 million.

The necessary financing for this new service has been assured by the President and Chief Executive Officer of MFS, the corporate parent of Oak Brook, with the backing of Kewit Communications Company and its parent Peter Kewit Sons', Inc.

In support of its prior A.88-11-005 and as referenced in D.89-03-060 in that proceeding, Oak Brook mentioned plans to employ a director in San Francisco to manage its marketing and operating responsibilities in California.

Description of Proposed Services

Oak Brook in this application seeks authority to provide continuous (24 hour) high-speed digital private line transmission services² for intraLATA, intrastate communications at speeds of 1.544 Mbps or higher throughout the State of California in accordance with the conditions specified in the Modified Settlement approved in D.88-09-059. Oak Brook's services will be dedicated and nonswitched, and used to connect a customer's premises to another customer's premises to facilitate intraLATA communications as allowed under the terms of the Modified Settlement. Applicant proposes to offer its services in the major metropolitan areas in California.

Oak Brook opines that the public convenience and necessity will be furthered if it is granted authority to provide these intraLATA services, for the following reasons:

- a. Its proposed intrastate services will meet the needs of business and governmental users and interexchange carriers for competitively priced, superior quality telecommunications services;

² Oak Brook refers to these services as DS-1 Channels in its proposed tariff schedules.

- b. Its proposed services will be provided via state-of-the-art telecommunications facilities, including digital fiber optic cable, with resulting reliability, quality and efficiency;
- c. Approval of its application and the principle of competition in intrastate communications markets will foster the following long-term benefits to California telecommunications users:
 - 1. competitively priced and better quality services;
 - 2. innovative telecommunications service and equipment offerings as well as increased consumer choice;
 - 3. efficient use of existing communications resources, increased diversification and reliability of supply of communications services; and
 - 4. development of an expanded telecommunications industry in California with attendant [employment] opportunities for California residents.

Oak Brook estimates that it will serve 20 customers during its first full year and 100 customers at the end of five years of service.

Oak Brook requests that it be accorded the same treatment applicable to other nondominant IECs, regarding exemptions from the requirements of Public Utilities Code §§ 816 through 830 and 851 through 855 (which require Commission authorization of securities issuances and transfers or encumbrances of utility property for purposes of securing debt) granted by D.85-01-008, D.85-07-081, D.85-11-044, and D.86-08-057.

Oak Brook also requests that it be authorized to deviate from the requirements of General Order 96-A respecting tariff pagination and the setting forth of each tariff rule on a separate

page, as authorized for like utilities by Resolution T-10808 issued March 21, 1984.

In addition, Oak Brook requests that its application be granted on an ex parte basis, to allow it to commence providing these services promptly upon authorization.

Notice of Application and Comments Received

Oak Brook is likely to compete with existing carriers and prospectively with other telecommunications providers when it offers this new service. Therefore, in accordance with Rule 18(b), it served copies of this application on known potential competitors, and no timely protests were received.

On July 20, 1989, the Division of Ratepayer Advocates (DRA) filed comments supporting this application. DRA's comments state that it believes that:

1. Oak Brook has demonstrated its financial ability to construct an intraLATA network.
2. Oak Brook already has a CPCN to provide interLATA high speed digital private line service in California.
3. This application would enable Oak Brook to provide both intraLATA and interLATA high speed digital private line services in California.
4. The combination service will be more attractive to potential customers, and,
5. The presence of alternative providers of these services on both an intra- and interLATA basis should significantly enhance the overall competitiveness of the high speed digital private line service market in California.

DRA observes that Oak Brook has agreed to comply with the reporting requirements which the Commission has previously imposed on other intraLATA high speed private line service providers and referred to D.89-05-066, dated May 26, 1989, wherein this

Commission maintained the reporting requirement previously established in D.89-02-025 for MCI Telecommunications Corporation's comparable intraLATA high speed digital private line service.

Based on DRA's perceived benefits associated with Oak Brook's proposed intraLATA high speed digital private line service and Oak Brook's agreement to file semi-annual reports for this service, DRA recommends that the Commission approve this application for a CPCN.

