

## **XI. Other Necessary Permits**

DTS will require and is presently in the process of applying to the FCC for international Section 214 authority and a VSAT operator license pursuant to 47 C.F.R. Section 25.134.

## **XII. Estimated Cost of Construction [Rule 3.1(f) and (g)]**

DTS expects that most subscriber sites will utilize existing buildings and structures for installation of equipment. As a result, the estimated cost of construction related to deployment of DTS' satellite network is expected to be moderate. The anticipated cost to develop a network to support these services is \$31,605,822.<sup>15</sup>

DTS' operating costs are expected to be fully within the financial resources available to DTS through existing financing, procurement of additional financing and anticipated revenues. While DTS' initial customer base has not yet been determined (and thus exact operating costs are difficult to provide) DTS anticipates that its initial operating costs will be approximately \$275,000 per month, including costs for transponders, customer care, administrative overhead, and personnel necessary to deploy and maintain DTS' network.<sup>16</sup>

As is explained in more detail in Attachment H, DTS plans to secure financing through investments in the corporation, revenues generated by its provision of services and various universal and rural service funding and loan programs. DTS will also rely on financing from its parent entity, DialToneServices, L.P.

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<sup>15</sup> Confidential Attachment G reflects detailed cost estimates related to DTS' network deployment costs.

<sup>16</sup> As DTS' subscriber base grows, its revenues will increase along with its incremental variable operating costs. DTS plans to file more detailed cost data in its future general rate case.

### **XIII. Financial Ability and Rates [Rules 2.3, 3.1(g) and 3.1(h)]**

DTS has the financial ability to engage in the proposed construction. DTS of CA, Inc. is a newly formed corporation with initial cash deposits on hand that are greater than \$100,000 and reasonably liquid and available.<sup>17</sup> Attached as confidential Attachment I is a copy of a letter from DTS' bank evincing this fact. Because Attachment I contains confidential information, DTS requests confidential treatment of Attachment I in its Motion for Leave to File Confidential Materials Under Seal submitted concurrently with this Application. DTS does not currently owe deposits to local exchange or interexchange carriers.<sup>18</sup>

Applicant intends to provide local exchange service as a GRC carrier. Initially, DTS plans to offer local exchange service at rates roughly equivalent to those of other ILECs in the state. After DTS has filed its cost study, it will establish new rates pursuant to the rules applicable to GRC carriers. Until such time, Applicant will not request any subsidies from High Cost Fund A.

Attached as Attachment J to this application is a draft tariff for local exchange service. The rates and services set forth in this draft tariff are for illustrative purposes only and are subject to change prior to the actual initiation of service.

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<sup>17</sup> Although DTS is not able to locate a specific requirement for ILECs, it notes that the \$100,000 cash or equivalent requirement established by the Initial Rules for Local Exchange Competition, D.96-02-072, Appendix E, Rule 4(B)(1) was recently approved as sufficient for Shasta County Telephone Company (*see* D.08-12-052) and Channel Islands Telephone Company (*see* D.08-05-007), which the Commission appears prepared to categorize as GRC LECs.

<sup>18</sup> *Id.*

**XIV. General Order 104-A Statement [Rule 3.1(i)]**

DTS is not a publicly traded company and has no proxy statements, 10-Ks or annual reports to provide. Further, DTS states that none of its officers, directors, or stockholders, whether record or beneficial owners of stock, have a material financial interest (as that term is defined in Section 2 of GO 104-A) in any transaction involving the purchase of materials or equipment, or the contracting, arranging, or paying for construction, maintenance, or service for or on behalf of Applicant.

**XV. Estimated Number of Customers in the First and Fifth Years [Rule 3.1(j)]**

DTS estimates that its initial customer base will consist of 2,000 to 3,000 customers with subscriptions for 2,500 to 4,000 lines within the first year of operation. The ultimate size of DTS' customer base in five years will depend on the exact siting of remote locations and demand for service in the areas for which DTS proposes to provide service. DTS estimates that on a five-year growth horizon, its customer base may range from 8,000 to 10,000 customers with 10,000 to 14,000 lines.

