

Decision 90 06 C63 JUN 20 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of AT&T Communications )  
of California, Inc. (U 5002 C) under )  
Rule 15 for Authority to Provide an )  
Intrastate ACCUNET T45 Digital )  
Private Line Offering. )

**ORIGINAL**  
Application 90-04-001  
(Filed April 3, 1990)

**INTERIM OPINION  
AUTHORIZING PROVISIONAL OPERATING  
AUTHORITY FOR AT&T-C'S ACCUNET T-45 SERVICE**

**Summary**

This decision grants applicant, AT&T Communications of California (AT&T-C) a certificate of public convenience and necessity (CPCN) to provide intrastate inter and IntraLATA ACCUNET T45 44.736 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 tariff schedules in Attachment A to its Application (A.) 90-04-001.

**Background**

By Decision (D.) 89-02-026 dated February 8, 1989, this Commission granted AT&T-C a CPCN to provide IntraLATA high speed digital private line service (HS-DPLS) at circuit speeds of 1.544 Mbps or higher in accordance with the modified settlement adopted by the Commission in D.88-09-059, dated September 28, 1988 in Investigation (I.) 87-11-033.<sup>1</sup>

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

D.89-02-026 authorized AT&T-C to provide intraLATA HS-DPLS at 1.544 Mbps<sup>2</sup> or higher within all LATAs in California subject to the following seven conditions.

1. AT&T-C may hold out the availability of and provide multiplexing equipment or services, including voice services, as part of such high speed digital services.
2. Digital private line services at 1.544 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.
3. AT&T-C 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.
4. 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.
5. AT&T-C must establish rates and charges for its intraLATA high speed digital private line service above its cost of providing such service.
6. AT&T-C shall refrain from holding out to the public the provision of any intraLATA services it is not authorized to provide.
7. AT&T-C shall advise its subscribers that intraLATA communications which AT&T-C is not authorized to provide should be placed

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2 AT&T-C refers to its 1.544 Mbps service as ACCUNET T1.5 Service in its High Capacity Private Line Services - Tariff Schedule B-9.

over the facilities of an authorized carrier." (D.89-02-026 Ordering Paragraph (O. P.) 1.)

D.87-02-026 also required AT&T-C to submit semi-annual reports for a two-year period to the Commission Advisory and Compliance Division (CACD) and the Division of Ratepayer Advocates (DRA) Telecommunications Rate Design Branch, setting forth the monthly in-service and inward movement volumes, and monthly recurring and non-recurring billings, for this new service.

On April 3, 1990, AT&T-C filed Application (A.) 90-04-001 requesting authority to furnish a similar but higher capacity digital private line service offering to provide 44.736 Mbps<sup>3</sup> of digital capacity.

Because of the substantially increased capacity of this 44.736 Mbps high capacity digital private line service (HC-DPLS), it is considered a new service as contrasted with AT&T-C's ACCUNET T1.5 service. However, we have, heretofore, granted CPCN authority for both 1.544 Mbps HS-DPLS and 44.736 Mbps HC-DPLS simultaneously in a single proceeding (Example D.89-04-044 issued April 12, 1989 in A.88-12-046 for Teleport Communications - Los Angeles, Inc.)

AT&T-C did not seek authority to provide this higher capacity service in its original A.88-10-052 for a CPCN to offer ACCUNET T1.5 service. Consequently, it is seeking such authority now, in view of a growing demand for this service.

By D.88-12-091, this Commission required AT&T-C to use the application process to seek authority for the provision of new services until the Commission approves a standardized costing

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3 In terms of equivalent capacity the 1.544 Mbps service can be used to derive 24 voice grade circuits, whereas 44.736 Mbps service can yield the equivalent of 672 voice grade circuits.

method to be used by AT&T-C. Hence, AT&T-C has filed an application rather than an Advice Letter (AL) to request Commission authority for this new service offering.

Description of Applicant

Applicant is a telecommunications subsidiary of the American Telephone and Telegraph Company, operating within the State of California and providing interLATA and interstate telecommunications services. AT&T-C's principal offices are located at 795 Folsom Street, San Francisco, California 94107.