Discussion

On February 8, 1989 by D.89-02-023 in A.88-10-012 (Pacific) and D.89-02-024 in A.88-10-017 (GTEC) we directed these two largest California local exchange telephone companies to revise their respective tariff schedules effective February 15, 1989 to allow the expansion of competition in the intraLATA high speed, 1.544 Mbps and above, digital private line services.

On February 8, 1989 we also authorized six interexchange carriers to more effectively compete with Pacific, GTEC, and other local exchange telephone companies in the offering of intraLATA high speed, 1.544 Mbps and above, digital private line services, effective on or after February 15, 1989. Therefore, we have granted CPCN's for these services to various other carriers as well.

Oak Brook is currently authorized to provide interLATA high speed digital private line service in California. The additional authorization sought would allow Oak Brook to compete in the intraLATA market throughout California. Oak Brook will use existing and soon to be constructed facilities previously planned for its interLATA services to provide these services as well. All services furnished by Oak Brook 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 services.

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 authorization and have recently granted such authority to numerous other non-dominant competing utilities.

We will grant similar authority to Oak Brook with the understanding that the proposed service must be provided in compliance with the requirements of D.88-09-059 (Appendix A, Section IV. A.1.a.). We will limit the authority granted herein accordingly.

In similar decisions authorizing intraLATA high speed digital private line services to non-local exchange telephone companies we have set forth modest reporting requirements³ during the early development stages of this competitive intraLATA service. Accordingly, we will require similar reporting by Oak Brook as follows:

1. Oak Brook will be required to submit semiannual reports for a two-year period beginning with the effective date of Oak Brook's rates and charges. The reports will be filed with the Commission Advisory and Compliance Division (CACD) with copies to the DRA - Telecommunications Rate Design Branch and will contain the following recorded data for Oak Brook's intraLATA 1.544 Mbps high speed digital private line service:
 - a. Monthly in-service volumes.

³ These same reporting requirements, for a period of two years, have been established for the numerous other non-dominant competing carriers which have been authorized to implement this service effective on or after February 15, 1989 (e.g. see D.89-02-028, Cable & Wireless Management Services, Inc., dated February 8, 1989).

- 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, 1991.

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. All such conforming applications were granted authority to begin rendering service under their respective revised tariffs on or after February 15, 1989. Therefore, we should not unreasonably delay the entry of other qualified applicants such as Oak Brook.

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

Since there is a need to make the tariffs for this service effective as soon as practicable, and there were no timely protests to this application, we will make this order effective today.

Findings of Fact

1. Oak Brook is a non-dominant carrier (telephone corporation) qualified to do business in California and a regulated utility as defined under PU Code § 234.
2. Oak Brook 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. No timely protests were received relative to this application; therefore, no hearing is deemed necessary for processing this application.

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

5. Oak Brook 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. Oak Brook has available to it the technical resources and ability to provide this proposed service on a safe, effective, reliable, and continuous basis.

7. Oak Brook declared that it has arranged financing through its parent and will have sufficient funds to carry out the first full year of its utility business operations, including this new service offering.

8. Since Oak Brook intends to use existing, already planned, and soon to be constructed fiber optic cable facilities to provide the proposed service, 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. Oak Brook has agreed that it will not multiplex its intraLATA services below 1.544 Mbps.

11. Oak Brook does not offer to switch intraLATA voice or data traffic pursuant to this application.

12. We have granted numerous similar CPCN's for identical or similar services on a competitive basis with tariffs effective on or after February 15, 1989. Therefore, Oak Brook's request should be processed on a timely basis to allow it to enter this competitive market without undue delay.

13. There is no reason to treat Oak Brook differently than other telecommunications utilities regarding the granting of authority to provide intraLATA high speed digital private line services.

14. Public convenience and necessity require the granting of A.89-06-031 to the extent set forth in the ordering paragraphs which follow.

Conclusions of Law

1. Oak Brook's request for authority to provide intraLATA 1.544 Mbps and above 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. Oak Brook 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 Oak Brook's initial offering of intraLATA high speed digital private line service authority should be five days after its filing of revised tariff schedules identical to those revisions set forth in Appendix A to this order.

