

CONFIDENTIAL

Decision 90 07 022 JUL 6 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of TELEPORT COMMUNICATIONS)
SAN FRANCISCO, INC. (U 5167 C) for a)
Certificate of Public Convenience and)
Necessity to provide High Speed Digital)
Private Line Service for the purpose of)
intraLATA transmissions at speeds of)
1.544 Mbps or higher throughout the)
State of California.)

Application 90-04-013
(Filed April 11, 1990)

O P I N I O N

Summary

This decision grants applicant, Teleport Communications San Francisco, Inc. (U-5167-C) (TCSF), a certificate of public convenience and necessity (CPCN) to provide intraLATA 1.544 megabits per second (Mbps) and 44.736 Mbps high speed digital private line service (HS-DPLS) and high capacity digital private line service (HC-DPLS) in accordance with the rates, charges, and special conditions set forth in a proposed initial advice letter, to be filed with the draft tariff sheets in Appendix A hereto. These tariff provisions are to become effective five days after filing.

Background

On September 30, 1988, TCSF filed Application (A.) 88-09-059 requesting that the Commission issue it a CPCN under Public Utilities PU § 1001 to permit applicant to operate as a telecommunications utility in California. Initially, TCSF only sought authority to provide interLATA telecommunications services including HS-DPLS at speeds greater than 1.544 Mbps. On February 8, 1989, this Commission issued Decision (D.) 89-02-016 granting TCSF a CPCN to provide interLATA telecommunications services as requested. TCSF had sought this authority to establish a fiber optic metropolitan area network to provide dedicated

private line nonswitched service at transmission speeds of 1.544 Mbps or higher (DS-1), connecting end users to interexchange carriers' points of presence (POPs) and POPs to POPs, in the San Francisco metropolitan area, for the purpose of facilitating interLATA transmissions carried primarily by interexchange interLATA carriers. The system design and operations philosophy of TCSF were based on the design and philosophy of Teleport Communications New York.

At that time, TCSF's system was intended to serve interexchange carriers having a need for low cost, high quality customized facilities. The interexchange carriers would use TCSF's facilities to connect their POP's in the San Francisco area in order to facilitate provision of their interLATA services.

By its current A.90-04-013, TCSF now seeks authority to also provide intraLATA 1.544 Mbps HS-DPLS and 44.736 Mbps HC-DPLS¹ consistent with the requirements of 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.) 87-11-033.²

Appendix A of D.88-09-059 prescribes the following conditions for competition for intraLATA HS-DPLS:

"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

1 TCSF refers to its 1.544 Mbps HS-DPLS as DS-1 (1.544 Mbps) and its 44.736 Mbps HC-DPLS as DS-3 (44.736 Mbps) in its proposed tariff schedules.

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

(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 HS-DPLS 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 A.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 HS-DPLS with an effective date of February 15, 1989.

On February 8, 1989, the Commission also granted CPCN's to six interexchange carriers (IEC) thereby authorizing them to compete in the intraLATA HS-DPLS market on or after February 15, 1989. The Commission has subsequently authorized other IEC's to compete in the intraLATA HS-DPLS and HC-DPLS markets as well.

Description of Applicant

TCSF (U-5167-C) is a wholly owned subsidiary of Merrill Lynch Technology Group, Inc. (MLTG). TCSF's business address is 101 California Street, Suite 2950, San Francisco, California 94111. TCSF's parent MLTG in turn maintains a headquarters address of: Teleport Communications Group, 1 Teleport Drive, Suite 301, Staten Island, New York 10311-1011.

TCSF, as a nondominant carrier under the Federal Communications Commission's (FCC) regulatory framework, has authority to provide nonswitched transmission services between POPs, and from POPs to end users, for the purpose of facilitating IECs' interstate interLATA service offerings. Nondominant carriers are viewed as having blanket authority to provide interstate telecommunications service under Section 214 of the Communications Act of 1934,³ and thus are not required to file tariffs or applications for certification under Section 214.⁴ TCSF also has this Commission's authority to utilize interstate services facilities to furnish intrastate interLATA communications services. Pursuant to the authority granted by D.89-02-016, TCSF is in the process of constructing a "backbone" fiber optic cable network in the downtown financial district of San Francisco. These facilities will be used to serve IECs and large users in San Francisco.

Currently TCSF is actively involved in the installation and testing of the facilities necessary to provide HS-DPLS in San Francisco, and is nearing completion of that work. TCSF has not yet filed its tariffs to render interLATA 1.544 Mbps HS-DPLS to

3 47 U.S.C. § 214 (1982).

4 See Policy and Rules Concerning Rates and Facilities Authorizations for Competitive Carrier Services, CC Docket No. 79-252, Notice of Inquiry and Proposed Rulemaking, 77 FCC 2d 308 (1979), First Report and Order, 85 FCC 2d 1 (1980), and subsequent reports and orders in the same Docket.

the public as authorized by D.89-02-016, but plans to do so soon after the approval of this application. TCSF will include in that tariff filing the necessary tariff provisions for the offering of 1.544 and 44.736 Mbps inter and intraLATA HS-DPLS and HC-DPLS as further discussed later herein.

In support of this application, TCSF 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.88-09-059.⁵ TCSF also provided a copy of MLTG's 1989 Annual Report and March 15, 1990 noting substantial reserves, with cash and cash equivalents of over \$2 billion at the end of 1989.

All funds for the operations of TCSF will, to the extent necessary, be provided by MLTG (TCSF's parent), who has the financial resources, communications knowledge, and technical expertise to effectively undertake this new communications business activity in California.

Description of Proposed Service

IntraLATA 1.544 Mbps HS-DPLS and 44.736 Mbps HC-DPLS⁶ are dedicated full period data communication services as previously discussed herein.

TCSF is currently constructing its own "backbone" metropolitan area fiber optic cable facility to serve the downtown financial district of San Francisco. The backbone cable, according to applicant, will be routed in a manner which will allow TCSF to serve buildings housing IECs' POPs as well as major

5 This A.88-09-059 is a correct application number and is coincidentally the same number as for the Modified Settlement D.88-09-059.

6 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.

telecommunications users, and the local exchange telephone company's (LEC) (Pacific) central offices.⁷

TCSF states that the service will be provided with facilities constructed pursuant to TCSF's interLATA authorization from this Commission and FCC authority for provision of interstate services using underground conduits or ducts, utilities' poles, and other existing facilities. Therefore, it can be seen with reasonable certainty that the proposed services will not have a significant impact on the environment.

TCSF opines that its HS-DPLS and HC-DPLS for intraLATA transmissions will offer several identifiable benefits to consumers:

1. TCSF's service will further the public interest by providing customers with innovative, customized service designed to meet specific customer needs.
2. TCSF's service will expand the availability of technologically advanced telecommunications facilities.
3. TCSF's service will improve the quality and reliability of service offered by IECs to the public by providing IECs with customized, technologically advanced transmission facilities.

Under the authority requested by this application, TCSF will only offer HS-DPLS for intraLATA transmissions at transmission speeds of 1.544 Mbps or higher, via dedicated facilities which cannot be switched by TCSF below a speed of 1.544 Mbps as restricted by D.88-09-059.

