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Decision 98-04-066 April 23, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

Order Instituting Rulemaking on the
Commission's Own Motion into Competition
for Local Exchange Service.

R.95-04-043
(Filed April 26, 1995)

Order Instituting Investigation on the
Commission's Own Motion into Competition
for Local Exchange Service.

I.95-04-044
(Filed April 26, 1995)

O P I N I O N

Introduction

In Decision (D.) 97-10-029, we adopted a modified approach for the cost recovery for the provision of service-provider interim number portability (INP) to conform to the rules adopted by the Federal Communications Commission (FCC). In this decision, we direct parties to provide the requisite data to implement the modified approach to INP cost recovery adopted in D.97-10-029, as part of our ongoing program to promote the development of a competitive local exchange market. We also address the issue of INP provisioning through alternative technologies and the issue of how switched-access revenues associated with ported numbers is to be shared.

I. Cost Recovery of INP on a Competitively Neutral Basis

A. Background

In our initial rules for local exchange service competition applicable to the service territories of Pacific Bell (Pacific) and GTB California Incorporated

(GTEC), we determined that service-provider INP should be implemented.¹ With the advent of competition for local exchange service, it is important that consumers retain use of their existing telephone numbers when changing providers of local telephone service. Service-provider INP grants competitive local carriers (CLCs) the ability to offer prospective retail customers the opportunity to retain the use of their existing telephone numbers. This ability facilitates the development of a competitive market.

In D.96-04-052, we authorized INP as an interim measure until permanent number portability could be implemented. We adopted wholesale rates for Pacific's Directory Number Call Forwarding (DNCF) service and GTEC's Service Provider Number Portability service (SPNP). DNCF is Pacific's designation and SPNP is GTEC's designation for an INP wholesale service to CLCs based on the end-office-switch functionality that is also used to provide retail Remote Call Forwarding (RCF) service. Pacific's and GTEC's current tariffs place the entire charge for INP directly on those CLCs whose customers port their telephone numbers.

Subsequent to the issuance of D.96-04-052, the FCC, in conformance with the 1996 Telecommunications Act (Act), adopted guidelines that the states must follow in authorizing cost recovery for currently available number-portability methods.²

¹ Initial Local Competition Rules D.95-07-054 (Initial Rules), Appendix A, p. 1, in the Competition Rulemaking (R.) 95-04-043 and Investigation (I.) 95-04-044.

² In the Matter of Telephone Number Portability, CC Docket No. 95-116, First Report and Order And Further Notice Of Proposed Rulemaking, released July 2, 1996. (Portability Order.)

Specifically, Section 252(e) of the Act states that:

The cost of establishing...number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the [FCC].

The FCC concluded that Section 251(e)(2) of the 1996 Act mandates a departure from general cost-causation principles, whereby the purchaser of a service must pay for the cost of providing the service. The FCC expressly ruled that:

With respect to number portability, Congress has directed that we depart from cost causation principles if necessary in order to adopt a "competitive neutral" standard, because number portability is a network function that is required for a carrier to compete with the carrier that is already serving a customer. Depending on the technology used, to price number portability on a cost causative basis could defeat the purpose for which it was mandated. (Portability Order, at & 131.)

The FCC ruled that any cost-recovery mechanism that requires new entrants to bear all of the costs of portability does not comply with Section 252(e) of the 1996 Act. Portability Order, at & 138 ("imposing the full incremental cost of number portability solely on new entrants would contravene the statutory mandate that all carriers share the cost of number portability").

In D.97-10-029, we concluded that the most acceptable method under the Portability Order for recovery of INP costs was for each carrier to share in the recovery of INP costs based on the ratio of the carrier's active end-user telephone numbers to the total number of active telephone numbers in the service area. We concluded that this method best meets the FCC's test of competitive neutrality since the INP cost burden would not be borne solely by carriers in relation to the specific numbers which they ported. Instead, each facilities-based LEC and CLC

that utilizes the network would bill for recovery of INP costs in proportion to the quantity of telephone numbers they each serve.