In support of this application, AT&T-C provided evidence of its authority to do business in California including a reference to the certified copy of its Articles of Incorporation on file with this Commission in A.85-11-029. In A.88-10-052, AT&T-C appended a then recent Balance Sheet and Income Statement describing AT&T-C's financial resources. The data supplied with A.88-10-052 and A.90-04-001 together confirm that AT&T-C has the financial resources, broad communications knowledge, and technical expertise to effectively undertake this new communications business activity in California. As to AT&T-C's current interLATA communications services offered within California, there is no evidence of any significant service deficiencies or complaints.

Description of Proposed Service

AT&T-C's proposed intraLATA 44.736 Mbps high capacity digital private line service<sup>4</sup> is a dedicated full period data communications service with an equivalent capacity of 672 regular voice grade circuits as previously discussed herein.

AT&T-C proposes to use its own existing facilities and special access services of the local exchange telephone companies

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<sup>4</sup> AT&T-C refers to this service as ACCUNET T45 Service in its High Capacity Private Line Services - Tariff Schedule B-9.

to provide these inter and intraLATA high speed digital private line services.

All services furnished by AT&T-C under its T45 service arrangements will be provided via dedicated facilities which cannot be switched by AT&T-C below a speed of 1.544 Mbps as previously restricted by D.89-02-026.

AT&T-C's ACCUNET T45 service is designed to meet the needs of customers requiring high capacity, reliable, dedicated channels provided on fiber optics facilities between designated AT&T-C points of presence (POPs). AT&T-C will also allow customers the maximum choice in selecting special access facilities (local channels) to reach AT&T-C's POPs. These access facilities choices include the following broad example situations:

1. If the customer orders premises-to-premises T45 service from AT&T-C, AT&T-C will order access as needed on an individual case basis for the local channel connection between the customer's premises and the designated T45 service POP. AT&T-C will bill the customer for the interoffice channel service and the local channel service on a premises-to-premises basis.
2. The customer may request AT&T-C to act as its agent to order access from the Local Exchange Company (LEC). In this case the LEC will bill the customer for the access portion. AT&T-C will bill the customer for the interoffice channel portion of the service and for access coordination.
3. The customer may also provide the necessary access. Under this option AT&T-C will only bill the customer for the interoffice channel portion of the service it provides between its T45 service POPs.

AT&T-C asserts that the presently proposed rates and charges for its ACCUNET T45 service cover its California specific long-run incremental costs, and AT&T-C is not requesting authority for pricing flexibility in this proceeding.

AT&T-C also states that the rate structure currently proposed for this intrastate service is identical to that for its comparable interstate service under its Federal Communications Commission Tariffs 9, 10, and 11. AT&T-C also offers, as an optional element, a multiplexing service that will subdivide the ACCUNET T45 service into 28 or less channels each with a capacity of 1.544 Mbps or more. AT&T-C states that its optional element charges cover the price of providing this added multiplexing service.

AT&T-C requests further authority to offer several ACCUNET T45 service discount plans for the interoffice channel portion of the service and a "Multi Service Volume Pricing plan" (MSVPP) as alternatives to conventional ACCUNET T45 service rates for these interoffice channels. Such discount plans are currently available to interstate ACCUNET T45 customers, and AT&T-C asserts that its proposed fixed discount and MSVPP cover the long-run incremental cost of providing this service. ✓

Under the fixed discount rate plan, AT&T-C offers a 10% discount for a one-year service commitment and a 24% discount for a five-year service commitment.

Under its MSVPP, a customer obtains an additional discount for a minimum monthly volume of business commitment with AT&T-C. If, for example, a customer with a one-year service commitment to ACCUNET T45 also agrees to do \$10,000 per month in business with AT&T-C, then he or she will obtain an additional 3% discount on his or her bill. If his or her monthly business volume reaches \$1,000,000, and he or she agrees to maintain that level of business, then a 40% discount will apply.

AT&T-C is not seeking authority for construction of facilities in this application. It intends to use its existing common facilities to furnish the proposed inter and intraLATA private line services; therefore, granting this application would not likely have a significant adverse impact on the environment.

Notice of Application and Comments Received

AT&T-C is likely to compete with existing carriers and prospectively with other telecommunications providers when it offers this new service. Therefore it served copies of this application on other carriers with which it is likely to compete.