While TCSF initially plans to serve only the San Francisco metropolitan area, it is nevertheless seeking

⁷ Pacific Bell is the LEC serving the City and County of San Francisco and adjacent service areas.

statewide authority and plans to construct similar networks in other areas of the state if there is sufficient demand for these services.

TCSF estimates that it will have 32 and 60 customers to this service in the San Francisco metropolitan area at the end of the first and fifth full year of operation respectively.

Notice of Application and Comments Received

TCSF 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 of the Commission's Rules of Practice and Procedure, it served copies of this application on other carriers with which it is likely to compete.

On May 10, 1990 GTEC protested this application because TCSF failed to include documentation of its public benefits, and proposed tariffs in support of its request for a CPCN.

By letter dated May 29, 1990 to the assigned Administrative Law Judge (ALJ) (see Appendix A), TCSF provided further documentation regarding the perceived public benefit of greater competition in the intra and interLATA HS-DPLS market, and appended a draft copy of its proposed tariff schedules for the offering of these services. Thereafter, on June 11, 1990 Counsels for TCSF and GTEC jointly signed a letter stating that after review of the proposed tariff schedules, GTEC agreed to withdraw its protest.

On June 12, 1990, the Division of Ratepayer Advocates of this Commission (DRA) forwarded a letter to the ALJ stating that after having had an opportunity to review the proposed tariff schedules for these services, provided by TCSF on May 29, 1990, "DRA found no basis for objecting to Teleport's [TCSF's] application."

Lastly, by letter dated June 19, 1990 TCSF provided a further explanation of the need to customize its 44.736 Mbps DS-3 HC-DPLS for the specific needs of its customers. Accordingly TCSF included an additional tariff sheet containing the standard agreement form it plans to use in marketing the 44.736 Mbps HC-DPLS to its customers. The June 19, 1990 letter and standard agreement form (Original Sheet 32-T) have been incorporated into Appendix A hereof for reference.

Discussion

On June 29, 1983, the Commission issued OII 83-06-01 to determine whether competition should be allowed in the provision of telecommunications transmission service within the state. Many applications to provide competitive service were consolidated with OII 83-06-01. By interim D.84-01-037 and later decisions we granted those applications, limiting the authority conferred to interLATA service and subjecting the applicants to the condition that they not hold themselves out to the public to provide intraLATA service, pending our decision in OII 83-06-01.

On June 13, 1984 we issued D.84-06-113 in OII 83-06-01, denying the applications to the extent not previously granted. We also directed persons not authorized to provide intraLATA telecommunications service to refrain from holding out the availability of such service; we required them to advise their subscribers that intraLATA calls should be placed over the facilities of the local exchange company.

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 for the intraLATA high speed, 1.544 Mbps and above, digital private line services.

On February 8, 1989 we also authorized six IECs to offer intraLATA high speed, 1.544 Mbps and above, digital private line

services, effective on or after February 15, 1989. Subsequently, we have granted CPCNs for these services to various other carriers as well.

We have routinely granted CPCNs for authority to provide interLATA telecommunications services in California to applicants which have presented evidence of technical and financial resources to develop and deliver such services to the public.

There is no basis for treating this applicant differently than those that filed earlier. Therefore, we will authorize TCSF to provide interLATA service; however, we will limit TCSF's intraLATA authority to the provision of HS-DPLS and HC-DPLS in California, as further specified herein. All services furnished by TCSF 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 HS-DPLS according to the conditions in the adopted modified settlement is in the public interest, and accordingly we have recently granted such authority to numerous nondominant competing utilities. TCSF's services must be provided in compliance with the requirements of D.88-09-059 (Appendix A, Section 4. A.1.a.) and we will limit its authority accordingly.

We have routinely imposed modest reporting requirements⁸ to monitor the early development stages of this competitive intraLATA service. Accordingly, we will require similar reporting by TCSF as follows:

⁸ These same reporting requirements have been established for the numerous other nondominant 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).

1. TCSF will be required to submit semiannual reports for a two-year period beginning with the effective date of TCSF'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 TCSF's intraLATA 1.544 Mbps HS-DPLS and 44.736 Mbps HC-DPLS:
 - 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, 1992.

We conclude that the authority which TCSF requests should be granted as provided in this order.

Since there is a need to make the tariffs for this service effective as soon as practicable, and the protest to this application has been withdrawn, we will make this order effective today.

Since TCSF proposes to customize its 44.736 Mbps HC-DPLS facilities to meet the specific requirements of its customers, it has not included tariff rates for that service in its proposed tariffs (Appendix A). Therefore, TCSF should be required to submit its individual case basis (ICB) rates by advice letter to the Chief of the Telecommunications Branch of the CACD to become effective on 5 days' notice. TCSF may use the standard form set forth on

Original Sheet 32-T of its proposed tariff schedules for filing its ICB rates for the 44.736 Mbps HC-DPLS.

Findings of Fact

1. TCSF is a nondominant carrier (telephone corporation) qualified to do business in California and a regulated utility as defined under PU Code § 234.

2. TCSF is requesting authority to provide 1.544 Mbps and 44.736 Mbps HC-DPLS on an inter and intraLATA basis in California and to resell the telephone services of other communications common carriers providing telecommunications services in California.

3. The timely protest received relative to this application has been withdrawn; therefore, no hearing is deemed necessary.

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

5. TCSF forecasts that it will have 32 and 60 customers at the end of the first and fifth full year of operation, respectively.

6. TCSF possesses the technical resources and ability to provide this proposed service on a safe, effective, reliable, and continuous basis.

7. TCSF declared that it will have financing available from its parent MLTG and will thus have sufficient funds to carry out the first full year of its utility business operations.

8. Since TCSF intends to use already planned, and soon to be completed fiber optic and other cable facilities now under construction in existing ducts, supporting structures, and rights of way to provide the proposed services, 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 HS-DPLS 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. TCSF has agreed that it will not subdivide or multiplex its intraLATA services below 1.544 Mbps.

11. TCSF will not switch intraLATA voice or data traffic pursuant to these applications.

12. Since February 1989, we have granted numerous similar CPCNs for identical or similar services on a competitive basis. Therefore, TCSF's request should be processed on a timely basis to allow it to enter this competitive market without undue delay.

13. Based on analysis of its application, there is no reason to treat TCSF differently than other telecommunications utilities who possess authority to provide intraLATA HS-DPLS and HC-DPLS.

14. Public convenience and necessity require the granting of A.89-06-048 and A.89-06-049 to the extent set forth in the ordering paragraphs which follow.

15. HS-DPLS and HC-DPLS are 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, and modified by Resolution T-13061 dated April 26, 1989.

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

Conclusions of Law

1. TCSF's request for authority to provide inter and intraLATA 1.544 Mbps HS-DPLS and 44.736 Mbps HC-DPLS 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. TCSF 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 must be placed over the facilities of an authorized carrier.

3. The effective date of TCSF's initial offering of intraLATA HS-DPLS 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. In order to allow TCSF to make these services available without further delay, this order should be effective today.