**XVI. Managerial and Technical Competence**

DTS was founded by principals William J. Dorran and J. Lee Watkins. Mr. Dorran has over 20 years of experience in telecommunications start-up ventures. In the early 1980s, he worked for Viacom Cable TV in San Francisco, managing the growth of its back office during the build out of the city's cable system. Following graduate school, Mr. Dorran worked for the National Rural Telecommunications Cooperative ("NRTC") from 1987 to 1995. Mr. Dorran steered the operations of NRTC from its inception to its establishment as the largest provider of DirecTV to rural areas of the United States. Mr. Dorran held various titles at NRTC, from Senior Vice President to Chief Operating Officer. During his 7-year tenure, the NRTC's

workforce grew from 3 employees to over 200, with annual revenues growing to exceed \$127 million. In 1996, Mr. Dorran, with the support of Columbia Capital Corporation, helped found Digital Television Services. Digital Television Services became the largest independent reseller of DirecTV, providing service to rural areas in 11 states. Digital Television Services was acquired by Pegasus Communications in 1998. Mr. Dorran holds four degrees, including a BS in Business Management and a BA in Telecommunications from the University of Oregon as well as an MBA in Finance and an MA in Telecommunications from the University of Texas.

Mr. Watkins has 19 years experience in building sales and distribution operations for start-up telecommunications service companies. Mr. Watkins served as Vice President of Retail Distribution for Pegasus Satellite Television ("PST"). With PST, Mr. Watkins was responsible for building and managing the sales and distribution operation of over 3,000 dealers nationwide. Prior to PST, Mr. Watkins was the General Manager of Southeastern Properties for Digital Television Services, where he successfully built the dealer distribution infrastructure and growth until the time of purchase of Digital Television Services by Pegasus Communications. Prior to Digital Television Service, Mr. Watkins was the General Manager of Sterling Cellular's coastal Georgia cellular properties. After graduating with a degree in marketing from East Carolina University, he began his telecommunications career developing retail test markets for Contel Cellular.

Mr. Dorran and Mr. Watkins are also the founding partners and current operators of DialToneServices, L.P. ("DTS, L.P."), DTS' parent company. DTS, L.P. began providing

customers with telephone service in Texas in 2005.<sup>19</sup> DTS, L.P. is both an Eligible Telecommunications Carrier (“ETC”) and Eligible Telecommunications Provider (“ETP”), as designated by the Public Utilities Commission of Texas. DTS, L.P. uses satellite networks to provide telephone service to unserved residents and businesses in the most rural areas of Texas. As part of its operations in Texas, DTS provides telephone service to customers in areas that no current incumbent telephone company serves. These areas are known as “uncertificated” areas. As an ETC and ETP, DTS receives support funding from both the Texas and federal Universal Service Funds. DTS, L.P. currently serves approximately 1,400 customers with 3,000 lines in Texas.

DTS has contracted with Martin Group, Inc. for various engineering and consulting services related to DTS’ planned operations in California. Founded in 1970, Martin Group is a consulting company consisting of software developers, engineers, regulatory specialists, and business process experts.<sup>20</sup> Martin Group has 40 years of experience assisting rural LECs upgrade their local and interexchange networks using financing from Rural Utilities Services, Rural Telephone Finance Cooperative, CoBank and commercial banks. Martin Group services include (1) contract specification development for switching equipment, fiber to the home electronics, fiber transport electronics, IP network equipment and fiber cable construction, (2) regulatory consulting, (3) cost study preparation and (4) equipment implementation. A description of Martin Group’s various consulting services is attached as Attachment K.

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<sup>19</sup> DTS, L.P. is a Delaware corporation licensed to do business in Texas by the State of Texas.

<sup>20</sup> The Martin Group supports several ILECs in California, including Calaveras Telephone Company.

## **XVII. Management Fitness**

As is explained below, the FCC issued an omnibus NAL in 2009 in reference to DTS' parent company, DialToneServices, L.P., and approximately 600 other carriers for failing to file the newly required annual Customer Proprietary Network Information ("CPNI") certificate.<sup>21</sup> With the exception of this NAL, DTS confirms that: (i) neither the applicant, nor any affiliate, officer, director, partner, or owner of more than 10% of DTS of CA, Inc., or any person acting in that capacity whether or not formally appointed, has been sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order; and (ii) neither the applicant, nor any affiliate, officer, director, partner, or person owning more than 10% of the applicant, or anyone acting in such capacity whether or not formally appointed, held one of these positions with a telecommunications carrier that filed for bankruptcy, or has been found either criminally or civilly liable by a court of appropriate jurisdiction for violation of § 17000 et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers and, to the best of DTS of CA, Inc.'s knowledge, is not currently under investigation for similar violations. A Certification Under Penalty of Perjury attesting to these statements is attached as Attachment L.

