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Decision 92-07-061 July 22, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Western Union ATS,)
 Inc. for a Certificate of Public)
 Convenience and Necessity to Provide)
 Intrastate Telecommunications)
 Services in the State of California.)

ORIGINAL

Application 91-10-001
(Petition for Modification
filed March 27, 1992)

ORDER MODIFYING DECISION 92-02-069

On March 27, 1992, Western Union ATS, Inc. (applicant) filed a petition for modification of Decision (D.) 92-02-069 which granted applicant a certificate of public convenience and necessity (CPCN) under Public Utilities (PU) Code § 1001 to permit it to resell inter-Local Access and Transport Area (LATA) telephone services in California¹ and to provide intrastate, intraLATA high-speed digital private line service at speeds of 1.544 megabits per second or higher within each California LATA. Specifically, applicant requests that D.92-02-069 be modified to exclude any reference to a "switchless reseller."

In D.90-08-032, as modified by D.91-10-041, the Commission established two major criteria, a financial and a technical requirement, for determining whether a CPCN should be granted. Applicant has met its technical requirement, as addressed in D.92-02-069.

¹ California is divided into ten LATAs of various sizes, each containing numerous local telephone exchanges. "InterLATA" describes services, revenues, and functions that relate to telecommunications originating in one LATA and terminating in another. "IntraLATA" describes services, revenues, and functions that relate to telecommunications originating and terminating within a single LATA.

The financial requirement is dependent on whether the applicant intends to operate as a "switchless reseller," an entity which does not own, control, operate, or manage telephone lines. Such an applicant must demonstrate that it has a minimum of \$75,000 in uncommitted cash or cash equivalent. For applications filed after 1991, this minimum requirement increases 5% per year.

A non-dominant interexchange carrier (NDIEC) applicant who does not intend to operate as a switchless reseller must demonstrate that it has a minimum of \$400,000 in uncommitted cash or equivalent financial resources. Similar to the switchless reseller financial requirement, the minimum financial requirement increases 5% per year starting in 1991. Thus, the current minimum requirement is \$420,000.

As stated in D.92-02-069, applicant has substantiated that it possesses a sufficient amount of unencumbered cash and that it has access to additional unencumbered cash and cash equivalents from its parent company in the amount of \$183 million to offer public utility service. In addition, applicant proposes to use its own private network service facilities for its common carrier operations and employ special access services of local exchange carriers to provide its proposed common carrier services.

Clearly, applicant meets the NDIEC financial qualifications requirement which is more than the switchless resellers financial requirement. Therefore, applicant's petition for modification should be granted.

Findings of Fact

1. D.92-02-069 granted applicant a CPCN to resell interLATA telephone services in California and to provide intrastate, intraLATA high-speed digital private line service at speeds of 1.544 megabits per second or higher within each California LATA.

2. Applicant meets the NDIEC \$420,000 financial requirement, which is more than the switchless reseller financial requirement.

3. Applicant proposes to use its own private network service facilities for its common carrier operations to provide its proposed common carrier services.

4. Public interest in competitive telecommunications services require this order to be effective immediately.

Conclusion of Law

Applicant's petition for modification of D.92-02-069 should be granted.

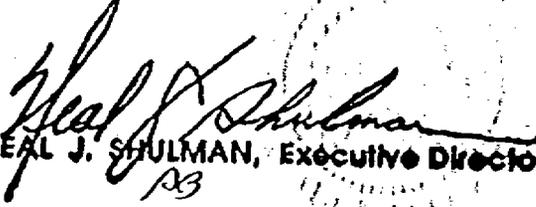
IT IS ORDERED that Ordering Paragraph 1 of Decision 92-02-069 shall be modified to exclude any reference to the provision of reseller operations as shown in Appendix A.

This order is effective today.

Dated July 22, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
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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Decision (D.) 92-02-069 ORDERING PARAGRAPHS
Revised Pursuant to D.92-07-061

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Western Union ATS, Inc. (applicant) to provide inter-Local Access and Transport Area (LATA) telecommunications service offered by communication common carriers in California and to provide intraLATA high-speed digital private line service at speeds of 1.544 megabits per second (mbps) or higher within each California LATA.

Applicant's authority to provide interLATA telecommunications service is subject to the following conditions:

- a. Applicant shall offer and provide its services only on an interLATA basis;
- b. Applicant shall not provide intraLATA services;
- c. Applicant shall not hold out to the public that it has authority to provide, or that it does provide, intraLATA services; and
- d. Applicant shall advise its subscribers that they should place their intraLATA calls over the facilities of the local exchange company.