5. TCSF should be required to submit its customer specific customized ICB rates for its 44.736 Mbps HC-DPLS, by advice letter to the Chief of the Telecommunications Branch of the CACD for approval on 5 days' notice, using the standard form set forth on Original Sheet 32-T of Appendix A.

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 Teleport Communications San Francisco, Inc. (U-5167-C) (TCSF), to provide inter and intraLATA high speed and high capacity digital private line services (HS-DPLS and HC-DPLS) at 1.544 Mbps and 44.736 Mbps respectively, within all LATAs in California and with dedicated nonswitched access to and from interLATA carriers' points of presence subject to the following conditions:

- a. TCSF 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 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. TCSF 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. TCSF shall refrain from holding out to the public the provision of any intraLATA services it is not authorized to provide.

2. TCSF is authorized to file an advice letter with associated tariff sheets identical to those set forth in Appendix A to this order for its initial offering of high speed 1.544 Mbps digital private line service.

3. TCSF is further authorized to file an advice letter together with each individual case basis contract for its customized 44.736 Mbps HC-DPLS using the standard form set forth on Original Sheet 32-T of Appendix A.

4. The advice letters and associated tariff sheets described in Ordering Paragraphs 2 and 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 5 days after filing.

5. Applicant may deviate from the following provisions of GO 96-A: (a) paragraph II.C. (1)(b), which requires consecutive sheet numbering and prohibits the reuse of sheet numbers, and (b) paragraph II.C.(4), which requires that "a separate sheet or

series of sheets should be used for each rule." Tariff filings incorporating these deviations shall be subject to the approval of the Commission Advisory and Compliance Division (CACD) Telecommunications Branch.

6. 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 5 days' notice after filing.

7. 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.

8. Applicant shall notify the CACD director in writing of the date service is first rendered to the public within 5 days after service begins.

9. Applicant shall keep its books and records in accordance with the Uniform System of Accounts specified in Part 32 of the FCC rules.

10. Applicant shall file an annual report, in compliance with GO 104-A, on a calendar-year basis using the information request form developed by the CACD Auditing and Compliance Branch and contained in Appendix B to this order.

11. Applicant shall monitor the implementation of its intraLATA 1.544 Mbps HS-DPLS and shall submit semiannual reports for a 2-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 HS-DPLS and 44.736 Mbps HC-DPLS:

- 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.

12. The reporting requirement of Ordering Paragraph 11 shall commence within 45 days after December 31, 1990 and shall terminate upon submission of the report for the semiannual period ending December 31, 1992, to be submitted on or before February 14, 1993.

13. Within 60 days after the effective date of this order, TCSF 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. TCSF 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.

14. 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.

15. HS-DPLS 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% for Fiscal Year 1990-91, as outlined in Resolution T-13061 dated April 26, 1989.

16. TCSF as a telephone corporation is subject to the 3.4% universal telephone service surcharge applicable to service rates for any intraLATA message toll and intrastate interLATA message toll services rendered pursuant to PU Code § 879.

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

18. The corporate identification number currently assigned to Teleport Communications San Francisco, Inc. is U-5167-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.

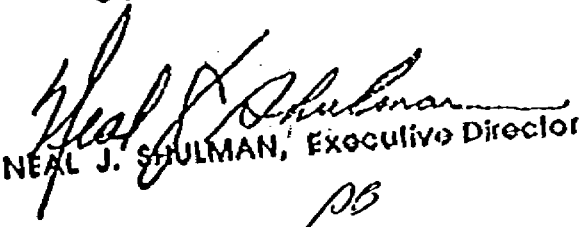
19. This proceeding is closed.

This order is effective today.

Dated JUL 6 1990, 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


NEAL J. SHULMAN, Executive Director
PB

MORRISON & FOERSTER

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May 29, 1990

DIRECT DIAL NUMBER
(415) 677-7678

Honorable George A. Amaroli
Administrative Law Judge
California Public Utilities Commission
505 Van Ness Avenue, Room 5010
San Francisco, California 94102

Re: A.90-04-013

Dear Judge Amaroli:

Please find enclosed a draft of the proposed tariffs of Teleport Communications San Francisco, Inc. ("TCSF") to accompany TCSF's application, A.90-04-013.

Pursuant to this application, TCSF seeks authority from the California Public Utilities Commission (the "Commission") to provide intraLATA high speed digital private line service consistent with D.88-09-059, September 28, 1988 (the "Phase I ARF Decision"). In the Phase I ARF Decision, the Commission authorized competition in high speed digital private line services by adopting a Settlement Agreement, to which GTE California Incorporated, among others, was a signatory.

The Commission has thus previously determined that competition in intraLATA and interLATA high speed digital private line services is in the public interest and has, on showings similar to this application, certificated numerous carriers to provide such service. See, e.g., A.88-10-053 (application of MCI Telecommunications Corporation for a CPCI); see also D.89-02-025, February 8, 1989 (granting MCI Telecommunication Corporation a CPCI); D.89-02-027, February 8, 1989 (granting US Sprint a CPCI); D.89-03-060 March 22, 1989 (granting Oak Brook Fiber Systems, Inc. a CPCI); D.89-04-044, April 12, 1989 (granting Teleport Communications Los Angeles Inc. a CPCI); and D.89-06-020, June 7, 1989 (granting Associated Communications of Los Angeles, Inc. a CPCI).

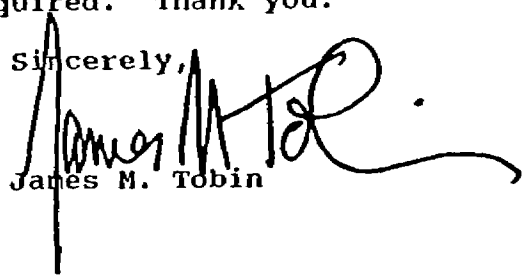
MORRISON & FOERSTER

Honorable George A. Amadori
May 29, 1990
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In the event an additional showing of how TCSF would serve the public interest is required, the enclosed statements of individuals from the public and private sectors compiled by the Teleport Communications Group in March 1990 clearly illustrate the kinds of benefits that Teleport's services have provided in other locations and will bring to San Francisco as well.

Please do not hesitate to contact me if any additional information is required. Thank you.

Sincerely,


James M. Tobin

JT:

cc: Kathleen S. Blunt, Esq. (w/enc.)
GTE California, Inc.

MORRISON & FOERSTER

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June 19, 1990

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BY HAND

Honorable George A. Amaroli
Administrative Law Judge
California Public Utilities Commission
505 Van Ness Avenue, Room 5010
San Francisco, CA 94102

Re: A.90-04-013

Dear Judge Amaroli:

In accordance with our discussions, please find enclosed a draft tariff page for the above application which includes a sample form of an agreement to be used by the applicant, Teleport Communications San Francisco, Inc. ("TCSF"), in furnishing special arrangement or assembly of services and facilities.

Sheet No. 9-T and Sheet No. 10-T of TCSF's draft tariff forwarded to you on May 29, 1990 set forth various technical considerations relevant to TCSF's offering of high speed digital transmission service in California. Included in this information are technical characteristics of TCSF's proposed DS1 and DS3 services. For DS1 service the "pulse shape" and "pulse load" are indicated; for DS3 service these characteristics are not indicated.

