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Decision 96-06-023, June 6, 1996
BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Alternative Regulatory Frameworks for Local Exchange Carriers.) 1.87-11-033

(Filed November 25, 1987)

Application 85-01-034

Application 87-01-002
And Related Matters.) 1.85-03-078

Case 86-11-028
1.87-02-025

Case 87-07-024

OPINION

This decision resolves the Petitions for Modification of Decision (D.) 96-02-023 filed by GTB California (GTEC) on March 12, 1996 (March 12 Petition) and April 17, 1996 (April 17 Petition).

We have determined that GTEC's requests for modification are reasonable and should be granted.

In D. 96-02-023 we resolved challenges contained in several applications for rehearing of D. 94-09-065, our decision concluding Phase III of the above captioned proceeding, the implementation rate design (IRD) phase. Among the items addressed in that decision was the application of adopted toll and switched access elasticity estimates.

It was determined in D. 96-02-023 that the elasticity estimates for GTEC were applied in D. 94-09-065 to tariffed rates for toll and switched access services. This was inconsistent with the treatment of Pacific Bell and erroneous. We determined that the adopted elasticity estimates should be applied to actual rates for these services. We

implemented this revision by Paragraph 3 of Appendix A which reads:

GTEC also filed a motion on March 13, 1996 to accept the late-filed petition and motion of March 13, 1996. The March 13 petition and motion were only late-filed in the sense that GTEC had requested in its request for an extension of time to comply with D. 96-02-023 that it would file its petition on March 11 and the request for extension of time was granted pursuant to Rule 47 petition for modification must be filed within one year of the date of the decision for which modification is sought or explanation given as to why the petition could not be filed in that time. (Rule 47(b)).

MARK HORRIG

"3. Ten days after the effective date of this order, GTEC shall file an advice letter (A.L.) with the Commission Advisory and Compliance Division (CACD) adjusting GTEC's current A-38 surcharge/surcredits, consistent with the directions contained in Appendix A to this order. The A.L. shall include a proposal to refund a one time revenue adjustment for the period January 26, 1995 to January 31, 1996.

On February 23, 1996, GTEC filed a motion requesting a stay of those provisions of

D. 96-02-023 concerning the A-38 tariff adjustments, noting its perception that calculation errors had occurred and announcing that it intended to subsequently file a petition for modification of D. 96-02-023.

On the same date GTEC sent a letter to the Commission's Executive Director requesting an extension of time pursuant to Rule 48(b) of the Commission's Rules of Practice and Procedure (Rule) for implementing these rate

adjustments. GTEC noted in its motion that it would establish an interest-bearing memorandum account to track revenues that would otherwise be refunded. GTEC's request for extension of time was granted by the Executive Director in a letter of March 6, 1996.

On March 11, 1996, the Commission's Division of Ratepayer Advocates (DRA)

filed an opposition to GTEC's February 23 motion. DRA believed it reasonable for GTEC to establish a memorandum account to track revenues and refunds in the event an error in calculating revenues were demonstrated. However, DRA did not at that time accept GTEC's contention that there were calculation errors in D. 96-02-023 and did not believe the customer refund established by that decision should be delayed.

On March 12, 1996, GTEC filed its March 12 Petition "To Correct Calculations Contained on Appendix A-1 of Decision No. 96-02-023," along with a motion to place Exhibits A and B to the appended declaration of Donald C. Eachus under seal.¹ By ruling

¹ GTEC also filed a motion on March 13, 1996, to accept the late-filed petition and motion of March 12. The March 12 petition and motion were only late-filed in the sense that GTEC had represented in its request for an extension of time to comply with D. 96-02-023 that it would file its petition on March 11 and the request for extension of time was granted premised on that representation. Pursuant to Rule 47 petitions for modification must be filed within one year of the date of the decision for which modification is sought or explanation given as to why the petition could not be filed in that time. (Rule 47(d).)

issued March 27, 1996, the Law and Motion Administrative Law Judge granted GTEC's request to place the declaration of Donald C. Bachus exhibits under seal.