4. Applicant is subject to the three-tenths percent (0.3%) surcharge on gross intrastate revenues to fund Telecommunications Devices for the Deaf, as outlined in Resolution T-13005, dated July 22, 1988 pursuant to PU Code § 2881, as modified by Resolution T-13061 dated April 26, 1989.

5. In order to allow Oak Brook to make these services available on or after September 15, 1989 this order should be effective today.

6. 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.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to applicant, Oak Brook Fiber Systems, Inc. (Oak Brook), 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. Oak Brook 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. Oak Brook 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. Oak Brook shall refrain from holding out to the public the provision of any intraLATA services it is not authorized to provide.

2. Oak Brook shall prepare a "New Customer Notice" to be included with its initial and on-going tariff schedules, advising its customers, among other things, that:

Oak Brook is only authorized to provide intraLATA high speed digital private line services at speeds of 1.544 Mbps, or higher and only offers these services on a full-period, 24-hour, round-the-clock, dedicated (nonswitched) basis.

All other intraLATA telecommunications services needed by the customer should be placed over the facilities of an authorized carrier.

3. Oak Brook is authorized to file an advice letter with associated tariff sheets identical to those set forth in Appendix A to this order, but amended to also include the "New Customer Notice" set forth in Ordering Paragraph 2 above, for its initial offering of high speed 1.544 Mbps digital private line service.

4. The advice letter and associated tariff sheets described in Ordering Paragraph 3 above shall be filed in compliance with the provisions of General Order (GO) 96-A after the effective date of this order. These tariff schedules shall apply only to service rendered after their effective date which shall be at least five days after filing.

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

6. 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.

7. 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.

8. 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.

9. The reporting requirement of Ordering Paragraph 8 shall commence within 45 days after December 31, 1989 and shall terminate upon submission of the report for the semiannual period ending December 31, 1991, to be submitted on or before February 14, 1992.

10. Within 60 days after the effective date of this order, Oak Brook 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. Oak Brook 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.

11. 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.

12. High speed digital private line service is subject to a monthly surcharge to fund Telecommunications Devices for the Deaf as outlined in Resolution T-13005 dated July 22, 1988 pursuant to PU Code § 2881. This rate is currently 0.3% as outlined in Resolution T-13061 dated April 26, 1989.

13. Applicant is also subject to the user fee as a percentage of gross intrastate revenue under PU Code §§ 431 through 435.

14. The corporate identification number currently assigned to Oak Brook Fiber Systems, Inc. is U-5172-C, which shall 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.

15. This proceeding is closed.

This order is effective today.

Dated SEP 7 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

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

Wesley Franklin

WESLEY FRANKLIN, Acting Executive Director

APPENDIX A
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(To be entered by utility)

Issued by

(To be entered by Cal. P.U.C.)

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NAME

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Resolution No. _____

U.P.C.
701102-10,000

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CHECK SHEET

This tariff contains the following sheets which are effective as of the dates shown.

Page Number

Number of Revisions

1-T	ORIGINAL	
2-T	FIRST REVISION	
3-T	ORIGINAL	
4-T	FIRST REVISION	(T)
5-T	FIRST REVISION	(T)
6-T	ORIGINAL	
7-T	FIRST REVISION	(T)
8-T	FIRST REVISION	(T)
9-T	ORIGINAL	
10-T	ORIGINAL	
11-T	ORIGINAL	
12-T	FIRST REVISION	(T)
12.1-T	ORIGINAL	(N)
13-T	ORIGINAL	
14-T	ORIGINAL	
15-T	ORIGINAL	
15.1-T	ORIGINAL	
16-T	ORIGINAL	
17-T	ORIGINAL	
18-T	ORIGINAL	
19-T	ORIGINAL	
20-T	FIRST REVISION	(T)
21-T	ORIGINAL	
22-T	ORIGINAL	
23-T	ORIGINAL	
24-T	ORIGINAL	
25-T	ORIGINAL	
26-T	ORIGINAL	

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PRELIMINARY STATEMENT

This tariff sets forth the regulations and rates applicable to private line high-speed digital service for the purpose of intrastate, interLATA transmissions at speeds of 1.544 mbps or higher provided by Oak Brook Fiber Systems, Inc. (the "Company"). Service will originate from nonresidential user points and will connect end users to interexchange carriers' points of presence ("POPs") and POPs to POPs in certain metropolitan areas throughout the State of California. The Company will initially originate its service in the San Francisco metropolitan area and may originate services from other intrastate points at a later date. Except as set forth below, IntraLATA services are not available under this tariff.