TCSF's DS3 service is a highly specialized service. Specialized high speed multiplexing and diagnostic equipment located at either end of the fiber cable channel often complicates the offering of TCSF's DS3 service. Frequently this equipment must be customized to meet specific user demands. The operational characteristics of this customized equipment affects the pulse shape and pulse load technical specifications. Thus, a general tariff statement reflecting these technical aspects of TCSF's DS3 service is not possible with sufficient accuracy.

Honorable George A. Amaroli
June 19, 1990
Page Two

TCSF will update its tariff with pulse shape and pulse load information when it has a sufficient DS3 customer base to get a general idea of these technical criteria.

If you have any questions, do not hesitate to contact me.

Sincerely,

Dhruv Khanna

Dhruv Khanna

DK:mlm

Enclosures

APPENDIX A
Page 5

DRAFT

TARIFF SCHEDULE
APPLICABLE TO
METROPOLITAN AREA
NETWORK SERVICE
WITHIN CALIFORNIA
by
TELEPORT COMMUNICATIONS
SAN FRANCISCO

Advice Letter No. 1
Decision No. 90 07 022

Issued By:

J. Scott Bonney
Director Regulatory
Affairs
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CHECK SHEET

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Current sheets in this tariff are as follows:

<u>Sheet</u>	<u>Revision</u>
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2-T	Original
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PRELIMINARY STATEMENT

This tariff sets forth intrastate rates and rules applicable to the provision of high speed digital private line service for the purpose of interLATA and intraLATA transmissions within the State of California. The rates, rules, terms and conditions herein apply for service provided initially within the San Francisco metropolitan area.

The rates and rules contained herein are subject to change pursuant to the rules and regulations of the California Public Utilities Commission.

NEW CUSTOMER NOTICE

TCSF 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 (non-switched) basis.

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

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SYMBOLS USED IN THIS TARIFF

- (C) To signify changed 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 tariff schedule with no change in text, rate, rules or conditions.
- (N) To signify new materials including listing, rate, rule or condition.
- (R) To signify reduction.
- (T) To signify change in working of text but not change in rate, rule or condition.

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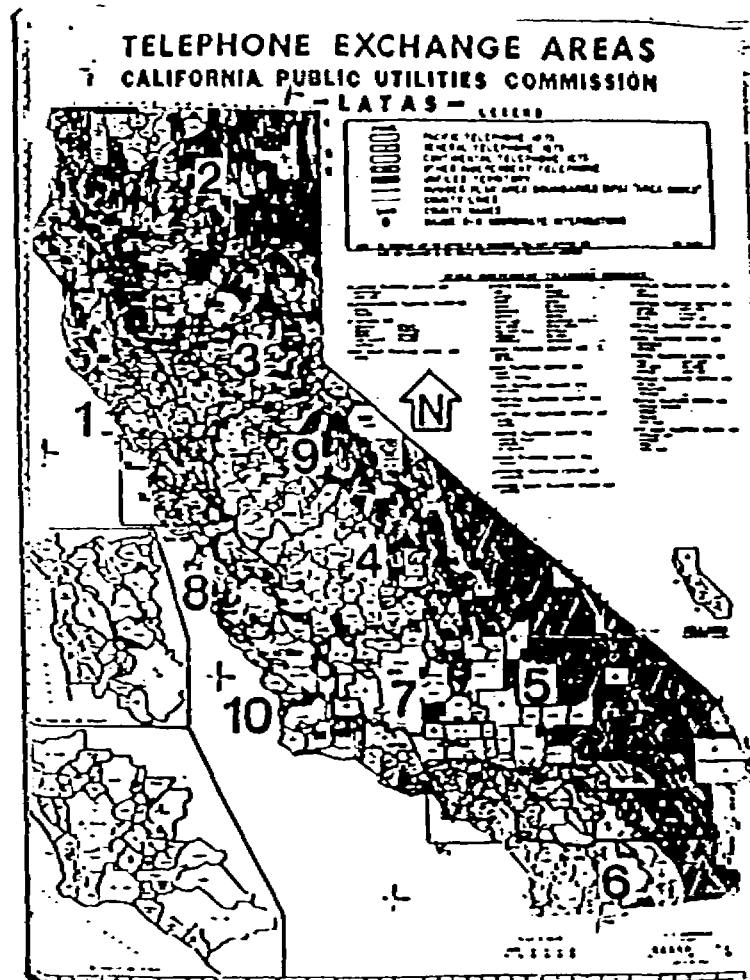
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SERVICE AREA MAP

Carrier provides high-speed digital private line service for the purpose of interLATA and intraLATA transmission throughout the State of California.

The rates, rules, terms and conditions pursuant to this tariff apply for service initially provided within the San Francisco Metropolitan Area, defined as being included within the area shown in the map below.

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RATE SCHEDULE

1.0 RATES FOR METROPOLITAN AREA NETWORK SCHEDULE

1.1 DS1 SERVICE (BASIC 1.544 Mbps)

<u>Non Recurring</u>	<u>Per DS1 Circuit Termination</u>
DS1 Installation	\$635.00
<u>Recurring</u>	<u>Per Month</u>
DS1 Rate per Circuit Termination	\$158.00
<u>Network Rate (Mileage Charge)</u>	<u>Per Rate Element</u>
DS1 Network Rate	\$72.25

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DS1 Network Rate Element Matrix

<u>From/To</u>	<u>Zone A</u>	<u>Zone B</u>
Zone A	0	2
Zone B	2	0

Zone A = North of Market Street; East of Powell
Zone B = South of Market Street; East of 5th.

1.2 DS3 SERVICE (44.736 MBPS)

Rates for DS3 Service are provided by the Company on an Individual Case Basis (ICB).

2.0 SERVICE DESCRIPTION

2.1 GENERAL

Metropolitan Area Network Service consists of any of the services offered pursuant to this tariff, either individually or in combination. Each service is offered independent of the others. Service is offered via the Company's facilities for the transmission of one-way and two-way communications.

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3.0 TECHNICAL CONSIDERATIONS

3.1 GENERAL

Digital channels over the Company's network are furnished for full-duplex transmission of digital signals at operating speeds as follows:

1.544 Mbps
44.736 Mbps

Digital channels operating at speeds other than those listed above may be provided at the Company's option on an Individual Case Basis (ICB).

3.2 DS1 (1.544 Mbps)

Digital channels furnished by the Company at 1.544 Mbps, interconnections to such channels and equipments interfacing to such channels shall meet the following technical characteristics:

Line Rate: 1.544 Mbps + 130 ppm

Line Code: Bipolar with at least 12.5% average ones density and no more than 15 consecutive zeros.

Test Load: 100 ohms resistive

Pulse Shape: The pulse amplitude shall be between 2.4 and 3.6 volts.

Power Levels: For an all-ones transmitted pattern, the power in a 2 KHz band about 772 KHz shall be 12.4-18.0 dBm and the power in a 2 KHz band about 1544 KHz shall be at least 29 dB below that in a 2 KHz band about 771 KHz.

Pulse Imbalance: There shall be less than 0.5 dB difference between the total power of the positive pulse and of the negative pulses.