In its March 12 Petition GTEC specified its allegations of calculation error in D. 96-02-023. GTEC estimated correction of these errors would result in an annual revenue increase of approximately \$26 million instead of the revenue decrease of \$12.6 million reflected in Appendix A-1 of D.96-02-023.² GTEC's analysis compared the revenue calculation methodology utilized in developing Appendix A-1 of D. 96-02-023 with that contained in the original IRD decision, D. 94-09-065. The error alleged by GTEC occurred in the process of correcting the proper application of the elasticity factor to measured toll service (MTS) revenues. (March 12 Petition at 2.) GTEC states its belief that an error in revenue reconciliation for MTS service occurred as the result of the unintended inclusion of the surcredit in GTEC's pre-IRD MTS revenues in the process of calculating the impact of stimulation caused by the use of actual rates rather than tariffed rates. (March 12 Petition at 5.) GTEC goes on to explain the calculation chain that led to the ultimate error in revenues. In part, the adjustment made to the MTS revenue calculation and resulting reconciliation had the effect of counting the impact of the surcredit twice, once as part of the revenue change in the A-38 surcharge/surcredit line and a second time when the model calculated the pre-IRD revenues. (March 12 Petition at 6-7.) GTEC asks that the resulting revenue adjustment be made for the period back to January 26, 1995, in accordance with our holding in D. 96-02-023/mimeo at page 11.²

On March 27, 1996, DRA filed a response to March 12 Petition and concurred with GTEC that Appendix A-1 of D. 96-02-023 contains a significant revenue error, concurring that the error resulting in applying a surcharge against intraLATA toll rates, rather than a surcredit. As DRA states:

The basis for GTEC's request relates to the premise of the IRD decision. D. 94-09-065. GTEC correctly notes that pursuant to the IRD decision D. 94-09-065, these revenue reconciliations will be effective as of January 26, 1995. D. 96-02-023, mimeo at 11): "Ten days after the effective date of this order, GTEC shall file an advice letter (A.L.) with the Commission Advisory and Compliance Division (CACD) adjusting GTEC's current A-38 surcharge/surcredits, consistent with the directions contained in Appendix A to this order. The A.L. shall include a proposal to refund a one time revenue adjustment for the period January 26, 1995 to January 31, 1996.

² Pursuant to D. 95-01-047, these revenue reconciliations will be effective as of January 26, 1995. D. 96-02-023, mimeo at 11): "Ten days after the effective date of this order, GTEC shall file an advice letter (A.L.) with the Commission Advisory and Compliance Division (CACD) adjusting GTEC's current A-38 surcharge/surcredits, consistent with the directions contained in Appendix A to this order. The A.L. shall include a proposal to refund a one time revenue adjustment for the period January 26, 1995 to January 31, 1996.

Thus, both the Commission, in D. 96-02-023, and DRA, in its response to GTEC's motion to stay, were incorrect. GTEC's revenue base was erroneously calculated in D. 94-09-065, and as a consequence, the stimulation-of-demand factor was applied to an erroneous base. (DRA Response at 4.)

DRA also concurs with GTEC that GTEC's revenues should be adjusted effective back to January 26, 1995. (DRA Response at 5.)

We have reviewed GTEC's analysis and conclude that their allegation of error is correct and that the revenues established in Appendix A-1 should be revised as contained in Appendix A-1 (Revised) appended to this decision.

Subsequent to the filing of the various pleadings and responses discussed above, on April 17, 1996, GTEC filed a second petition to modify D. 96-02-023. In the April 17 Petition, GTEC requests a modification to Paragraph 4 of Appendix A of that Decision. Appendix A contains the specific procedural steps for implementation of the rate adjustments resulting from the various calculation and rate changes made in D. 96-02-023. Paragraph 4 of Appendix A reads as follows:

"4. Pursuant to D. 95-01-047, the above described rate design reconciliations will be effective as of January 26, 1995. Pacific and GTEC will apply these changes to their respective access and toll Rule 33 and A-38 surcharges/surcredits in a manner that allocates the individual service revenue changes resulting from this order to the appropriate toll and access surcredit/surcharge categories."

GTEC filed the April 17 Petition in anticipation of recovering additional revenues from the correction of the error identified in its March 12 Petition. GTEC's April 17 Petition seeks to provide it the opportunity to apply the resulting surcharge on all of its surchargable services, not just toll and access services. (April 17 Petition at 2.)