We further modified D.96-04-052 with respect to the methodology used to determine the cost of INP. In D.96-04-052, we had used direct embedded cost (DEC) as the basis for setting INP rates, noting that INP cost studies based on Total Service Long-Run Incremental Cost (TSLRIC) had not yet been completed. However, the FCC Portability Order requires that the recoverable costs of INP are incremental. Moreover, in D.96-08-021 in the Open Access Network Architecture and Development (OANAD) proceeding (R.93-04-003), we approved TSLRIC studies for the INP services offered by Pacific and GTEC. For Pacific, we specifically approved a TSLRIC study of DNCF service. We also adopted TSLRIC for direct inward dialing (DID)-based INP subject to further refinement pending the outcome of workshops held pursuant to D.96-04-052 to address more comprehensive means of providing DID-based INP. Finally, we approved TSLRIC for GTEC's SPNP service, but deferred ruling on GTEC's proposal to use retail DID as a proxy for DID-based INP.

In order to quantify a cost-recovery factor for INP services based on the approach adopted in D.97-10-029, we must determine the TSLRIC per active telephone number. In D.96-08-021, we assumed only carriers actually porting a number would pay the cost of the INP service. Under the revised calculation of costs using the method adopted in D.97-10-029, we intend to allocate the TSLRIC of INP among all facilities-based CLCs, as well as Pacific and GTEC, based on total active end-user telephone numbers assigned to their end-use customers.

To compute this revised cost-recovery factor requires measures of (1) the total quantity of end-user telephone numbers in service for a defined period of time for each carrier, (2) the total quantity of ported numbers, and (3) the total pool of costs on a TSLRIC basis for all INP activity performed based on the total

quantity of ported numbers for the defined period of time which are subject to allocation. We shall collect this data from certificated carriers. After the count of active telephone numbers and ported numbers has been reported to us by carriers, we shall aggregate the individual data to determine the total active telephone numbers over which recoverable INP costs would be allocated.

We shall then develop an applicable end-user-surcharge amount by dividing the total pool of recoverable INP costs for all ported numbers by the total quantity of active end-user telephone numbers. The resulting unit-cost amount as determined by the Commission would represent the end-user surcharge which each carrier would bill to its retail customers. Once final incremental costs and shared-and-common cost elements are determined in the OANAD proceeding, we shall authorize a true-up of the applicable INP costs. In a subsequent order, we shall address the procedures for implementing the INP true-up, including the handling of any retrospective adjustments dating back to the inception of the INP memorandum accounts as well as prospective adjustments for ongoing INP costs. In that order, we shall also address any necessary transition procedures to eliminate the LECs' filed tariff charges and reflect the new cost-recovery method adopted herein.

Before ordering carriers to provide the required data to determine the INP cost-recovery surcharge, we provided all parties an opportunity for comment on the most efficient and least controversial manner in which to develop the requisite measures of active numbers, ported numbers, and average usage per ported number to derive an applicable INP cost-recovery surcharge. We directed the assigned Administrative Law Judge (ALJ) to solicit comments concerning how the data inputs to the surcharge should be derived and updated in the following year, and subsequently thereafter.

An ALJ ruling was issued on October 28, 1997, soliciting parties' comments on these issues. Comments were filed on November 21, 1997 with replies on December 8, 1997. Comments were filed by Pacific, GTEC, a group of CLCs referred to as the Joint Commenters,³ WorldCom Technologies, Inc. (WorldCom), GST Pacific Lightwave, Inc. and GST Telecom California, Inc. (GST), and joint comments by Teleport Communications Group, ICG Telecom Group, Inc., and NEXTLINK California, LLC.

B. Discussion

1. Measurement of Ported Numbers

We concluded in D.97-10-029 that an annualized estimate of active end-user telephone numbers for the 12 months beginning October 1, 1997 should be used for recomputing an INP surcharge, based on estimates to be provided to the Commission by each carrier with active telephone numbers. In the case of a CLC that provides unbundled switching service, we required the CLC to report those telephone numbers which reside within its switch as its own telephone numbers. Since CLC resellers do not have any facilities of their own nor any assigned telephone numbers, we concluded that CLCs offering only resale service should not be included among the CLCs providing reports of active telephone numbers. We recognized that some CLCs offer service in part using their own facilities and in part by purchasing the incumbent LEC's services. In the case of those CLCs, they were to report the number of active lines which are

³The Joint Commenters comprise the following parties: AT&T Communications of California, Inc. (AT&T), MCI Telecommunications Corporation (MCI), Sprint Communications Company L.P. (Sprint), and Time Warner AxS of California, L.P. (Time Warner).

served using the CLC's own facilities, but to exclude those lines for which they offer service as a reseller.