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NOTES:

1. The CCITT specifications is + 50 ppm
2. Recommended for new equipment: The power in a 2 KHz band about 772 KHz shall be 12.6-17.9 dBm. CCITT requirements: The power in a 3 KHz band about 772 KHz is 12.0-19.0 dBm.
3. CCITT requirements: The power in a 3 KHz band about 1544 KHz shall be at least 25 dB below that in a 3 KHz band about 772 KHz.

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3.3 DS3 (44.736 Mbps)

Digital channels furnished by the Company at 44.736 Mbps, interconnections to such channels and equipment interfacing to such channels shall meet the following technical characteristics:

- Line Rate: 44.736 Mbps + 20 ppm
- Line Code: Bipolar with three-zero substitution
- Test Load: 75 ohms resistive + 5 percent
- Power Levels: For an all-ones transmitted pattern, the power in a 2 KHz band about 22.368 KHz shall be -1.8 to +5.7 dBm and the power in a 2 KHz band about 44.736 KHz shall be at least 20 dB below that in a 2 KHz band about 22.368 KHz. 1

NOTES:

1. The power levels specified by CCITT Recommendation G.703 are identical except that the power is to be measured in 3 KHz bands.

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4.0 TAXES

4.1 The customer is responsible for the payment of any sales, use, excise, access or other local, state and federal taxes, charges or surcharges (excluding taxes on the Company's net income) imposed on or based upon the provision, sale, or use of Metropolitan Area Network Service.

4.2 All such taxes and surcharges shall be itemized on Teleport Communications San Francisco's bills to the Customer.

4.3 Surcharge to Fund C.P.U.C. Reimbursement Fee

Applicability

This surcharge is for the purpose of funding the C.P.U.C. and applies to the aggregate amount of intrastate Customer billings.

Rates

A 0.1% 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 that appear on that particular bill.

4.4 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 intrastate Customer billings.

Rates

In compliance with CPUC Resolution No. T-13061, a 0.3% 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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RULES

Rule 1 Definitions: Certain terms used generally throughout this tariff for Metropolitan Area Network Service of this Company are defined below.

Advance Payment: Part or all of a payment required before the start of service.

Authorized User: A person, firm or corporation which is authorized by the customer or joint user to be connected to the service of the customer or joint user, respectively. An authorized user must be specifically named in the application for service.

Bit: The smallest unit of information in the binary system of notation.

Company: Teleport Communications San Francisco the issuer of this tariff.

Customer: The person, firm or corporation which orders service and is responsible for the payment of charges and compliance with the Company's regulations.

Dedicated: A facility or equipment system or subsystem set aside for the sole use of a specific customer.

Duplex Service: Service which provides for simultaneous transmission in both directions.

Fiber Optic Cable: A thin filament of glass with a protective outer coating through which a light beam carrying communications signals may be transmitted by means of multiple internal reflections to a receiver, which translates the message.

Individual Case Basis: A service arrangement in which the regulations, rates and charges are developed based on the specific circumstances of the case.

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Joint User: A person, firm or corporation which is designated by the customer as a user of Metropolitan Area Network Service furnished to the customer and to whom a portion of the charges for the service will be billed under a joint user arrangement as specified herein.

Mbps: Megabits, denotes millions of bits per second.

Premises: The space occupied by a customer or authorized user in a building or buildings or 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.

Metropolitan Area Service(s): The term "Metropolitan Area Service" means any service offered herein or any combination thereof.

Rule 2 Description of Service: Metropolitan Area Network Service consists of furnishing high speed digital private line service for the purpose of interLATA and intraLATA transmissions throughout the State of California.

Rule 3 Application for Service: Customers desiring to obtain Metropolitan Area Network Service must complete the Company's standard service order form.

Rule 4 Contracts: Contractual Requirements
(None in Effect)

Rule 5 Special Information required on forms: No special notations are required to appear on contracts, bills and deposit receipts.

Rule 6 Credit

6.1 To safeguard its interests, the Company may require a customer to make an advance payment before services and facilities are furnished. The advance payment will not exceed an amount equal to the non-recurring charge(s) and one month's charges for the service or facility. In addition, where special construction is involved, the advance payment may also include an amount equal to the estimated non-recurring charges

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for the special construction and recurring charges for a period to be set between the Company and the customer (if any). The advance payment will be credited to the customer's initial bill. An advance payment may be required in addition to a deposit.

- 6.2 A customer whose service has been discontinued for non-payment of bills will be required to pay the unpaid balance due carrier and may be required to pay re-connect charges.

Rule 7 Deposits

- 7.1 To safeguard its interests, before a service or facility is furnished, the Company may require a customer to make a deposit to be held as a guarantee for the payment of charges. A deposit does not always relieve the customer of the responsibility for the prompt payment of bills on presentation. The deposit will not exceed an amount equal to:

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- (A) Two month's charges for a service or facility which has a minimum payment period of one month, or
- (B) The charges that would apply for the minimum payment period for a service or facility which has a minimum payment period of more than one month,

except that the deposit may include an additional amount in the event that a termination charge is applicable.

- 7.2 A deposit may be required in addition to an advance payment.

- 7.3 When a service or facility is discontinued, the amount of a deposit, if any, will be applied to the customer's account any credit balance remaining will be refunded. Before the service or facility is discontinued, the Company may, at its option, return the deposit or credit it to the customer's account.

Deposits held will accrue interest at a rate specified by the California Public Utilities Commission or at the rate of 5% per annum if the CPUC has not specified a rate.

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Rule 8 Notices

Any notice carrier may give to a Customer shall be deemed properly given when delivered, if delivered in person or when deposited with the U.S. Postal Service.

Rule 9 Payment

The customer is responsible for the payment of all charges for facilities and services furnished to the customer or to authorized or joint users.

9.1 Taxes

The customer is responsible for the payment of any sales, use, excise, access or other local, state and federal taxes, charges or surcharges (excluding taxes on the Company's net income) imposed on or based upon the provision, sale or use of Metropolitan Area Network Service.

9.2 Billing and Collection of Charges

The customer is responsible for payment of all charges incurred by the customer or users for services and facilities furnished to the customer by the Company.

Non-recurring installation charges are due and payable upon presentation of an invoice to the customer.

Recurring charges are due and payable upon presentment of an invoice to the customer for the service or facility furnished. A service or facility may be discontinued for nonpayment of a bill.

Billing starts on the day after the Company notifies customer the service or facility is available for use. Billing accrues through and includes the day that the service, circuit, arrangement or component is discontinued. Monthly charges will be billed one month in advance, except where prohibited by law or as otherwise provided in this tariff. Taxes will be separately state on customer's bill.

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If any portion of the payment is received by the Company after the payment date, or if any portion of the payment is received by the Company in funds which are not immediately available to the Company, then a late payment penalty shall be due to the Company. The late payment penalty shall be the portion of the payment not received by the payment date times a late factor. The late factor shall be the lesser of:

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(A) the highest interest rate (in decimal value) which may be levied by law for commercial transactions, compounded daily for the number of days from the payment date to and including the date that the customer actually makes the payment to the Company, or

(B) 0.000493 per day, compounded daily for the number of days from the payment date to and including the date that the customer actually makes the payment to the Company.