Although DTS has diligently complied with the FCC's CPNI rules, in 2008, DTS' parent corporation, DialtoneServices, L.P., did not file a 47 C.F.R. § 64.2009(e) compliance certificate ("Compliance Certificate") for the calendar year 2007, as required by the FCC's CPNI rules. DTS appealed the FCC's omnibus NAL, explaining the reasons why the FCC's imposition of a

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<sup>21</sup> FCC Order No. DA 09-426 (Feb. 2009).

fine was not warranted and detailing the safeguards that DialToneServices, L.P. employs to protect its customers' CPNI.<sup>22</sup> The FCC has not provided DialToneServices, L.P. a final determination.

#### **XVIII. Demonstration of Compliance with Commission Rules**

Attachment N to this Application is a schedule listing DTS' compliance with the requirements of the Commission's Rules governing the issuance of CPCNs.

#### **XIX. SB 960 Compliance – Scoping Memorandum Information [Rule 2.1(c)]**

In accordance with the Commission's Rules governing compliance with Senate Bill 960, DTS provides the following information:

1. Proposed Category: This Application should be categorized as ratesetting in accordance with Rule 7.1(e)(2) as it does not clearly fit within the categories defined in Rules 1.3(a), (d) or (e), and Rule 5(c) defines ratesetting proceedings to include "other proceedings" that do not fit clearly into any other category.
2. Need for Hearing: No hearings are necessary to address the matters in this Application as the Application is non-controversial and does not raise any material issues of fact.
3. Issues to Be Considered: The primary issue to be considered is whether granting DTS a CPCN is in the public interest.

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<sup>22</sup> DialToneServices, L.P.'s response to the FCC's initial inquiry and subsequent formal appeal explained the reasons why imposition of a fine was inappropriate in DialToneServices, L.P.'s case. DialToneServices, L.P. has explained to the FCC that it had no in-house legal or regulatory staff and relied on FCC requirements lists and required notices that were not provided to DialToneServices, L.P. For example, the 47 C.F.R. § 64.2009(e) filing requirement is not listed on the Wireline Competition Bureau's checklist of common carrier filing and compliance requirements, which is an important resource for very small carriers such as DialToneServices, L.P. Attachment M contains a copy of DialToneServices, L.P.'s letter of appeal explaining the

4. Proposed Schedule: Concurrent with its Application and due to the time-sensitive nature of its Application, DTS is filing a Motion for a Ruling Shortening the Time for Filing Protests to its Application. Additionally, Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure allows that the Commission may waive the period for public review and comment on proposed decisions in the event that a matter is uncontested and where the decision grants the relief requested. Assuming no protests are filed, DTS requests that the Commission waive the period for public comment and process DTS' application according to the following schedule:

Application filed:	March 24, 2009
Protests Due	15 days after appearance of Application on Commission Daily Calendar ( <i>see</i> Motion to Shorten Protest Period filed concurrently herewith)
Replies to Protests	7 days after date protests due
Final Decision Adopted	May 7, 2009

**XX. Conclusion**

WHEREFORE, DTS respectfully requests that the Commission enter an Order granting this Application.

Respectfully submitted,  
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reasons why the omnibus NAL's imposition of a forfeiture as applied to DialToneServices, L.P. is unwarranted.

**NOT FOR PUBLIC DISCLOSURE  
CONFIDENTIAL TREATMENT REQUESTED  
PURSUANT TO 47 C.F.R. § 0.459**

**APPENDIX C**

**Projected Lines Served and USF Support**

**NOT FOR PUBLIC DISCLOSURE  
CONFIDENTIAL TREATMENT REQUESTED  
PURSUANT TO 47 C.F.R. § 0.459**

**[REDACTED]**