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Decision 91-09-043

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Expedited )  
Application of GTE California )  
Incorporated (U 1002 C), a )  
corporation, for approval of its )  
voice messaging service, and )  
associated services for enhanced )  
service providers. )

**ORIGINAL**

(EAD)  
Application 90-07-048  
(Filed July 19, 1990)

ORDER MODIFYING DECISION 91-04-024  
AND DENYING APPLICATIONS FOR REHEARING

GTE California, Incorporated (GTEC) and Telephone Answering Services of California, Inc. (TASC) have filed applications for rehearing of Decision (D.) 91-04-024, in which the Commission granted interim authority to GTEC to provide voice messaging services to end users and associated services to enhanced service providers. The Decision imposed specific terms and conditions upon the operation of this service.

The application of GTEC challenged the requirement that the service be tariffed. The application of TASC challenged the approval of the service without structural separation.

We have carefully considered all of the issues and arguments raised in the applications for rehearing and are of the opinion that the decision should be modified in certain limited respects, but that sufficient grounds for granting rehearing have not been shown.

Therefore, good cause appearing,

IT IS ORDERED that D.91-04-024 is modified as follows:

1. In the first paragraph on page 12, delete the eighth and ninth sentences on lines seventeen through nineteen, which read:

"First, it is speculative. GTEC has not yet provided the service and, therefore, no harm has come to TASC's members."

2. In that same first paragraph on page 12, the seventh and tenth sentences, now the last two remaining sentences, are modified to read:

"There is a major defect in TASC's position. Pacific has been providing voice messaging services on a trial basis for over two years during which time TASC has been in competition with Pacific, yet TASC did not produce evidence of harm."

3. With the changes herein above, the first paragraph on page 12 is modified to read as follows:

"In D.89-10-031 (33 CPUC 2d 43) we thoroughly reviewed recent developments in the telephone industry and promulgated a new regulatory framework. Individual cases should explain and encourage that framework; they should not chip away from it. The new regulatory framework recognized the place of enhanced services, such as voice messaging, in the repertory of a telephone utility and also recognized the competitive problems which could arise. On the one hand, we expect full utilization of the local exchange network; on the other hand, we desire to avoid cross-subsidies and anticompetitive behavior (33 CPUC 2d at 104-105). What sometimes gets lost in cases such as this, where the focus is on competition and potentially anticompetitive behavior, is that our primary function is to protect ratepayers, not to protect competitors for utility customers. TASC has provided us with a laundry list of horrors which will result if GTEC is granted authority without a requirement of separate entities---all of which will harm TASC. There is a major defect in TASC's position. Pacific has been providing voice messaging services on a trial basis for over two years during which time TASC has been in competition with Pacific, yet TASC did not produce evidence of harm."

4. In Finding of Fact No. 3 on page 16, the second sentence is deleted and the first and third sentences are modified to read:

"There is no persuasive factual evidence to show that GTEC's proposal as modified by this order would be anticompetitive. After the resolution of the forthcoming Rulemaking on ONA and during the period of interim approval of GTEC's service, we will be in a better position to determine whether the conditions we have imposed are sufficient to prevent anticompetitive effects.

IT IS FURTHER ORDERED that:

5. Rehearing of D.91-04-024 as modified herein is denied.

This order is effective today.

Dated September 6, 1991, at San Francisco, California.

I abstain.

G. MITCHELL WILK  
Commissioner

PATRICIA M. ECKERT  
President

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