9.3 Fractional Charges

Monthly Service

When service does not begin on the first day of the month, or end on the last day of the month, the charge for the fraction of the month service was furnished will be calculated on a pro rata basis. For this purpose, every month is considered to have thirty (30) days.

9.4 Cancellation of Application for Service

Applications for service are non-cancellable unless the Company otherwise agrees. Where the Company permits customer to cancel an application for service prior to the start of service or prior to any special construction, no charges will be imposed except for those specified below.

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Where, prior to cancellation by the customer, the Company incurs any expenses in installing the service or in preparing to install the service that it otherwise would not have incurred, a charge equal to the costs the Company incurred, less net salvage, shall apply, but in no case shall this charge exceed the sum of the charge for the minimum period of service ordered, including installation charges, and all charges others levy against the Company that would have been chargeable to the customer had service begun (all discounted to present value at 6%).

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Where the Company incurs any expense in connection with special construction, or where special arrangements of facilities or equipment have begun, before the Company receives a cancellation notice, a charge equal to the costs incurred, less net salvage, applies. In such cases the charge will be based on such elements as the cost of the equipment, facilities, and material, the cost of installation, engineering, labor, and supervision, general and administrative expense, other disbursements, depreciation, maintenance, taxes, provision for return on investment, and any other costs associated with the special construction or arrangements.

9.5 Allowances for Interruptions in Service

Interruptions in service, which are not due to the negligence of, or non-compliance with the provisions of this tariff by, the customer or of an authorized or joint user, or to the operation or malfunction of the facilities, power or equipment provided by the customer or authorized or joint user, will be credited to the customer for the part of the service that the interruption affects.

Credit for Interruptions

A credit allowance will be made when an interruption occurs because of a failure of any component furnished under this tariff. An interruption period begins when the customer reports a service, facility or circuit to be interrupted and releases it for testing and

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repair. An interruption period ends when the service, facility or circuit is operative. If the customer reports a service, facility or circuit to be inoperative. If the customer reports a service, facility or circuit to be inoperative but declines to release it for testing and repair, it is considered to be impaired, but not interrupted.

For calculating credit allowances, every month is considered to have 30 days. A credit allowance is applied on a pro rata basis against the rates specified hereunder and is dependent upon the length of the interruption. Only those facilities on the interrupted portion of the circuit will receive a credit.

A credit allowance will be given for interruptions of 30 minutes or more. Credit allowances shall be calculated as follows:

Interruptions of 24 Hours or Less

<u>Length of Interruption</u>	<u>Interruption Period To be Credited</u>
Less than 30 minutes	None
30 minutes up to but not including 3 hours	1/10 day
3 hours up to but not including 6 hours	1/5 day
6 hours up to but not including 9 hours	2/5 day
9 hours up to but not including 12 hours	3/5 day
12 hours up to but not including 15 hours	4/5 day
15 hours up to but not including 24 hours	One day

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Two or more interruptions of 30 minutes or more during any one twenty-four hour period shall be considered as one interruption. In no event shall such interruption credits exceed one day in any 24-hour period.

Interruptions Over 24 Hours

Interruptions over 24 hours will be credited 1/5 day for each 3-hour period or fraction thereof. No more than one full day's credit will be allowed for any period of 24 hours.

Limitations on Allowances

No credit allowance will be made for:

Interruptions due to the negligence of, or non-compliance with the provisions of this tariff by, the customer, authorized user, joint user, or other common carrier providing service connected to the service of the Company;

Interruptions of service due to the failure or malfunction of facilities, power or equipment provided by the customer, authorized user, joint user, or other common carrier providing service connected to the service offered by the Company;

Interruptions of service during any period in which the Company is not given access to the premises at which the Company provided service is interrupted or terminated.

Interruptions of service that occur or continue due to the customer's failure to authorize replacement of any element of special construction.

Interruptions of service during any period when the customer, authorized user, or joint user has released service to the Company for maintenance purposes or for implementation of a customer order for a change in service arrangements.

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Rule 10 Disputed Bills.

The Customer may dispute a bill only by written notice to the carrier delivered within 15 days after the statement date. Unless such notice is received in the timely fashion indicated above, the bill statement shall be deemed to be correct and payable in full by Customer. If the Customer is unable to resolve any dispute with the carrier, then Customer may request information or assistance from the California Public Utilities Commission at its San Francisco or Los Angeles offices concerning its rights under this Rule.

Rule 11 Discontinuance and Restoring of Service

11.1 Upon non-payment of any charges or deposits owing to the Company, the Company may, by 10 days prior written notice to customer, discontinue or suspend service under this tariff without incurring any liability.

11.2 Upon violation of any of the other terms or conditions for furnishing service under this tariff, the Company, by 30 days' prior notice in writing to the customer, may discontinue or suspend service under this tariff, without incurring any liability.

11.3 Upon condemnation of all or any material portion of the facilities used by the Company to provide service to a customer or in the event a casualty renders all or any material portion of such facilities inoperable beyond feasible repair, the Company, by notice to the customer, may discontinue or suspend service under this tariff without incurring any liability.

11.4 Upon the customer filing for bankruptcy or reorganization or failing to discharge an involuntary petition therefore within the time permitted by law, the Company may immediately discontinue or suspend service under this tariff without incurring any liability.

11.5 Upon the Company's discontinuance of service to the customer, the Company, in addition to all other remedies that may be available to the Company at law or in equity or under any other provision of this tariff, may declare all future monthly and other charges which would have been payable by the customer during the remainder of the minimum term for which

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such services would have other wise been provided to the customer to be immediately due and payable (discounted to present value at 6%).

11.6 The use and restoration of service in emergencies shall be in accordance with Part 64, Subpart D of the Federal Communications Commissions Rules and Regulations and the Regulations of the Public Utilities Commission of California which specifies the priority system for such activities.

Rule 12 Optional Rates and Information to be Provided to the Public

The Company will promptly advise customers who may be affected of new, revised or optional rates applicable to their service.

Pertinent information regarding he company's services, rates and changes shall be provided directly to customers, or shall be available for inspection at the Company's local business address.

Rule 13 Temporary Service

Temporary service will be provided if such service provision is consistent with the best interests of the Company.

Rule 14 Continuity of Service

In the event of prior knowledge of an interruption of service for a period exceeding one day, the Customers will, if feasible, be notified in writing, by mail, at least one week in advance.

Rule 15 Extensions

(Not Applicable).

Rule 16 Service Connections and Facilities on Customer's Premises

16.1 Provision of Equipment and Facilities

All services along the facilities between the point identified as the Company's origination point and the point identified as the Company's termination point will be furnished by the Company, its agents or contractors.

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The Company may undertake to use reasonable efforts to make available services to a customer on or before a particular date, subject to the provisions of and compliance by the customer with, the regulations contained in this tariff. The Company does not guarantee availability by any such date and shall not be liable for any delays in commencing service to any customer.