Likewise, we concluded in D.97-10-029 that the incumbent LECs should exclude resold lines in reporting the quantity of active telephone numbers subject to the INP surcharge since no resold lines use ported numbers. Since wireless carriers are not obligated to provide INP services, we also determined to exclude wireless carriers in determining the count of active telephone numbers.

Most parties disagree with the use of estimates to measure the quantity of telephone numbers to use in the INP calculation. Instead, parties generally support the use of historical data covering a recent time period in order to minimize controversy and complexity in making the calculation. GTEC does not oppose the use of historical data to reduce controversy, but notes that use of historical data may overstate the INP surcharge beyond the first quarter of 1998 as permanent number portability is implemented and replaces INP.

GTEC recommends that the surcharge be trued-up and recalculated each quarter with updated data on active telephone lines to help improve the accuracy of the carriers' projections and minimize the size of the surcharge adjustments. The Joint Parties object to quarterly revisions as being unduly burdensome and believe annual revisions would be adequate.

Parties also disagree as to which categories of telecommunications service providers should be included in the count of active telephone lines. WorldCom agrees with GTEC that exclusion of resold telephone lines in a count of active telephone numbers subject to an INP cost-recovery surcharge is inappropriate. WorldCom and GTEC argue that resold lines are active telephone lines and their status does not change because the end user's relationship is with a reseller rather than a facilities-based LEC. GTEC believes also that telephone

numbers assigned to interexchange and wireless carriers should be included in the count to satisfy the competitively neutral criteria of Section 252(e).

We agree with parties' general consensus that the telephone line count should be based on historic data for a recent recorded period of time, rather than upon estimated data. The use of recorded data will result in the least controversy and administrative burden in deriving a cost-recovery allowance. We therefore direct all ILECs and facilities-based CLCs to provide to the Commission a count on a recorded basis as of the end of year 1997 of their total end-user telephone lines (including resold lines) and total ported numbers. The information should be filed under seal with the Commission's Docket Office within 30 days of the effective date of this order with a separate copy mailed to the Commission's Telecommunications Division, Attention: John Leutza, Director. The information will be treated confidentially under the provisions of General Order 66-C and Public Utilities (PU) Code § 583. Parties submitting data do not need to file a separate motion for a protective order.

We conclude that quarterly true-ups of the number of active telephone lines would be unduly burdensome. We shall instead call for annual true-ups of the INP surcharge based on year-end updated data on the number of active telephone lines.

In D.97-10-029, we directed carriers to exclude resold lines from the INP calculation because INP does not apply to resold service. Customers transferring to a CLC reseller continue to retain their existing telephone number as if they had remained with the original facilities-based carrier, and no porting of the number is necessary. Upon review of parties' comments, however, we conclude that it is appropriate for the underlying facilities-based carrier to include resold lines in its count of total active end-user lines. We previously directed facilities-based carriers to count all active lines, irrespective of whether

the line utilized INP service or not. Consistent with this approach, we conclude that there is no basis to treat a customer line served by a CLC reseller differently from a customer line which is served by the ILEC. Since our goal is to allocate INP costs on a competitively neutral basis without regard to direct cost-causation principles, the resold lines should be included along with other active lines in determining the basis for allocating INP cost recovery. Therefore, it is reasonable for the underlying facilities-based carrier to include its resold lines in the count of its total active lines. In order to avoid double-counting, however, CLCs still should not report any lines for which they offer service as resellers. In the case, however, of those lines which the CLC serves through the purchase of the LEC's unbundled network elements (UNEs), e.g., loops, switching, etc., the lines should be included in the count provided by the CLC.