(C)
(C)

In addition, this tariff sets forth the regulations and rates applicable to 24-hour high-speed digital private line transmission services for the purpose of intrastate, intraLATA transmissions at speeds of 1.544 mbps or higher provided by the Company, as authorized by the California Public Utilities Commission in D.88-09-059. Service will originate from nonresidential user points and will be used to connect a customer's premises to another customer's premises. The Company will initially originate its service in the San Francisco and Los Angeles metropolitan areas and may originate services within other LATAs in California at a later date.

(N)

(N)

(To be inserted by utility)

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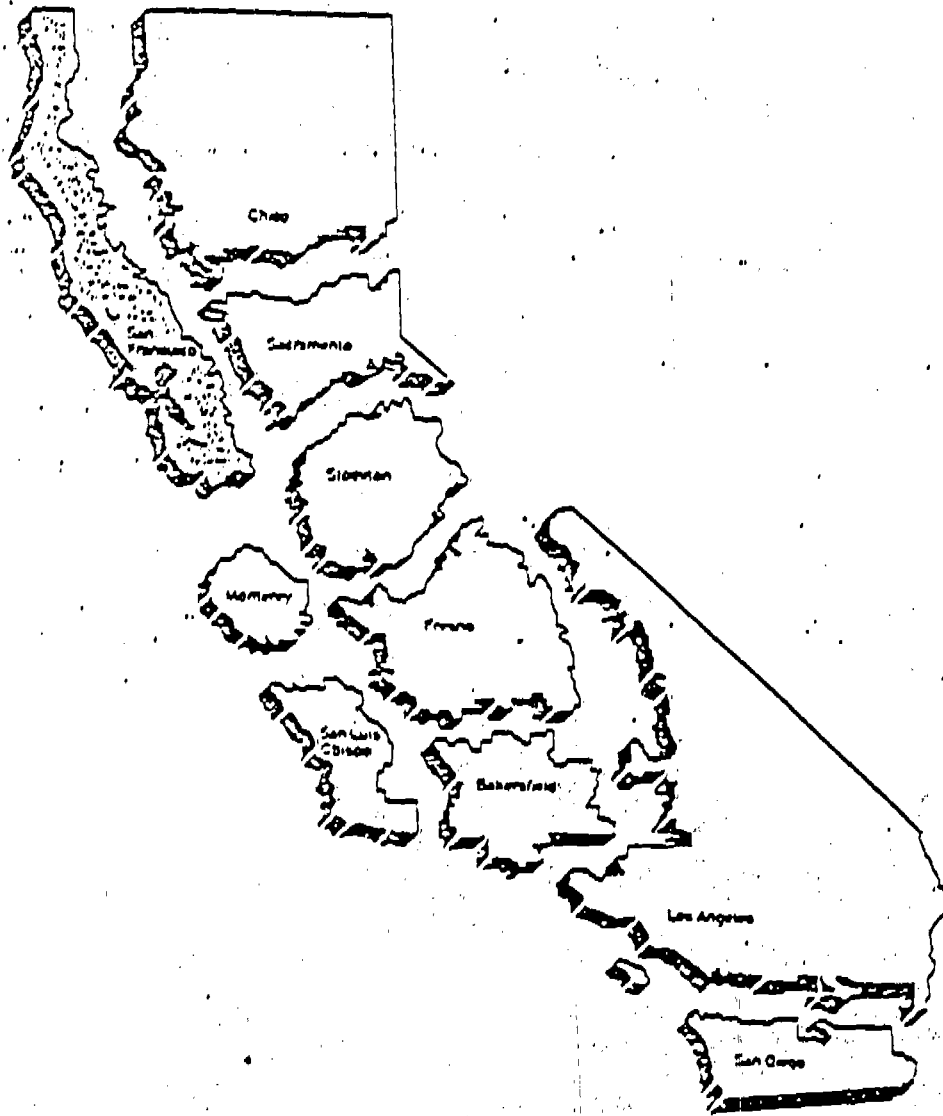
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SERVICE AREA MAP