The basis for GTEC's request relates to the premise of revenue rebalancing adopted in the IRD decision, D. 94-09-065. GTEC correctly notes that pursuant to the IRD decision revenue shortfalls resulting from the implementation of the then newly established intra-LATA toll rates and corresponding discount calling plans were to be recovered from offsetting adjustments to revenues and rates for other services. Since the revenues sought

by the March 12 Petition are part of the revenue shortfall which, had it been identified at the time of the IRD decision, would have been recovered by a surcharge applicable to all of its surchargeable services, GTEC reasons that such a result is also appropriate here. (April 17 Petition at 3.) Correspondingly, GTEC contends that if any resulting surcharge were made applicable only to its toll and/or access services, the resulting rates would have a negative impact on GTEC's competitive position in the marketplace, by making the aggregate effect of basic rate and surcharge so significant as to eliminate any competitive discounts that were initially adopted. (Id. at 4.)

On May 8, 1996, AT&T Communications of California (AT&T) filed a response in support of GTEC's April 17 Petition. AT&T concurs with GTEC's request to modify Paragraph 4 of Appendix A of D. 96-02-023. AT&T contends that to apply the surcharge only to toll and switched access services reintroduces the error our decision on GTEC's application for rehearing was intended to correct. AT&T also contends it is contradictory to calculate a reduction in revenues for toll and access services and then make up that reduction by a surcharge on the same services. (AT&T Response at 2.)

On May 15, 1996, DRA also filed in support of GTEC's April 17 Petition and concurs with the arguments provided by AT&T's response. As DRA states:

In IRD, DRA actively opposed a proposal to apply a surcharge to only toll and toll-like services as the means to recover revenues lost from reducing toll rates. It made no sense then to lower a rate and recoup the money by surcharging that very same service. It would make no better sense today. The only reasonable way for GTEC to recover the additional revenues to which it is entitled, pursuant to D. 96-02-023, is to do what the Commission did in D. 94-09-065 - spread recovery of those revenues among all services." (DRA Response at 3-4.)

We concur with GTEC that the appropriate way to recover the additional revenues is to apply the appropriate surcharge to all services, not just toll and access services.

In conclusion, we will grant the relief requested in both the March 12 and the April 17 petitions for modification filed by GTEC. Appendix A (GTEC) and Appendix A-1 (revised) to this order contain the corrected procedure and the corrected revenue requirement respectively for GTEC to implement.

Findings of Fact 1. On February 23, 1996, GTEC filed a motion requesting a stay of those provisions of D. 96-02-023 concerning the A-38 tariff adjustments and by letter requested the Executive Director to extend the time for compliance to implement the corresponding rate adjustments.

2. GTEC's extension of time request was granted by the Executive Director on March 6, 1996.

3. DRA filed an opposition to GTEC's motion on March 11, 1996.

4. On March 12, 1996, GTEC filed a petition to modify D. 96-02-023 to correct alleged calculation errors contained in Appendix A4.

5. On March 27, 1996, DRA filed a response to the March 12 Petition, concurring with GTEC that an error had occurred and that adjustment of the error should be back to January 26, 1995.

6. On April 17, 1996, GTEC filed a second petition to modify D. 96-02-023, requesting a modification to Paragraph A of Appendix A seeking authority to apply the surcharge resulting from correction of the alleged error in Appendix A4 to all surchargeable services, rather than being limited to toll and access services.

7. On May 8, 1996, AT&T filed a response in support of GTEC's April 17 Petition.

8. On May 15, 1996, DRA filed a response in support of GTEC's April 17 Petition.

Conclusions of Law

1. GTEC's March 12 Petition should be granted to correct the identified calculation error as discussed in this decision.

2. GTEC's April 17 Petition should be granted to correct the manner in which the applicable surcharge should be applied, applying the surcharge to all surchargeable services, rather than just toll and access service.

3. GTEC should implement the changes in its revenues as identified in Appendix A-1 (revised) utilizing the procedures and schedule contained in Appendix A (GTEC).