We shall continue to exclude telephone numbers assigned to wireless carriers from the count since they do not provide wireline local service and are not obligated to provide INP service. Therefore, we shall not include wireless carriers' numbers in determining any INP cost recovery. Likewise, we shall continue to exclude NDIECs from the reporting requirement since they do not provide local service.

2. TSLRIC versus TELRIC Cost Studies for Deriving INP Surcharge

Pacific believes that its TSLRIC for INP previously approved is appropriate for deriving an INP end-user surcharge. GTEC submitted several revisions of the TSLRIC cost studies reflecting the changes required, including changes to the capital costs, which impact the INP cost studies. The Commission has not yet rendered a ruling on GTEC's compliance filing. Therefore, GTEC's TSLRIC for INP studies have not been approved in their entirety.

In compliance with D.96-08-021, GTEC submitted new cost studies on September 15, 1997, based on the Total Element Long Run Incremental Cost

(TELRIC) methodology. GTEC believes that these TELRIC studies would provide a more accurate basis for calculating the INP end-user surcharge than would its earlier TSLRIC studies.

The Commission's review of GTEC's cost studies has not yet been concluded, and a decision adopting a revised cost study for GTEC is still sometime in the future. It would be premature to use GTEC's TELRIC for INP cost-recovery purposes at this time prior to its adjudication in OANAD. As an interim measure, we shall therefore use GTEC's TSLRIC as referenced in D.96-08-021 for deriving an INP cost-recovery surcharge.¹ For Pacific, although we approved a TELRIC study in D.98-02-106, we shall still use the TSLRIC for INP cost-recovery purposes to be consistent with our treatment of GTEC, pending the determination of final prices in OANAD. The final true-up of the INP memorandum account will reflect any necessary adjustments to recognize the final costs for INP to be adopted in OANAD.

3. Usage Costs

Joint Commenters believe that an estimate of average usage per ported number is unnecessary and inappropriate to include in an INP surcharge, arguing there is no reliable basis to estimate INP usage, given the minimal use of INP to date as a wholesale service, and that the Commission has not reached a final decision on whether developing usage costs for INP is even appropriate in the OANAD proceeding. The Joint Commenters believe that INP cost recovery should therefore be based only on the total number of ported numbers, multiplied by the nonrecurring and fixed monthly recurring costs of TSLRIC approved in the OANAD proceeding, possibly with a true-up provision if the

¹ Such costs will be based on the TSLRIC for INP that was filed in Advice Letter (AL) 8236 as modified by the Commission's resolution of AL 8236.

Commission ultimately determines in OANAD that there is a calculable usage cost associated with INP.

We previously stated in D.97-10-029 that an allowance for usage should be included in the data supplied by carriers used to derive an INP surcharge. Given the lack of adequate historical data regarding INP usage, however, we conclude that it is not feasible to include a usage charge in the INP surcharge. We shall therefore not require carriers to submit usage data at this time. In the event that we subsequently adopt a usage cost associated with INP, we will determine what adjustment to previously billed amounts may be appropriate as part of our true-up of INP charges to account for the usage component.

4. Allowance for Shared and Common Costs

Although the TSLRIC amounts approved for the LECs do not include recovery of shared and common costs (since they have not yet been determined in the OANAD proceeding) we concluded in D.97-10-029 that INP prices should provide compensation for shared and common costs. We solicited comments from parties concerning an appropriate interim allowance for shared and common costs, subject to true-up for any differences between the interim allowances and those approved in OANAD. The use of an interim allowance for shared and common costs was intended avoid any undue distortion in the interim INP rate and minimize the amount of any true-up.

Joint Commenters oppose applying any markup for shared and common costs to the TSLRIC of INP at this time, since the Commission has yet to determine the percentage markup for shared and common costs for unbundled network elements that CLCs purchase from Pacific and GTEC. Given the low volume of ported numbers, the Joint Commenters claim there can be no financial

harm to the ILECs from deferring any collection of shared and common costs in conjunction with recovering INP costs.

If the Commission still chooses to apply an interim shared and common cost markup for INP, Joint Commenters recommend that the Commission use the 16% markup that the Commission adopted in the AT&T and MCI arbitrations with Pacific. GST proposes that the Commission adopt an interim allowance for shared and common costs of INP within a range between 10%-22%. GST claims an interim allowance approaching 10% would be a fair representation of a standard common cost factor used nationwide to compensate ILECs in general, and GTEC in particular, for common loop costs, the most closely analogous cost factor available to the Commission on an interim basis.