On May 2, 1990, the DRA filed comments supporting the authorization of this new service on a provisional basis, and requesting a hearing "to establish the acceptability of the methodology employed in the private line cost model and the validity of the specific numbers used to support this application."

On May 4, 1990, GTE California Incorporated (GTEC) protested the application asserting that it should be denied "at least insofar as it seeks authority to order 45 Mbps access on its customers' behalf on an individual customer basis for the connection between the customers' premises and designated T45 POPs."

Subsequently on May 10, 1990 via a letter forwarded by AT&T-C to the assigned Administrative Law Judge (ALJ), jointly signed by counsels for AT&T-C and GTEC, it was noted that GTEC'S protest was based on a misunderstanding of an ambiguous paragraph in AT&T-C'S application and, following further review and clarification of the facts, GTEC agreed to withdraw its protest (See Appendix A).

On May 7 1990, US Sprint Communications Company (US Sprint) filed a limited protest to the application noting that:

"At [Pages 5, 6 and 7] AT&T asserts that the rates proposed for this service cover AT&T'S 'long-run incremental cost' of providing the service. Although US Sprint does not oppose interim approval for this service, no final approval should be granted for any incremental cost standard without further examination by the Commission and interested parties, as contemplated in D.88-12-091."

Thereafter on May 14, 1990, AT&T-C forwarded a letter to the ALJ stating that GTEC had withdrawn its protest and that the DRA and US Sprint had made it clear in their comments and protests that they did not oppose the granting of interim authority on an ex-parte basis to AT&T-C for provision of ACCUNET T45 service. Instead those parties request an evidentiary hearing to determine costs and costing methodology for ACCUNET T45 and other private line services (See Appendix B).

Lastly, on May 17, 1990, AT&T-C forwarded a letter to the ALJ to advise him that MCI Telecommunications Corporation (MCI) had filed Advice Letter 97 to offer its equivalent service to ACCUNET T45, and that the tariffs for MCI's new service would become effective on May 21, 1990.

#### Discussion

AT&T-C currently provides inter and intraLATA high speed 1.544 Mbps digital private line service throughout California. The additional authorization sought herein would allow AT&T-C to compete in the 44.736 Mbps HC-DPLS inter and intraLATA market throughout California as well. AT&T-C will use its own existing facilities along with special access services of the local exchange telephone companies and others to provide these services. All services furnished by AT&T-C 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. However, AT&T-C will be permitted to multiplex this service for customers down to a minimum of 1.544 Mbps, but no lower.

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 AT&T-C and its potential competitors to request such authorization. By D.89-02-026 we granted AT&T-C authority to provide intraLATA HS-DPLS at speeds of



1.544 Mbps and above, subject to certain reporting requirements and seven special conditions noted earlier herein.

The reporting requirements recommended by the DRA for A.88-10-052 are also appropriate to provide reasonable regulatory oversight for AT&T-C's new ACCUNET T45 service. Therefore we will direct AT&T-C to include the following information for its ACCUNET T45 service with its remaining ongoing reports on its ACCUNET T1.5 HS-DPLS to the CACD and the DRA:

1. Monthly in-service volumes.
2. Monthly inward movement volumes.
3. Monthly recurring billings by tariff rate item, and,
4. Monthly nonrecurring billings by tariff rate items.

We conclude that the interim authority requested by AT&T-C to provide inter and intraLATA ACCUNET T45 HC-DPLS should be granted to the extent set forth in this order.

Since other carriers are already providing similar services, this order should be made effective today to allow AT&T-C to enter this competitive market.

Findings of Fact

1. AT&T-C is a telephone corporation organized under California law and a regulated utility as defined under PU Code § 234.

2. AT&T-C is requesting a CPCN to provide 44.736 Mbps high speed digital private line service on an inter and intraLATA basis in California, as a complement to its current private line service offerings.

3. There are no pending protests of interim authority to this application; therefore no hearing is deemed necessary for granting interim authority for this new ACCUNET T45 HC-DPLS.

4. AT&T-C has the technical ability to provide this proposed service on a safe, effective, reliable, and continuous basis.

5. AT&T-C has the financial integrity to effectively implement the proposed service without any significant impact on its other telephone utility operations.

