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Decision 95-09-003 September 7, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Citizens Utilities Company of)
California (U 87 C) and GTE)
California Incorporated (U 1002 C))
for authority under Section 851 for)
GTEC to sell to CUCC certain of its)
property, in accordance with an)
Asset Transfer Agreement dated)
May 18, 1993.)

Application 93-07-039
(Filed July 22, 1993)

ORIGINAL

In the Matter of the Application of)
Citizens Utilities Company of)
California (U 87 C) to restructure)
intrastate rates and charges, and to)
implement a New Regulatory Framework)
for telephone service furnished)
within the State of California.)

Application 93-12-005
(Filed December 15, 1993)

Order Instituting Investigation into)
the rates, charges, service,)
practices and regulation of Citizens)
Utilities Company of California.)

Investigation 94-02-020
(Filed February 16, 1994)

INTERIM OPINION

By ruling dated March 1, 1994, Application (A.) 93-07-039 was divided into two phases. Phase I issues were decided in Decision (D.) 94-09-080, as modified by D.94-11-014.

Phase II was consolidated with A.93-12-005 and Investigation 94-02-020, the pending general rate case and new regulatory framework (NRF) proceedings for Citizens Utilities Company of California (CUCC). Issues reserved for Phase II are the amount of any gain on sale accruing to GTE California Incorporated (GTEC) from its sale of assets to CUCC, any necessary adjustment to GTEC rates due to any gain on sale, and the revenue requirement and

ratemaking effects on CUCC of its acquisition of the GTEC properties.

This decision addresses the Phase II GTEC-related issues of the amount of GTEC's gain on sale and any necessary adjustment to GTEC rates. A separate decision will address all CUCC general rate case issues, including the revenue requirement and ratemaking effects on CUCC of the acquisition.

With respect to the GTEC-related Phase II issues, D.94-09-080 concludes that:

"The disposition of GTEC's gain on sale of exchange to Citizens should be governed by the principles of the new regulatory framework (NRF) for local exchange telephone companies, as modified by GTEC's NRF 92 Review decision." (Mimeo., p. 24, Conclusion of Law 3.)

As a result of GTEC's NRF 92 Review decision (D.93-09-038), shareholders retain 100% of earnings up to a ceiling rate of return of 15.5%. Thus, to the extent the gain on sale increases earnings, GTEC shareholders keep 100% of the gain reflected in earnings up to a rate of return of 15.5%. If the gain on sale causes earnings to exceed 15.5% rate of return, 100% of the gain reflected in earnings above 15.5% would be realized by ratepayers. Earnings results will be presented by GTEC in an advice letter filed pursuant to the NRF procedure, and rates will be adjusted accordingly. Further, while GTEC is likely to experience a reduction in both costs and revenues due to the sale, we determined that no adjustment to GTEC rates should be authorized. (See D.94-09-080, mimeo., p. 16.)

In light of D.94-09-080, parties were asked to identify any issues which should be addressed in Phase II regarding GTEC's gain on sale and rates. No party identified any issue. We agree that no Phase II issues remain regarding GTEC's gain on sale and rates. A.93-07-039 should be closed with respect to these issues.

Ordering Paragraph 2 of D.94-09-080 provides that CUCC shall proceed with divestiture in the event the Commission imposes rate impacts or conditions in the Phase II decision which either GTEC or CUCC is unwilling to accept. While Phase II is closed with respect to the GTEC gain on sale and rate adjustment issues, Phase II remains open with respect to the revenue requirement and ratemaking effects on CUCC. The requirement for divestiture remains until all Phase II issues are decided.

Findings of Fact

1. No issues remain regarding the amount of GTEC's gain on sale or any necessary adjustment to GTEC rates due to the gain on sale.

2. The A.93-07-039 Phase II issue regarding the revenue requirement and ratemaking effects on CUCC will be decided in a separate decision in CUCC's general rate case proceeding.

Conclusion of Law

Phase II of A.93-07-039 should be closed with respect to the issues of GTEC's gain on sale and rates.

INTERIM ORDER

IT IS ORDERED that Application 93-07-039 is closed with respect to the amount of any gain on sale accruing to GTE California Incorporated (GTEC) from its sale of assets to Citizens Utilities Company of California and any necessary adjustment to GTEC rates due to any gain on sale.

This order is effective today.

Dated September 7, 1995, at Los Angeles, California.

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
Commissioners

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

Wesley Franklin
Acting Executive Director