The Company undertakes to use reasonable efforts to maintain only the facilities and equipment that it furnishes to the customer. The customer, joint user, or authorized user may not, nor may he permit others to, rearrange, disconnect, remove, attempt to repair, or otherwise meddle with any of the facilities or equipment installed by the Company, except upon the written consent of the company.

Equipment the Company provides or installs at the customer's premises for use in connection with the services the Company offers shall not be used for any purpose other than that for which the Company provided it.

The customer shall be responsible for the payment of service charges as set forth herein for visits by the Company's agents or employees to the premises of the customer, joint user, or authorized user when the service difficulty or trouble report results from the use of equipment or facilities the customer, joint user, or authorized user provided.

The Company shall not be responsible for the installation, operation, or maintenance of any customer provided communications equipment. Where such equipment is connected to the facilities furnished pursuant to this tariff, the responsibility of the Company shall be limited to the furnishing of facilities offered under this tariff and to the maintenance and operation of such facilities; subject to this responsibility the Company shall not be responsible for:

The transmission of signals by customer provided equipment or for the quality of, or defects in, such transmission; or

The reception of signals by customer provided equipment.

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16.2 Shortage of Equipment or Facilities

The Company reserves the right to limit or to locate the use of existing facilities, or of additional facilities offered by the Company, when necessary because of a lack of facilities, or due to any other cause beyond the Company's control.

The furnishing of service under this tariff is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's fiber optic cable facilities as well as facilities the Company may obtain from other carriers to furnish service from time to time as required at the sole discretion of the Company.

16.3 Prohibited Uses

1. The services the Company offers shall not be used for any unlawful purpose or for any use as to which customer has not obtained all governmental approvals, authorizations, licenses, consents and permits required to be obtained by customer with respect thereto.
2. The Company may require applicants for service who intend to use the Company's offerings for resale and/or for shared use to file a letter with the Company confirming that their use of the Company's offerings complies with relevant laws and CPUC regulations, policies, orders, and decisions.

A customer, joint user, or authorized user may not assign, or transfer in any manner, the service or any rights associated with the service without the written consent of the Company.

The Company may require a customer to immediately shut down its transmission of signals if said transmission is causing interference to others.

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16.4 Non-Routine Installation

At the customer's request, installation and/or maintenance may be performed outside the Company's regular business hours or in hazardous locations. In such cases, charges based on cost of the actual labor, material, or other costs incurred by or charged to the company will apply. If installation is started during regular business hours but, at the customer's request, extends beyond regular business hours into time periods including, but not limited to, weekends, holidays, and/or night hours, additional charges may apply.

16.5 Special Construction

Subject to the agreement of the Company and to all of the regulations contained in this tariff, special construction of facilities may be undertaken on a reasonable efforts basis at the request of the customer.

Special construction is that construction undertaken:

- DRM
- (A) where facilities are not presently available, and there is no other requirement for the facilities so constructed;
 - (B) of a type other than that which the Company would normally utilize in the furnishing of its services;
 - (C) over a route other than that which the Company would normally utilize in the furnishing of its services;
 - (D) in a quantity greater than that which the Company would normally construct;
 - (E) on an expedited basis;
 - (F) on a temporary basis until permanent facilities are available;
 - (G) involving abnormal costs; or
 - (H) in advance of its normal construction.

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Special construction charges will be determined on an individual case basis.

16.6 Obligations of the Customer

The Customer shall be responsible for:

The payment of all applicable charges as set forth in this tariff.

Damage or loss of the Company's facilities or equipment caused by the acts or omissions of customer, authorized user, or joint user or the non-compliance by the customer, authorized user, or joint user with these regulations; or by fire or theft or other casualty on the premises of the customer, authorized user, or joint user unless caused by the negligence or willful misconduct of the employees or agents of the Company;

Providing as specified from time to time by the Company any needed personnel, equipment, space and power to operate Company facilities and equipment installed on the premises of the customer, authorized user, or joint user and the level of heating and air conditioning necessary to maintain the proper operating environment on such premises;

Obtaining, maintaining, and otherwise having full responsibility for all rights of way and conduit necessary for installation of fiber optic cable and associated equipment used to provide Metropolitan Area Network Service to the customer, authorized user, or joint user from the cable building entrance or the property line of the land on which the structure wherein any termination point or origination point used by the customer, authorized user, or joint user is placed is located, whichever is applicable, through the point of entry into the structure, throughout the structure, to the location of the equipment space. Any and all costs associated with the obtaining and maintaining of the rights of way described herein, including the costs of altering the structure to permit installation of

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the Company provided facilities, shall be borne entirely by, or may be charged by the Company to, the customer. The Company may require the customer to demonstrate its compliance with this section prior to accepting an order for service.

Providing a safe place to work and complying with all laws and regulations regarding the working conditions on the premises at which Company employees and agents shall be installing or maintaining the Company's facilities and equipment. The customer may be required to install and maintain Company facilities and equipment within a hazardous area if, in the Company employees or property might result from installation or maintenance by the Company.

Complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to, the location of Company facilities and equipment in any customer premise or the rights-of-way for which customer is responsible, and obtaining permission for Company agents or employees to enter the premises of the customer, authorized user, or joint user at any reasonable hour for the purpose of installing, inspecting, repairing, or, upon termination of service as stated herein, removing the facilities or equipment of the Company;

Making Company facilities and equipment available periodically for maintenance purposes at a time agreeable to both the Company and the customer. No allowance will be made for the period during which service is interrupted for such purposes.

Keeping the Company's equipment and facilities located on the customer's premise or rights-of-way obtained by the customer free and clear of any liens or encumbrances relating to the customer's use of the Company's services or from the location of such equipment and facilities.

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16.7

Liability of the Company

Because the customer has exclusive control of its communications over the services furnished by the Company, and because interruptions and errors incident to these services are unavoidable, the services the Company furnishes are subject to the terms, conditions, and limitations specified in this tariff and to such particular terms, conditions, and limitations as set forth in the special regulations applicable to the particular services and facilities furnished under this tariff.

The liability of the Company for damages arising out of the furnishing of these services, including but not limited to mistakes, omissions, interruptions, delays, or errors, or other defects, representations, or use of these services or arising out of the failure to furnish the service, whether caused by acts of commission or omission, shall be limited to the extension of allowances for interruption. The extension of such allowances for interruption shall be the sole remedy of the customer, authorized user, or joint user and the sole liability of the 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.

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 these 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.

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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 the services the Company offers.

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.

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.

The Company does not guarantee nor make any warranty with respect to installations it provides for use in an explosive atmosphere. The customer indemnifies and holds the Company harmless from any and all loss, claims, demands, suits, or other action, or any liability whatsoever, whether suffered, made, instituted, or asserted by any other party or person(s), and for any loss, damage, or destruction of any property, whether owned by the customer or others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, presence, condition, location, or use of any installation so provided.

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The Company is not liable for any defacement of or damage to the premises of a customer (or authorized or joint user) resulting from the furnishing of services or equipment on such premises or the installation or removal thereof, when such defacement or damage is not the result of negligence or willful misconduct on the part of the agents or employees of the Company.

THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OR MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.

