

MAR 7 1997.

Decision 97-03-016 March 7, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**ORIGINAL**

In the Matter of the Application of	)
GTE Card Services Incorporated	)
for a Certificate of Public	)
Convenience and Necessity to Operate	)
as a Reseller of Inter- and	)
IntraLATA Telecommunications	)
Services Within the State of	)
California.	)

Application 95-04-006  
(Filed April 4, 1995)

OPINION

Summary

The petition of GTE Card Services Incorporated (GTE-CSI) for relief on restrictions imposed by Ordering Paragraph 17 of Decision (D.) D.95-08-028 is approved.

Background

On August 11, 1995, the Commission issued D.95-08-028 in the matter of the application of GTE-CSI. The authority to operate as a nondominant interexchange carrier (NDIEC) granted there contemplated that GTE-CSI would be able to seek modification of a condition which restricted the exercise of GTE-CSI's authority to provide certain resale telecommunications services within California.<sup>1</sup>

<sup>1</sup> The condition was one that GTE-CSI agreed to in exchange for AT&T-C and other interested parties agreeing to withdraw their protests.

On October 25, 1996, we issued D.96-10-051 denying petitions by GTE-CSI and AT&T Communications of California, Inc. (AT&T-C) to modify D.95-08-028. However, we permitted GTE-CSI to renew its petition at such time as it was prepared to provide specific details for marketing prepaid calling cards through its affiliate GTE California Incorporated (GTEC) as required by Ordering Paragraph 17 of D.95-08-028.

GTE-CSI filed its renewed petition on October 28, 1996. No protests were filed.

Discussion

GTE-CSI asks us to delete Ordering Paragraph 17 of D.96-08-028, which provides:

Applicant shall not, in the exercise of the authority granted hereby, market prepaid calling cards through GTE California Incorporated (GTEC); provided, however, that should the consent decree in United States v. GTE Corporation (D.C. Cir. 1984) 603 F.Supp. 730 be dissolved or modified as it relates to GTEC (as a GTE Operating Company as defined therein) by the federal courts or the United States Department of Justice such that applicant would be permitted thereunder to market such cards through GTEC, applicant may petition the Commission for relief from this restriction and for approval of its subsequent marketing plan.

GTE-CSI correctly points out that Ordering Paragraph 17 contemplated a change in the restrictions imposed on its operating authority in the event that the consent decree mentioned there were no longer operative. GTE-CSI cites Section 601(a)(2) of the Telecommunications Act of 1996 (Telecom Act) to establish that the decree is now void and of no force and effect. GTE-CSI has also now submitted its marketing plan, but does not ask for its approval. Instead, GTE-CSI asks us to delete

Ordering Paragraph 17 entirely, which would obviate the need for approval of its marketing plan.

We think that a fair reading of Ordering Paragraph 17 is that the Commission would provide the opportunity for interested parties to object to GTE-CSI's initial marketing plan, and if we found the marketing plan reasonable in light of such objections, that we would permit GTE-CSI to market prepaid calling cards through GTEC or partially lift the restriction. Otherwise, the restriction would continue in force. (See Conclusion of Law 3 of D.96-10-051.)

The Commission has adopted a number of rules governing GTEC affiliate transactions, which should provide adequate oversight of interaction between GTEC and GTE-CSI. The rules were first adopted in D.88-08-061, and later modified in D.89-10-031 which imposed additional affiliate transaction requirements on GTEC. Commission Resolution T-15950 provides a complete list of affiliate transaction rules for GTEC. This decision does not relieve GTEC from its obligation to comply with the Commission's affiliate transaction rules.

#### Findings of Fact

1. On August 11, 1995, the Commission issued D.95-08-028 in the matter of the application of GTE-CSI. The authority to operate as an NDIEC granted there contemplated that GTE-CSI would be able to seek modification of a condition which restricted the exercise of GTE-CSI's authority to provide certain resale telecommunications services within California.

2. The Telecom Act removed the restrictions of the consent decree referred to in Ordering Paragraph 17 of D.95-08-028.

3. GTE-CSI filed its petition to modify D.95-08-028 on October 28, 1996. No protests were filed.

4. GTE-CSI's marketing plans for the sale of prepaid calling cards to and through GTEC are not unreasonable.

5. Commission Resolution T-15950 provides a complete list of affiliate transaction rules for GTEC.

Conclusions of Law

1. No public hearing is necessary.
2. GTE-CSI has satisfied the conditions of Ordering Paragraph 17 of D.95-08-028 necessary to request relief from the restriction on marketing of its prepaid calling cards.
3. The restriction on marketing of GTE-CSI's prepaid calling cards in Ordering Paragraph 17 should be terminated.
4. The affiliate transaction rules adopted in D.88-08-061 and D.89-10-031 remain in effect for all interaction between GTEC and GTE-CSI.
5. The following order should be effective immediately.

O R D E R

IT IS ORDERED that the petition of GTE Card Services Incorporated for relief from the restriction imposed by Ordering Paragraph 17 of Decision 95-08-028 is granted, and GTE Card Services Incorporated may market its card services through GTE California Incorporated. Application 95-04-006 is closed.

This order is effective today.

Dated March 7, 1997, at San Francisco, California.

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