Applicant's authority to provide intraLATA high-speed digital private line service within each California LATA is subject to the following conditions and to the reporting requirement identified in Ordering Paragraph 2:

- 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;

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- b. Digital private line services at 1.544 mbps or above are considered to be "high-speed digital private line" services. "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 premise 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; and
- f. Applicant shall advise its subscribers that intraLATA communications which applicant is not authorized to provide should be placed over the facilities of an authorized carrier.

2. Applicant shall monitor its intraLATA 1.544 mbps high-speed digital private line service and shall submit semiannual reports for a two-year period beginning with the effective date of the rates and charges for this service. These reports shall be filed with the Commission's Advisory and Compliance Division (CACD) Director with copies to the Division of Ratepayer Advocates - Telecommunications Rate Design Branch and shall include the following recorded data for applicant's intraLATA 1.544 mbps high-speed digital service:

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- a. Monthly in-service volumes;
- b. Monthly inward movement volumes;
- c. Monthly recurring billings by tariff rate item; and
- d. Monthly nonrecurring billings by tariff rate item.

The reporting requirement of this Ordering Paragraph shall commence within 45 days after June 30, 1992 and shall terminate upon submission of applicant's semiannual report ending December 31, 1993, to be submitted on or before February 14, 1994.

3. To the extent that applicant requests authority to provide intraLATA telecommunication service other than high-speed digital private line services at 1.544 mbps or higher, it is denied.

4. Within 30 days after this order is effective, applicant shall file a written acceptance of the certificate granted in this proceeding.

5.a. Applicant is authorized to file with this Commission, 5 days after the effective date of this order, tariff schedules for the provision of interLATA service and intraLATA high-speed digital private line services at speeds of 1.544 mbps or higher. Applicant may not offer service until tariffs are on file. Applicant's initial filing shall be made in accordance with General Order (GO) 96-A, excluding Sections IV, V, and VI, and shall be effective not less than 1 day after filing.

b. Applicant is a nondominant interexchange carrier (NDIEC). The effectiveness of its future tariffs is subject to the schedules set forth in Ordering Paragraph 5 of Decision (D.) 90-08-032 as modified by D.91-12-013, as follows:

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- *5. All NDIECs are hereby placed on notice that their California tariff filings will be processed in accordance with the following effectiveness schedule:
- *a. Inclusion of FCC-approved rates for interstate services in California public utilities tariff schedules shall become effective on one (1) day's notice;
 - *b. Uniform rate reductions for existing services shall become effective on five (5) days' notice;
 - *c. Uniform rate increases, except for minor rate increases, for existing services shall become effective on thirty (30) days' notice, and shall require bill inserts, or a message on the bill itself, or first class mail notice to customers of the pending increased rates;
 - *d. Uniform minor rate increases, as defined in D.90-11-029 for existing services shall become effective on not less than 5 working days' notice, and shall require bill inserts or a notice on the bill itself to inform customers of the increased rates;
 - *e. Advice letter filings for new services and for all other types of tariff revisions, except changes in text not affecting rates or relocations of text in the tariff schedules, shall become effective on forty days' notice; and
 - *f. Advice letter filings merely revising the text or location of text material which does not cause an increase in any rate or charge shall become effective on not less than five (5) days' notice."

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6. 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 those deviations shall be subject to the approval of the CACD's Telecommunications Branch. Tariff filings shall reflect all fees and surcharges to which applicant is subject, as reflected in Conclusion of Law 2.

7. Applicant shall file as part of its individual tariff, after the effective date of this order and consistent with Ordering Paragraph 5, a service area map.

8. Applicant shall notify this Commission 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 Attachment A.

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

12. Applicant shall send a copy of this decision to concerned local permitting agencies not later than 30 days from today.

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13. The corporation identification number assigned to applicant is U-5253-C which shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

14. Within 60 days of the effective date of this order, applicant shall comply with Public Utilities (PU) Code § 708, Employee Identification Cards, and notify the Chief of CACD's Telecommunications Branch in writing of its compliance.

15. Applicant is exempted from the provisions of PU Code §§ 816-830.

16. The application is granted, as set forth above.
This order is effective today.

Dated February 20, 1992, at San Francisco, California.

(END OF APPENDIX A)