6. Since no new facilities are necessary for rendering the proposed service, it can be seen with reasonable certainty that granting this application will not have a significant adverse impact on the environment.

7. 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.

8. AT&T-C has agreed that it will not multiplex this service below 1.544 Mbps.

9. AT&T-C has also agreed not to switch intraLATA voice or data traffic pursuant to this application.

10. There is no reason to treat AT&T-C differently than other interexchange carriers regarding the granting of authority to provide inter and intraLATA high speed digital private line services.

11. Public convenience and necessity require the granting of A.90-04-001 to the extent set forth in the following order.

Conclusions of Law

1. AT&T-C's request for interim authority to provide inter and intraLATA 44.736 Mbps high speed digital private line service set forth in its A.90-04-001 is consistent with the provisions of D.88-09-059 and should be granted to the extent set forth in the following order.

2. AT&T-C 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. This order should be effective today to allow AT&T-C to compete with other telecommunications utilities who currently offer similar service.

4. Since AT&T-C intends to use existing facilities for rendering this new service, it can be seen with reasonable certainty that granting this application should not have a significant adverse impact on the environment.

5. A prehearing conference should be held to schedule hearings to establish the costing methodology to be used for determining reasonable rates and charges for private line services such as ACCUNET T45 HC-DPLS.

INTERIM ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to applicant, AT&T Communications of California (AT&T-C) to provide inter and intraLATA high speed digital private line services at 44.736 Mbps or higher within all LATAs in California subject to the following conditions:

- a. AT&T-C may hold out the availability of and provide multiplexing equipment or services, including voice services below speeds of 1.544 Mbps, 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. AT&T-C 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. AT&T-C must establish rates and charges for its intraLATA high speed digital private line services above its cost of providing such service.
- f. AT&T-C shall refrain from holding out to the public the provision of any intraLATA service it is not authorized to provide.
- g. AT&T-C shall advise its subscribers that intraLATA communications which AT&T-C is not authorized to provide should be placed over the facilities of an authorized carrier.

2. AT&T-C is authorized to file an Advice Letter and associated tariff sheets identical to Attachment A to A.90-04-001, for its initial offering of inter and intraLATA high speed 44.736 Mbps digital private line service.

3. The Advice Letter and associated tariff sheets described above, shall be filed in compliance with the provisions of General Order (GO) 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.

4. 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.

5. Applicant shall notify the CACD Director in writing of the date service is first rendered to the public as authorized herein, within 5 days after service begins.

6. AT&T-C shall monitor the implementation of its intraLATA 44.736 Mbps high speed digital private line service and shall include the following information in or with its current reports to the CACD and DRA, as required by D.89-02-026, for its 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, and,
- d. Monthly nonrecurring billings by tariff rate item.

7. Applicant shall continue to comply with PU Code § 708 in the offering of this new service as previously directed by O. P. 9 of D.89-02-026.

8. 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.

9. The corporate identification number currently assigned to AT&T-C is U-5002-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.

10. Inter and IntraLATA 44.736 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.

11. These high speed digital private line services are also subject to a three-tenths percent (0.3%) monthly surcharge to fund Telecommunications Devices for the Deaf as outlined in Resolution T-13005 dated July 22, 1988, and modified by Resolution T-13061 dated April 26, 1989.

12. A prehearing conference will be held on Tuesday, July 24, 1990 at 10:00 a.m. in the Commission's Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California to set evidentiary hearings for development of a reasonable costing method to determine permanent rates and charges for this and other private line services of AT&T-C. ✓

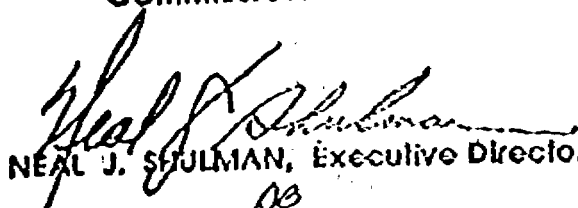
This order is effective today.

Dated June 20, 1990, at San Francisco, California.

FREDERICK R. DUDA  
STANLEY W. HULETT  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
Commissioners

President G. Mitchell Wilk,  
being necessarily absent, did not  
participate.