Pacific believes the 16% markup approved in its arbitrated agreements is appropriate to impose for INP cost recovery on an interim basis. Since a true-up will occur after the completion of the OANAD proceeding, Pacific claims the amount of the interim markup is of comparatively little consequence.

GTEC believes the 22% markup for shared and common costs approved in its arbitration agreements should be applied for INP purposes. GTEC disagrees with GST that the Commission should look to decisions of other state commissions to determine a markup percentage since this completely disregards the Commission's previous work to determine the appropriate markup in California. GTEC argues that the percentages adopted in its arbitration agreements pertain to the costs incurred here in California and must not be ignored in favor of a percentage adopted in another jurisdiction.

Although the determination of a generic allowance for shared and common costs is still pending in the OANAD proceeding, we still hold that an interim allowance is needed for INP purposes in order to minimize any distortions in our interim cost-recovery procedures. For interim purposes, we

shall adopt an allowance for shared and common costs for INP services within Pacific's territory of 16% and within GTEC's territory of 22%. These percentages reflect allowances specific to Pacific and GTEC which were in the record in their respective interconnection arbitrations. While the OANAD proceeding shall determine on a permanent basis what the shared and common cost allowance should be, for interim purposes the allowances previously developed in arbitration proceedings regarding costs for Pacific and GTEC provide the most acceptable allowance, subject to a true-up. No party has offered an alternative allowance which has a more valid basis. The use of shared and common costs derived from companies in other jurisdictions is not reliable since we have no way to determine how similar those companies' operations are to those of Pacific or GTEC.

5. Conclusion

As stated in D.97-10-029, the recovery procedures we implement herein shall apply only to INP and are specifically responsive to the requirements of the FCC Portability Order. These recovery procedures are not precedential with respect to the recovery of other categories of cost such as permanent LNP or other local-competition-implementation costs.

Upon receipt of the data from carriers, Telecommunications Division staff will perform the calculations to derive an INP cost-recovery factor per active telephone line. Separate recovery factors shall be derived for lines in the Pacific and for the GTEC service territories, respectively, based upon the previously submitted TSLRIC data for each ILEC. Carriers serving in both the Pacific and GTEC service areas should provide separate totals of numbers for each area. We shall then issue a subsequent order adopting the appropriate surcharge amounts and authorizing carriers to apply the charge. In the case of resold lines, the underlying ILEC may bill the reseller the surcharge. The reseller may then pass

through the charge to its end-users. Although we shall authorize the INP end-user surcharge uniformly for all carriers as a means of cost recovery, we shall leave it to the discretion of each carrier, including ILECs, as to whether they elect to bill their end-users for the authorized INP surcharge, or not. In our subsequent order establishing the INP surcharge, we shall address any necessary true-up procedures as well as procedures for elimination to the ILECs' previously filed INP tariff charges to implement the revised INP cost-recovery procedures.

II. Use of Direct Inward Dialing (DID) and Other Alternative Network Functionalities for the Provision of INP

A. Background

In D.96-04-052, we also considered proposals for the use of DID functionality as an alternative means of providing INP (referred to as "flex DID") in addition to RCF functionality. Both Pacific and GTEC offer DID as a retail service feature that permits incoming calls to stations served by a PBX to be dialed directly without the need to go through an attendant. As part of the retail DID service, the LECs utilize separate dedicated trunks for routing calls.

In D.96-04-052, we did not reach a final conclusion regarding the feasibility of implementing "flex-DID" for INP without the use of separate dedicated trunks, but directed that a technical workshop be held to determine the feasibility and efficiency of using existing interconnection trunks for provisioning "flex-DID." A workshop was held on May 15, 1996, and a list of outstanding technical issues related to DID-INP was developed. Comments regarding the results of the May 15 workshop were filed on June 10, 1996. By ALJ ruling dated June 11, 1996, a second workshop was scheduled for July 1, 1996 to address remaining outstanding technical issues relating to the use of existing DID network functionality to provide DID-INP service.