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* - Service to be initially provided in the
San Francisco and Los Angeles metropolitan areas. (T)

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RATES

High Capacity Channels

DS-1 Channel Termination Rate for InterLATA Services

<u>Non-Recurring</u>	<u>Per DS-1 Channel Termination</u>
Initial installation	\$500.00
Additional installation at same location	\$400.00
<u>Recurring</u>	<u>Per Month</u>
Charge per Channel Termination	\$400.00

DS-1 Channel Termination Rate for IntraLATA Services

<u>Non-Recurring</u>	<u>Per DS-1 Channel Termination</u>
Initial installation	\$1,257.80
Additional installation at same location	
<u>Recurring</u>	<u>Per Month</u>
Charge per Channel Termination	\$247.50

Individual Case Basis Arrangements

Where the Company furnishes special facilities or arrangements as requested by the customer for which a rate or charge is not specified in the Company's tariffs, charges will be determined on an Individual Case Basis ("ICB").

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Rule 1 - Definitions (Cont'd)

contiguous property (except railroad rights-of-way, etc.) not separated by a highway.

Shared: A facility or equipment system or subsystem which can be used simultaneously by several customers.

Rule 2 - Description of Service

Network Services consist of two types of services (N) provided by the Company. A.) The Company furnishes (N) dedicated private line high-speed digital service for the purpose of interLATA transmissions at speeds of 1.544 mbps or higher. Service will originate from nonresidential user points and will connect end users to interexchange carriers' points of presence ("POPs") and POPs to POPs in certain metropolitan areas throughout the State of California.

B.) The Company furnishes dedicated private line (N) high-speed digital service for the purpose of (N) intraLATA transmissions at speeds of 1.544 mbps or higher. Service will originate from nonresidential user points and will be used to connect end users to other end users in certain metropolitan areas throughout the State of California. (N)

Rule 3 - Application for Service

Customer wishing to obtain service must complete Company's Service Order form.

Rule 4 - Contracts

Customer and the Company will enter into a Master Agreement for Telecommunications Services.

Rule 5 - Special Information Required on Forms

(None in effect)

(To be inserted by utility)

Issued by

(To be inserted by Cal. P.U.C.)

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70102-10

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Rule 6 - Establishment and Re-establishment of Credit

6.1 The Company will conduct a credit investigation (L) of each new Customer. A Customer whose service has been discontinued for nonpayment of bills will be required to re-establish credit before service is restored.

6.2 The Company may require a customer to make an advance payment before services and facilities are furnished. The advance payment will not (L)

(To be completed by company)

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Rule 20 - Liability of the Company (Cont'd)

20.2 (Cont'd)

Company. The Company will not be liable for any special, consequential, exemplary or punitive damages a customer may suffer, whether or not caused by the intentional acts or omissions or negligence of the Company's employees or agents.

20.3 The Company shall not be liable for any failure of performance or equipment due to causes beyond its control, including but not limited to: acts of God, fire, flood or other catastrophes; any law, order, regulation, direction, action, or request of the United States Government, or of any other government, including state and local governments having or claiming jurisdiction over the Company, or of any department, agency, commission, bureau, corporation, or other instrumentality of any one or more of the federal, state, or local governments, or of any civil or military authority; national emergencies; insurrections; riots, wars; unavailability of rights-of-way or materials; or strikes, lock-outs, work stoppages, or other labor difficulties. (T)

20.4 The Company shall not be liable for any act or omission of any entity furnishing to the Company or to the Company's customers facilities or equipment used for or with Network Services the Company offers.

20.5 The Company shall not be liable for any damages or losses due to the fault or negligence of the customer or due to the failure or malfunction of customer-provided equipment or facilities.

20.6 The Company shall not be liable for the claims of vendors supplying equipment to customers of the Company which may be installed at premises of the Company; nor shall the Company be liable for the performance of said vendor or vendor's equipment.

(To be entered by company)

Issued by

(To be entered by Cal. P.U.C.)

Advice Letter No. _____

Date Filed _____

Decision No. _____

Effective _____

Resolution No. _____

(END OF APPENDIX A)

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