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DEO-109 1996 e.A

Decision 96-12-008 December 9, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Integrated Telemanagement Services, Inc., dba
Inc., dba OMNICOM (US617-C) for a
Certificate of Public Convenience Application 96-08-014
and Necessity to resell telecommunications services within the State (Filed August 19, 1996)

ORIGINIAL

This file is being filed to advise you that the above application has been filed with the Public Utilities Commission of California. The application was filed on August 19, 1996, and is subject to review by the Commission. The application is subject to the terms and conditions set forth below.

1. Summary: The above application is to provide authority to Integrated Telemanagement Services, Inc., doing business as OMNICOM (applicant), to seek authority under Public Utilities Code (PU Code) § 1001 to permit it to resell local exchange telecommunications service as a competitive local provider.

Applicant also seeks authority to resell intralATA local telephone service. The application is granted subject to the terms and conditions set forth below.

2. Background: Notwithstanding the above application, OMNICOM has filed an initial

By Decision (D.) 95-07-054, we established initial procedures for the filing of requests for authority to offer

to provide local exchange telecommunications services within California (LATA). Application for local exchange telecommunications services may be filed at any time if the need for such services arises. A copy of this decision is available at the office of the California Public Utilities Commission, 1700 L Street, Sacramento, California 95814.

1. A competitive local carrier is a common carrier that is issued a Certificate of Public Convenience and Necessity to provide local exchange telecommunications service for a geographic area specified by the carrier.

2. California is divided into Local Access and Transport Areas (LATAs) of various sizes, each containing numerous local telephone exchanges. "IntralATA" describes telecommunications services originating and terminating within a single LATA and "InterLATA" describes telecommunications services originating in one LATA and terminating in another.

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competitive local exchange service within the service territories of Pacific Bell and GTE California Incorporated (GTEC) to no less than 90% of the prospective competitive local carriers that filed petitions by September 1, 1995, and that otherwise met eligibility requirements, were authorized to offer local exchange service under the following schedule: Competitive local exchange service for facilities-based carriers was authorized effective January 1, 1996. Competitive resale of the bundled local exchange service of Pacific Bell and GTEC was authorized effective March 31, 1996. Any filings for such authority made after September 1, 1995, were to be treated as applications and processed in the normal course of the Commission's business. An applicant's request for authority to resell local exchange service was made on August 17, 1996. Accordingly, the request was docketed as an application. Since at least 8 (8) days prior to the filing of the application, the applicant had requested and been granted authority to resell interLATA telephone services within the state, the application was docketed as an application.

Applicant is a California corporation with principal offices in Simi Valley. In May 1996, applicant was granted authority to resell interLATA telephone services within the state. Applicant has been a shared service provider since May 1990, and it has established OMNICOM as an operating division to offer its new local exchange and intralATA services. (1) noted on 8/8

In compliance with Rule 18(b), applicant has provided the names and addresses of entities with which it may compete in offering these services. (Application, Ex. H.) Applicant states that a copy of the application has been mailed to each of these likely competitors. No protests to the application have been received.

3. Discussion
A certificate of public convenience and necessity is required for the issuance of a license. Applicant seeks authorization to resell all local exchange services authorized for resale in California in the service areas of Pacific Bell and GTEC. Applicant initially will provide its services through existing facilities and equipment located on its customers' premises. No new construction is contemplated.

1. 1.1 Applicant proposes to provide services at rates that are competitive with existing carriers. Applicant must submit proposed tariff, that conforms to the consumer protection rules set forth in Appendix B of D.95-07-054. Applicant's proposed tariff, containing its proposed rates and terms and conditions of service, is attached as Ex. G to the application. We conclude that applicant's tariffs properly conform to Commission rules, except for the list of tariff deficiencies identified in Appendix B of this decision. In its compliance tariff filing, applicant is directed to correct the deficiencies, and no other filings will be received in

1.2 We also conclude that applicant qualifies as a provider of competitive local carrier resellers and meets the financial resources requirements set forth in our rules. A reseller must demonstrate that it has a minimum of \$25,000 in cash or cash equivalent, reasonably liquid and readily available to meet the firm's start-up expenses as prescribed in Rule 4.B(2) of D.95-07-054. Pursuant to D.95-12-056, applicant also must agree that customer deposits, if any, must be maintained in a protected, segregated interest-bearing escrow account subject to Commission oversight.