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

  
NEAL J. SHULMAN, Executive Director  
03



795 Folsom Street  
San Francisco, CA 94107  
Phone (415) 442-2600

May 10, 1990

Administrative Law Judge Amaroli  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Re: A.90-04-001

Dear Judge Amaroli:

On May 4, 1990, GTE California Incorporated filed a protest to AT&T's application to provide intrastate ACCUNET® T45 Digital Private Line service (A.90-04-001). Representatives of AT&T discussed this Protest with representatives of GTE California Incorporated and determined that the Protest was based on a misunderstanding of an ambiguous paragraph in AT&T's application. The purpose of this letter is to clarify AT&T's intent in A.90-04-001 and to allow GTE California Incorporated to withdraw its Protest.

AT&T's ACCUNET T45 service is structured, similar to other AT&T private line services, to present customers with several choices in the provision of the service. The customer can: order an end-to-end service from AT&T; order a POP-to-POP service from AT&T and provide its own access, or; order a POP-to-POP service from AT&T and authorize AT&T to obtain access in the customer's name from the local exchange carrier. The proposed local channel rates on Original Sheets 130.2 and 130.3 of AT&T's T45 tariff only apply when a customer orders end-to-end service from AT&T.

In paragraph 8b on page 6 of its application, AT&T explained why it proposes to price the local channel rate element on an individual case basis ("ICB") for end-to-end service. Unfortunately, in that discussion, AT&T stated that these rates would apply when AT&T was ordering access "on the customers' behalf". This left the impression that AT&T, when acting as an agent for a customer, (as opposed to selling end-to-end service) expected to renegotiate an

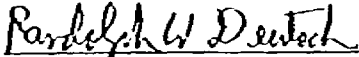
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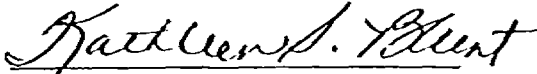
access price with the customer after obtaining a rate quote or service from the LEC. This is incorrect.

The T45 service as structured by AT&T gives a LEC greater opportunity to interface with a customer. In addition to buying end-to-end service from AT&T, the customer may buy local access directly from the LEC or have AT&T buy such access as agent for the customer. In the latter case, AT&T will advise the customer of the LEC access price and the customer will be billed directly by the LEC.

Additionally, AT&T's local channel rate is based on LEC access charges. Should GTE California Incorporated or any other LEC modify their special access tariff to include a uniform T45 access rate, AT&T will likely modify its tariff to replace the ICB rate with a rate based on the LEC access rate.

Based on this explanation of AT&T's application, GTE California Incorporated agrees to withdraw its protest to AT&T's Application 90-04-001.

  
Randolph W. Deutsch  
Attorney for AT&T  
Communications of  
California Inc.

  
Kathleen S. Blunt  
Attorney for GTE California  
Incorporated

(END OF APPENDIX A)





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Attorney

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San Francisco, CA 94107  
Phone 415 442-5550

May 14, 1990

Administrative Law Judge George Amaroli  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Re: A.90-04-001 - AT&T ACCUNET<sup>TM</sup> T45  
Application

Dear Judge Amaroli:

AT&T filed its application to provide ACCUNET T45 service within California on April 3, 1990. Protests to this application were filed within the allowed time period by GTE California Incorporated, US Sprint Communications Company and the Division of Ratepayer Advocates. After discussions with AT&T, GTE California withdrew its protest on May 10.

Both the DRA and US Sprint made it clear in their protests that they did not oppose the granting of interim authority without a hearing to AT&T to provide intrastate ACCUNET T45 service. (See DRA protest, last unnumbered line, page 1 - page 2; US Sprint protest, page 4.) Rather, these protestants seek a subsequent hearing on the costs of providing the service. AT&T agrees with this approach.

Therefore, AT&T respectfully requests that the Commission grant AT&T interim authority without a hearing to provide ACCUNET T45 service and order a prehearing conference to determine when evidentiary hearings should be held on costs and costing methodology for T45 and other private line services.

Sincerely,

*Randolph Deutsch*

cc: Kathleen Blunt, GTE California  
James Rood, CPUC Staff Counsel  
Phyllis A. Whitten, US Sprint

(END OF APPENDIX B)