ORDER

IT IS ORDERED that:

1. The March 12, 1996, Petition of GTE California (GTEC) to Correct Calculations Contained on Appendix A-1 of Decision (D.) 96-02-023 is granted consistent with the discussion in this order.
2. The April 17, 1996, Petition of GTEC to Modify Appendix A to D. 96-02-023 is granted consistent with the discussion in this order.
3. Appendix A of D. 96-02-023 is modified as shown in Appendix A (GTEC) attached to this order.
4. Appendix A-1 of D. 96-02-023 is modified for GTEC as shown in Appendix A-1 (GTEC) attached to this order.

This order is effective today.

Dated June 6, 1996, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

Commissioner Daniel Wm. Fessler,
being necessarily absent,
did not participate.

Appendix A
(GTEC)

Consistent with the modifications ordered herein, GTEC shall be directed to implement this order as follows:

1. 15 days after the effective date of this order, GTEC shall file an Advice Letter (A.L.) with CACD adjusting its A-38 Surcharge/Surcredit by a one time adjustment of 27.1 million dollars on an annual basis; effective from January 25, 1995 and ending on June 30, 1996. GTEC's \$27.1 million dollar adjustment and corresponding A.L. shall include a \$4.82 million dollar reduction in IRD implementation costs as required by Resolution T-15696.
2. GTEC's A.L. shall also make an ongoing adjustment of \$27.1 million dollars on an annual basis to be effective July 1, 1996.
3. The adjustments ordered herein will correspond to GTEC's Revenue Rebalancing Summary (Appendix A-1 modified & attached.)

(END OF APPENDIX A)

Appendix A-1 (revised)
 Revenue Rebalancing Summary
 GTE California

Pet. Modify D.96-02-023

<u>Service Category</u>	<u>Revenue Change</u>
1 A-1 Basic Exchange Services	\$283,821,731
2 A-2 CentraNet Service	\$7,372,812
3 A-4 Exchange Mileage	\$0
4 A-6 Private Branch Exchange Service	\$166,887
5 A-9 Inside Wire Maintenance Service	\$0
6 A-12 Farmer Line Service	\$5
7 A-13 Jt. User Service & Shared System Listing Svc	\$0
8 A-17 Interexchange Receiving Service	\$85,560
9 A-19 Foreign Exchange Service	\$1,007,071
10 A-22 Universal Lifeline Telephone Service	\$21,010,756
11 A-24 Telephone Answering Service	\$64,688
12 A-30 Personal Signaling Service	\$83,730
13 A-31 Line Extension Service	\$0
14 A-38 Surcharge/Surcredit	(\$3,462,820)
15 A-40 Custom Calling Service	\$0
16 A-41 Service Connection, Move & Change	\$7,452,347
17 B-1 Message Toll Telephone Service	(\$185,729,091)
18 B-3 Wide Area Telecommunication & 800 Services	\$19,945,562
19 B-4 Community & Circle Calling Plan	\$18,000,087
20 B-5 Optional Calling Measured Service	(\$11,308)
21 OCP Optional Calling Plan	(\$12,398,607)
22 D&R Return Check Charge	\$236,843
23 C-1 Switch Access Service (excl. CCLC Elimination)	(\$17,871,039)
24 Special Access Service	(\$1,836,436)
25 D-1 Telephone Directory Service	\$9,399,374
26 D-3 Directory Assistance Service	\$8,442,558
27 G-7 Wideband	(\$4,158)
28 G-8 Digital Data Service (DDS/ADN)	(\$983,078)
29 G-11 Alarm Service	\$95,417
30 G-14 Optinet High Capacity Digital Service	\$0
31 H-1 Zone Usage Measurement	\$0
32 P-1 IntraLATA Private Line/Special Access Service	\$38,833,423
33 V-1 Visit Charge	\$43,170
34	
35 SubTotal	\$193,765,484
36	
37 PB/GTEC ZUM ORP	\$3,728,573
38 Net Toll ORP	(\$33,511,756)
39 GTEC Settlement Flash-Cut	(\$123,061,145)
40 CCLC Elimination	(\$72,925,410)
41	
42 SubTotal	(\$225,769,738)
43	
44 Implementation Cost Reduction	\$4,817,814
45	
Total IRD Rate Design Correction	(\$27,186,439)

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(END OF APPENDIX A-1)