1.3 Applicant has submitted its financial data under seal. The financial statements, consisting of balance sheets and income statements for 1994 and year-to-date to November 1995, show sufficient adequate resources to meet the Commission's requirements.

1.4 An applicant also is required to make a reasonable showing of technical expertise in telecommunications or a related business. Applicant states that OMNICOM, as an operating division of Integrated Telemanagement Services, will rely on the parent company's five years of telecommunications service and on the

1.5 the same will make available a file of analogues in analogous businesses for consideration by the Commission.

3. Applicant's motion to file its financial statements under seal was granted by the Law and Motion Administrative Law Judge by ruling dated September 6, 1996.

communications experience of officers of the company. Exhibit I of the application demonstrates extensive telecommunications experience by key officers. Applicant has shown technical, financial expertise and qualifications necessary to conduct its business. As applicant will not be constructing any facilities for the purpose of providing local exchange services, it can be seen with certainty that there is no possibility that the grant of this application may have an adverse impact upon the environment.

4. Separation of Services

In reviewing this application, the Commission's established Telecommunications Division expressed concern about the risk of intermingling applicant's certificated and noncertificated lines of business. Integrated Telemanagement Services is a shared service provider (its OMNICOM operating division) under this application, will provide certificated local exchange and intralATA toll services. A shared service provider is not required to have a certificate of public convenience and necessity. Its business, thus essentially, is purchasing service from a local exchange carrier and selling that service to a group of customers (for example, a group of moderate-sized businesses the combined calling volume of which would entitle the group to obtain a lower phone rate). The service provider must sell its purchased services to customers on a pass-through basis, retaining only a management fee for the transaction. By contrast, a reseller of local exchange and intralATA service, must be certificated by this Commission and must comply with requirements for regulated telecommunications services to companies. This situation is contemplated to arise with a company

In response to staff's concerns about the same entity providing both certificated and noncertificated telecommunications services, applicant by letter dated November 7, 1996, clarified its application to assure the Commission it has in the past and will in the future will separate its intralATA services from its local exchange services.

the future operate its shared service provider business separately from its reseller business. Applicant states: "so of particular note

"The separation of business has been in place as advised since the inception of OMNICOM. It maintains a complete separation of ALL accounting, sales and other operational accountability. All sales are presented as distinct and separate entities." (Integrated Telemanagement Services) sales are made with the open publication that it is a [Shared Service Provider] with the emphasis on telemanagement. OMNICOM is to be sold as a reseller of services provided by a switched provider. OMNICOM products are not sold to (Integrated Telemanagement Services) customers and vice versa. We have and will continue to keep the same level of clarity to the definition and operation of OMNICOM."

Staff suggests that an ordering paragraph in this decision incorporate the assurance of separation of businesses as provided by applicant and we have adopted that suggestion.

5. Conclusion

We have reviewed applicant's proposed filing and conclude that it conforms to the adopted Commission rules including the Consumer Protection Rules set forth in Appendix B of D.95-07-054 except for the deficiencies noted in Appendix B. With that qualification, the application is approved as set forth below.

Findings of Fact

1. Applicant filed its application on August 1, 1996, for authority to resell local exchange telecommunications services and intralATA services.

2. Applicant served copies of its application on 64 companies certified to be competitive local carriers in California.

3. A notice of the filing of the application appeared in the Daily Calendar on August 8, 1996.

4. No protests have been filed.

5. A hearing is not required.

6. By prior Commission decisions, we authorized competition in providing local exchange telecommunications service within the service territories of Pacific Bell and GTE.

7. By D.95-07-054, D.95-12-056, D.96-02-072, and D.96-03-020, we authorized facilities-based competitive local carrier services effective January 1, 1996, and resale services effective March 31, 1996, for carriers meeting specified criteria.

