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Decision 91-06-035 June 19, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
WTG - West, Inc., a Delaware)
Corporation, for a Certificate of)
Public Convenience and Necessity)
to Provide High Speed Digital Private)
Line Service for IntraLATA)
Transmissions Throughout the State)
of California. (U-5192-C))

ORIGINAL

Application 91-04-023
(Filed April 22, 1991)

OPINION

Applicant is a Delaware corporation with its headquarters located in Tulsa, Oklahoma. Applicant currently has a certificate of public convenience and necessity to provide interLATA private line data and voice service within California, issued in Decision (D.) 90-07-058. Applicant seeks authority to offer intraLATA high speed digital service, pursuant to D.88-09-059. The proposed intraLATA operation will involve neither additional construction of facilities nor expansion of the existing system. Applicant's present service area extends throughout the state.

Applicant currently provides interLATA service between specified points of termination for the provisioning of voice and data telecommunications, and proposes simply to continue the operation of its present system. Technical standards applicable to circuits provided under tariff will be those generally prevalent among interexchange carriers operating in California.

The proposed service will utilize existing capacity, and therefore, there will be no incremental costs. The fees charged for this intraLATA service will be the same as the charges for interLATA service currently offered by applicant such that

percentages of profit for both interLATA and intraLATA service will be the same. The estimated number of customers and their requirements for the first and fifth years in the future are:

	<u>Year 1</u>		<u>Year 5</u>	
	<u>DS-1s</u>	<u>DS-3s</u>	<u>DS-3s</u>	<u>DS-1s</u>
No. of Customers	3	1	2	10
Capacity Required	3	1	2	10

There will be no physical construction associated with applicant's proposal. Hence there is no need for a proponent's environmental assessment under the provision of Rule 17.1(d) of the Commission's Rules of Practice and Procedure.

In D.88-09-059, this Commission found that competition to provide intraLATA high speed digital service as provided in Adopted Modified Phase I Settlement at Appendix A of that decision was in the public interest and should be authorized. Applicant asserts that the grant of this application would permit applicant to provide more comprehensive and improved service to its customers and contribute to the competitiveness of the marketplace, and would ultimately ensure more offerings at better prices to the public at large.

Upon certification, applicant will amend its existing tariff to reflect the terms on which it will provide the requested service. Exhibit F to its application contains applicant's proposed tariff revisions to its existing tariff. The rates proposed for intraLATA service are the same as the interLATA rates for that service. Applicant requests that the proposed tariff revisions become effective on the date the authority is granted.

Applicant has served copies of its application on potential competitors and other interested parties. Applicant requests relief from the Commission's Rule 18(b), insofar as it requires service on all of the cities and counties within which the proposed service will be rendered. No rate changes are proposed,

and no new construction will result from the authorization sought. The application will, therefore, have no impact on the cities and counties. Thus, applicant submits that service on such entities is unnecessary as well as unduly burdensome.

Findings of Fact

1. Applicant has the ability, equipment, and financial resources to perform the proposed service.
2. Public convenience and necessity require the proposed service.
3. The rates proposed in the application are deemed reasonable and may be filed as set forth in the order.
4. Applicant is granted a certificate of public convenience and necessity authorizing it to provide high speed, private line digital data, and voice grade intraLATA service at 1.544 Mbps and 44.736 Mbps in California pursuant to D.88-09-059.
5. Applicant's proposed tariff revisions should become effective not earlier than five days after the date of the order granting the authority.
6. Service of the application on cities and counties is waived.

Conclusions of Law

1. The certificate should be granted.
2. Applicant 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 the intraLATA communications it is not authorized to provide must be placed over the facilities of an authorized carrier.
3. As a telephone corporation operating as a telecommunication service supplier, applicant is subject to: (a) the current surcharge on gross intrastate interLATA revenues (Public Utilities (PU) Code § 879), (b) the current surcharge on gross intrastate revenues to fund Telecommunications Devices for

the Deaf (PU Code § 2881; Resolution T-13061), and (c) the user fee provided in PU Code §§ 431-435.

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

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to applicant WTC - West, Inc. to provide 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. Applicant 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. Applicant 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. Applicant shall refrain from holding out to the public the provision of any intraLATA services it is not authorized to provide.

2. Applicant is authorized to file an advice letter with associated tariff sheets as set forth in its application for its initial offering of high speed 1.544 Mbps digital private line service.

3. Applicant is further authorized to file an advice letter together with each individual contract for its customized 44.736 Mbps HC-DPLS.

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 is 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.

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, 1991 and shall terminate upon submission of the report for the semiannual period ending December 31, 1993 to be submitted on or before February 14, 1994.

13. 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.

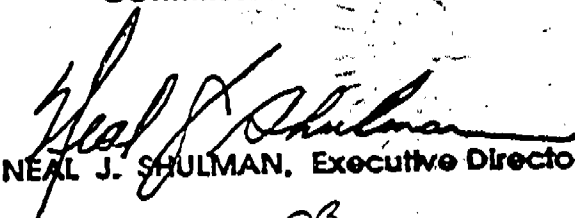
14. This proceeding is closed.

This order is effective today.

Dated June 19, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SHULMAN, Executive Director

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