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16.8 Claims

The customer and any authorized or joint users, jointly and severally, shall indemnify and save the Company harmless from claims, loss, damage, expense (including attorneys fees and court costs), or liability for libel, slander, or copyright infringement arising from the use of the service; and from claims, loss, damage, expense, or liability for patent infringement arising from (1) combining with, or using in connection with facilities the Company furnished, facilities the customer, authorized user, or joint user furnished or (2) use of facilities the Company furnished in a manner the Company did not contemplate and over which the Company exercises not control; and from all other claims, loss, damage, expense (including attorneys fees and court costs), or liability arising out of any commission or omission by the customer, authorized user, or joint user in connection with the service. In the event that any such infringing use is enjoined, the customer, authorized user, or joint user, at its option and expense, shall obtain immediately a dismissal or stay or such injunction, obtain a license or other agreement so as to extinguish the claim of infringement, terminate the claimed infringing use, or modify such combination so as to avoid any such infringement. In addition and without limitation, the customer, authorized user, or joint user shall defend, on behalf of the Company and upon request by the Company, any suit brought or claim asserted against the Company for any such slander, libel, infringement, or other claims.

16.9 Station Equipment

Customer provided terminal equipment on the premises of the customer, authorized user, or joint user, the operating personnel there, and the electric power consumed by such equipment shall be provided by and maintained at the expense of the customer, authorized user, or joint user. Conformance of Customer-provided station equipment with part 68 of the FCC Rules is the responsibility of the Customer.

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The customer, authorized user, or joint user is responsible for ensuring that customer provided equipment connected to Company equipment and facilities is compatible with such equipment and facilities. The magnitude and character of the voltages and currents impressed on Company provided equipment and wiring by the connection, operation, or maintenance of such equipment and wiring shall be such as not to cause damage to the Company provided equipment and wiring or injury to the Company's employees or to other persons. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the customer's expense.

Rule 17 Measurement of Service

(Not Applicable).

Rule 18 Meter Tests and Adjustment of Bills for Meter Error

18.1 Testing and Adjusting

Upon suitable notice, the Company may make such tests, adjustments, and inspections as may be necessary to maintain the Company's facilities in satisfactory operating condition. No interruption allowance will be credited to the customer for the period during which the Company makes such tests, adjustments, or inspections.

18.2 Inspections

Upon suitable notification to the customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the customer, authorized user, or joint user is complying with the requirements set forth above for the installation, operation, and maintenance of customer provided facilities, equipment, and wiring in the connection of customer provided facilities and equipment to Company owned facilities and equipment.

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If the protective requirements for customer provided equipment are not being complied with, the Company may take such action as it deems necessary to protect its facilities, equipment, and personnel. The Company will notify the customer promptly if there is any need for further corrective action. Within (10) days of receiving this notice, the customer must take the action taken. If the customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of service, to protect its facilities, equipment, and personnel from harm.

Rule 19 Supply to Separate Premises and Resale

Any special interface equipment necessary to achieve compatibility between the facilities and equipment of the Company used for furnishing Metropolitan Area Network Service and the channels, facilities, or equipment of others shall be provided at the customer's expense.

Metropolitan Area Network Service may be connected to the services or facilities of other communications carriers only when authorized by, and in accordance with, the terms and conditions of the tariffs of the other communications carrier which are applicable to such connections.

Rule 19.2 Interconnection Provisions

Facilities furnished under this tariff may be connected to customer provided terminal equipment in accordance with the provisions of this tariff.

Rule 19.3 Joint Use Arrangements

Joint use arrangements will be permitted for all services offered pursuant to this tariff. From each joint use arrangement, one member will be designated the customer responsible for the manner in which the joint use of the service will be allocated. The Company will accept orders to start, rearrange, relocated, or discontinue service only from this customer. Without affecting the customer's ultimate responsibility for payment of all charges for the service, each joint user shall be responsible for the payment of the charges billed to it.

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Rule 20 Service Locations

Service is only provided within the State of California. There are no restrictions on service to specific locations within the State of California unless otherwise indicated pursuant to this tariff.

Sample Forms

Listed below is a sample form of an agreement for use in connection with the Company's furnishing of a Special Arrangement or Assembly of services and/or facilities:

AGREEMENT

THIS AGREEMENT is between _____ (hereinafter "Customer") and Teleport Communications San Francisco (hereinafter "TCSF") who intend to be legally bound by the following agreement:

1. The undersigned Customer has requested a Special arrangement or assembly of equipment or specially furnished equipment to be provided by TCSF and described as follows:

2. In the event Customer cancels, modifies, delays or does not accept the final charges and rates for the requested equipment and/or facilities, Customer shall be liable for all developmental costs incurred by TCSF prior to the cancellation, modification or delay. The estimated developmental costs are \$_____.

3. Except as provided in this Agreement, the service furnished by the special arrangement or assembly of equipment and facilities and specially furnished equipment shall be subject to all applicable tariffs of TCSF on file with the Commission.

4. The design for the above-described special arrangement or assembly shall remain the property of TCSF.

5. Any notice or demand herein provided to be given or made or which may be given or made by either party to the other shall be deemed to have been duly given and made when made in writing and deposited in the United States mail, postage prepaid and addressed as follows:

To Customer: _____

To Teleport Communications S.F. _____

Attention: _____

Attention: General Manager _____

6. This Agreement shall at all times be subject to such changes or modifications by the Commission in the exercise of its jurisdiction.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this _____ day of _____, 19__.

Teleport Communications San Francisco

Person and Title _____

Customer _____

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APPENDIX B
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TO: ALL INTEREXCHANGE TELEPHONE UTILITIES

Article 5 of the Public Utilities Code grants authority to the California Public Utilities Commission to require all public utilities doing business in California to file reports as specified by the Commission on the utilities' California operations.

A specific annual report form has not yet been prescribed for the California interexchange telephone utilities. However, you are hereby directed to submit an original and two copies of the information requested in Attachment A no later than March 31st of the year following the calendar year for which the annual report is submitted.

Address your report to:

Commission
Branch, Room 3251

California Public Utilities
Auditing and Compliance
505 Van Ness Avenue
San Francisco, CA 94102-3298

Failure to file this information on time may result in a penalty as provided for in §§ 2107 and 2108 of the Public Utilities Code.

If you have any question concerning this matter, please call
(415) 557-2484.

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ATTACHMENT A

Information Requested of California Interexchange Telephone Utilities.

To be filed with the California Public Utilities Commission, 505 Van Ness Avenue, Room 3251, San Francisco, CA 94102-3298, no later than March 31st of the year following the calendar year for which the annual report is submitted.

1. Exact legal name and U # of reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (e.g., corporation, partnership, sole proprietorship, etc.).

If incorporated, specify:

- a. Date of filing articles of incorporation with the Secretary of State.
 - b. State in which incorporated.
6. Commission decision number granting operating authority and the date of that decision.
 7. Date operations were begun.
 8. Description of other business activities in which the utility is engaged.
 9. A list of all affiliated companies and their relationship to the utility. State if affiliate is
 - a. Regulated public utility.
 - b. Publicly held corporation.
 10. Balance sheet as of December 31st of the year for which information is submitted.
 11. Income statement for California operations for the calendar year for which information is submitted.

(END OF APPENDIX B)