8. Applicant has demonstrated that it has a minimum of \$25,000 of cash or cash equivalent reasonably liquid and readily available to meet its start-up expenses.

9. Applicant's technical experience is demonstrated by the descriptions of the background qualifications of Integrated Telemanagement Services officers.

10. Applicant has submitted with its application a draft of an initial tariff which complies with the requirements established by the Commission, except for the deficiencies identified in Appendix B.

11. Since no facilities are to be constructed, it can be seen with certainty that the proposed operation will not have a significant effect upon the environment.

12. The Commission has routinely granted nondominant telecommunications carriers, such as applicant, an exemption from Rule 18(b) where no construction is involved to the extent that the rule requires applicant to serve a copy of its application on cities and counties in the proposed service area and to the extent that it requires applicant to provide a conformed copy of all exhibits attached to applicant's filed application to potential competitors.

13. Exemption from the provisions of PU Code §§ 816-830 has been granted to other resellers. (See, e.g., D.86-10-007 and D.88-12-076.)

14. The transfer or encumbrance of property of nondominant carriers has been exempted from the requirements of PU Code § 851.

whenever such transfer or encumbrance serves to secure debt. (See D.85-111-044.) nothing to the contrary to the contrary of D.95-02-050, Applicant represents that it will maintain strict separation of its noncertified shared service provider business and its OMNICOM reseller services, including separate accounting and sales functions, and budgeting and financial reporting.

Conclusions of Law After review of record concerning the relevant law, Applicant has the financial ability to provide the proposed service.

It is further found that Applicant has made a reasonable showing of technical expertise in telecommunications, and that such public convenience and necessity requires the competitive local exchange services to be offered by applicant, subject to the terms and conditions set forth below in due course of time.

4. (b) Applicant is subject to the following services:
- The current 3.2% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund Universal Lifeline Telephone Service Fund (PU Code S 879; Resolution T-15799, November 21, 1995);
 - The current 0.36% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Relay Service and Communications Devices Fund (PU Code S 2881; Resolution T-15801, October 5, 1995), and of certain other services (ATA/Jetnet);
 - The user fee provided in PU Code §§ 431-435, which is 0.11% of gross intrastate revenue for the 1996-1997 fiscal year (Resolution M-4782); and of certain certificates of convenience and general authority;
 - The current 0.21% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund (PU Code S 1739-30); Resolution I-15826, December 20, 1995); and of certain other services in accordance with general authority.

6. Applicant should be exempted from Rule 18(b) requirement of service of the application on cities and counties in the proposed service area and service of all exhibits attached to this application on potential competitors when it is not necessary to do so. Applicant should be exempted from PU Code §§ 8161830.

7. Applicant should be exempted from PU Code § 851 when the transfer or encumbrance serves to secure debt.

8. The application should be granted to the extent set forth in the order below.

9. Any competitive local carrier which does not comply with our rules for local exchange competition adopted in Order Instituting Rulemaking 95-04-043 shall be subject to sanctions including, but not limited to, revocation of its certificate.

10. Because of the public interest in competitive local exchange services, the following order should be effective immediately:

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Integrated Telemanagement Services, Inc., doing business as OMNICOM (Applicant), to operate as a reseller of competitive local exchange services and intra-Local Access and Transport Area (intraLATA) services, subject to the terms and conditions set forth below.

2. Applicant shall file a written acceptance of the certificate granted in this proceeding.

3. a. Applicant is authorized to file with this Commission tariff schedules for the provision of competitive local exchange services and intraLATA services. Applicant may not offer competitive local exchange services 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 must include a satisfactory correction of each deficiency listed in Appendix B in this decision. The tariff shall be effective not less than 1 day after tariff approval by the Commission's Telecommunications Division. Applicant shall comply with the provisions in its tariffs.

Applicant is a competitive local carrier (CLC). The effectiveness of its future tariffs is subject to the schedules set forth in Appendix A, Section 4-E of Decision (D.) 95-07-054:

"B. CLCs shall be subject to the following tariff and contract filing, revisions and service pricing standards [Contracts shall be subject to GO 96-A :A-8 CO rules for NDIECs, except those for interconnection]:

(1) Uniform rate reductions for existing tariff services shall become effective on five (5) working days' notice to the Commission. Customer notification is not required for rate decreases.

(2) Uniform major rate increases for existing tariff services shall become effective on thirty (30) days' notice to the Commission, and shall require bill inserts, or a message on the bill itself, or a first class mail notice to customers at least 30 days in advance of the pending rate.

(3) Uniform minor rate increases, as defined in D.95-07-054, shall be effective on not less than five (5) working days' notice to the Commission. Customer notification is not required for such minor rate increases.

"(4) Advice letter filings for new services and for all other types

before June 1st, IV hrs. of tariff revisions, except as (OD) specifies a revision will be held open for rates or relocations of text in tariff case, for up to the tariff schedules, shall become effective after notice to the Commission.

"(5) Advice letter filings revising the text or location of text material in (OD) which do not result in any increase in any rate or charge shall become effective on not less than five days notice to the Commission."

4. 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 Telecommunications Division. Tariff filings shall reflect all fees and surcharges to which applicant is subject, as reflected in Conclusion of Law 4.

5. Applicant shall file as part of its initial tariff, after the effective date of this order and consistent with Ordering Paragraph 3, a service area map or map showing

6. Prior to initiating service, applicant shall provide the Commission's Consumer Services Division with the applicant's designated contact person(s) for purposes of resolving consumer complaints and the corresponding telephone number. This information shall be updated if the name or telephone number changes or at least annually.

7. Applicant shall notify this Commission in writing of the date local exchange service is first rendered to the public within 5 days after local exchange service begins.

"(5) Advice letter filings revising the text or location of text material in (OD) which do not result in any increase in any rate or charge shall become effective after notice to the Commission."

8. Applicant shall keep its books and records in accordance with the Uniform System of Accounts specified in Title 47, "Code of Federal Regulations," Part 3220, as of August 11, 1981.

9. 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 Commission's auditing and compliance staff and contained in Attachment A.

10. Applicant shall ensure that its employees comply with the provisions of Public Utilities (PU) Code § 2889.5 regarding the solicitation of customers.

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. The corporate identification number assigned to applicant for its interlocal Access and Transport Area service is U-56171C. That identification number also shall apply to its competitive local exchange and intralATA services, and shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

13. Within 60 days of the effective date of this order, applicant shall comply with PU Code § 708, Employee Identification Cards, and notify the Director of the Telecommunications Division in writing of its compliance.

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

15. Applicant is exempted from PU Code § 851 for the transfer or encumbrance of property whenever such transfer or encumbrance serves to secure debt.

16. Applicant is exempted from Rule 18(b) of the Commission's Rules of Practice and Procedure to the extent that the rule requires applicant to serve a copy of its application on the cities and counties it proposes to operate in and to the extent that the

rule requires applicant to serve a copy of all exhibits attached to its application on potential competitors, no later than 30 days after filing.

17. If applicant is 90 days or more late in filing an annual report or in remitting the fees listed in Conclusion of Law 4, the Telecommunications Division shall prepare for Commission A-103-00 consideration a resolution that revokes the applicant's certificate of public convenience and necessity, unless the applicant has received the written permission of the division to file or remit late. paragraph 2, page 2 of G-96-08-014 (U) is deleted.

18. Applicant shall comply with the customer notification and education rules adopted in D-96-04-049 regarding passage of calling party number restriction after five (5) days of receiving notice under 319(b)(6). Applicant shall operate its shared service provider business and its reseller business as separate businesses, with no separate accounting and sales functions. Its reseller products will not be sold to its shared service customers, nor will its shared service products be sold to its reseller customers. Before making any change in the separation of these lines of business, applicant shall provide advance written notice of such change to the Director of the Telecommunications Division.

20. The application is granted, as set forth above.

21. Application 96-08-014 is closed. This order is effective today.

Dated December 9, 1996, at San Francisco, California.

cc: *See list of parties to proceeding filed by the Commission, above.*

P. GREGORY CONLON 088-018.22

See list of parties to proceeding filed by the Commission, above.

DANIEL Wm. FESSLER

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEPPER

See list of parties to proceeding filed by the Commission, above.

Rules of Practice and Procedure to the extent that they relate to applications to serve a copy of the application on the office of the Commissioner to propose to object to the execution of the order contained in any of the orders of the Commission, a

A APPENDIX A
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INFORMATION REQUESTED OF COMPETITIVE LOCAL CARRIERS

TO: **ALL COMPETITIVE LOCAL CARRIERS**

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 Competitive Local Carriers in California. 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: Office of the Office of the California Public Utilities Commission's Auditing and Compliance Branch, Room 3251, 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) 703-1961.

Any questions concerning the nature and scope of the information required to be filed should be directed to the Office of the California Public Utilities Commission's Auditing and Compliance Branch, Room 3251, 505 Van Ness Avenue, San Francisco, CA 94102-3298.

Date observations were made:

Description of other telephone service in which the utility is engaged:

A list of all telephone companies and their telephone numbers to which it is affiliated. State if it is affiliated to a

regulated utility.

Utility held corporation:

Business name as of December 31 of the year for which information is being filed:

Income statement for California observations for the calendar year for which information is being filed:

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INFORMATION REQUESTED ON COMPETITIVE LOCAL CARRIERS

INFORMATION REQUESTED OF COMPETITIVE LOCAL CARRIERS

To be filed with the California Public Utilities Commission, 505 Van Ness Avenue, Room 13251, 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(es) of competitive local carriers in California.
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.).
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:
 - 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.

APPENDIX B

**List of Deficiencies in Tariffs Filed by
Integrated Telemanagement Services, Inc. dba OMNICON
in A.96-08-014**

1. Include sample forms in your tariff.
2. Sheet 35-T, Rule No. 3, Application of Service: Company cannot require a written service application because Rule 2 of Appendix B of D.95-07-054 provides that service may be initiated based on a written or oral agreement between the CLC and the customer. If the agreement is oral, within 10 days of initiating the service order, the CLC will provide a confirmation letter setting forth a brief description of the services ordered and itemizing all charges which will appear on the customer's bill.
3. Sheet 40-T, Rule No. 6(B) must be changed to reflect that the deposit balance must be returned within 30 days after discontinuance of service, not 30 days following rendition of the final bill.
4. Sheet 49-T: Optional rates and temporary promotions must be submitted to the Commission by Advice Letter on a case-by-case basis. There is no blanket authority for promotions or new rate plans.
5. Sheet 66-T, Rule No. 25: A minimum service period of one month violates customer's right to give notice of discontinuance on or before the date of disconnection.
6. Add the words "Competitive Local Carrier" on each tariff sheet above the top horizontal line.
7. Include information on the Commission's procedures for prorating bills as described in Rule 7 of Appendix B of D.95-07-054.

(END OF APPENDIX B)

APPENDIX B

Type of Detention Center in Article 8
Under the Information Services Act, 2009
in A.3E-08-014

- .1. Informative article found in Court Record.
- .2. Sheet 3E-T, Rule No. 3, Application of Service Circular concerning Article 8 service provision for persons held under Appendix B of D.3E-07-024 provided that service may be suspended pending trial if the person is held on a warrant or a writ issued by the CJC and the attorney, if any, within 10 days of trial starting until the service order, the CJC will provide a continuation letter setting forth a date specification of the service ordered and if necessary will apply until completion of trial.
- .3. Sheet 40-T, Rule No. 6(B) which is designed to reflect the deposit balance due to be returned within 30 days after disconnection of service, not 30 days following termination of the trial period.
- .4. Sheet 43-T: Optional form for voluntary disconnection and cancellation of the connection by written notice by the user to the provider authority for discontinuation of new lease plan.
- .5. Sheet 46-T, Rule No. 28: A minimum service period of one month applies unless otherwise stipulated in the notice of disconnection.
- .6. Add the words "complaints board" on each part.
- .7. Includes information on the classification, procedure for determining liability as described in Rule 5 of Appendix B of D.3E-07-024.

(END OF APPENDIX B)