Subsequent to the conclusion of the July 1, 1996 workshop, both Pacific and GTEC executed certain interconnection agreements, in which they each were ordered to offer certain enhanced forms of INP.⁵ For example, Pacific's interconnection agreement with MCI specifically provides for a service called "Flex DID." In light of the progress which has been made in the technical capabilities of the LECs to offer alternative forms of INP, we concluded in D.97-10-029 that these alternative forms of INP should be made available to all CLCs. We directed Pacific and GTEC to file comments reporting on the current availability of alternative forms of INP which they have been ordered to provide under interconnection agreements.

Pacific states that it has designed, developed, and made available through interconnection agreements Directory Number Route Indexing (DNRI) and Flexible DID versions of INP, beginning in June 1997. Pacific reports it has not currently received any orders from CLCs for any of these alternatives, but has carried out a successful joint-effort Network Validation Test of DNRI with AT&T, at AT&T's request. Pacific agrees to continue to work with the CLCs on these alternative forms of INP.

GTEC reports that it has adapted its network to provide three additional forms of INP: flexible DID, DNRI, and Route Index Portability Hub (RIPH). RCF is offered through GTEC's SPNP tariff and DID is offered through GTEC's resale DID tariff. The other INP forms are available to those carriers that have negotiated for their inclusion in interconnection agreements with GTEC.

The Joint Parties argue that, although the Commission has already required Pacific and GTEC to make alternative INP methods available, it should

⁵ See D.97-01-039 approving the Pacific/MCI agreement and D.97-01-045 approving the GTEC/MCI agreement.

ensure that Pacific and GTEC make these INP methods generally available to CLCs, including a means by which such INP methods may be ordered efficiently.

B. Discussion

As reported by the parties, significant progress has been made by the ILECs in the development of alternative methods of providing INP. All CLCs should be provided the opportunity to gain access to these alternatives. We shall not, however, require the ILECs to file tariffs at this time offering the various forms of INP which have been developed subsequent to D.96-04-052. No generic cost studies have yet been approved for these INP alternatives which would provide a basis for a surcharge. Given the limited demand for these alternatives to date, we conclude that it is acceptable for the ILECs to offer these INP services through negotiations with individual CLCs on a case-by-case basis, to the extent that CLCs express an interest in such alternatives. In I.97-10-017, we are addressing the design and implementation of OSS, and that is the appropriate procedural vehicle through which to deal with efficient ordering of INP.

III. LECs Sharing of Terminating Access Charges for Calls to Ported Numbers

A. Background

We concluded in D.97-10-029 that an appropriate methodology for the sharing of switched-access revenues associated with ported numbers needs to be established to provide for a fair distribution of the revenues between the carriers involved, in conformance with the FCC Order. While individual carriers have worked out revenue-sharing arrangements through arbitrated interconnection agreements, in D.97-10-029 we acknowledged a need for a generic rule applicable to all carriers involved in the porting of numbers. In order to develop a methodology for the sharing of terminating-switched-access revenues associated with ported numbers, we directed all parties to file

comments on their proposals for an appropriate, competitively neutral sharing methodology.

A number of approved interconnection agreements on file with the Commission have addressed the sharing of terminating switched access revenues without the development of administratively burdensome tracking and apportionment mechanisms. The Joint Commenters recommend that the Commission generically adopt the language embodied in a number of Pacific's arbitrated interconnection agreements with CLCs as a simplified way to address the sharing of terminating access revenues. Pacific agrees with Joint Commenters.

GTEC disagrees, however, arguing that unique arrangements arise out of each interconnection agreement that would impact the sharing ratio, depending, for example, on whether the carriers have agreed to bill-and-keep or mutual compensation. GTEC believes that competitive pressures will eventually drive access rates down, and that imposing a single fixed access-revenue payment without any flexibility for change will result in CLCs receiving a higher percentage of the access revenues as the portion from the interexchange carriers (IXCs) to the ILECs decreases. GTEC recommends that, if the Commission adopts language such as that contained in the Pacific interconnection agreements, the language should contain a caveat that the numbers be subject to modification when circumstances change such as adjustments in the billing arrangement or access prices.

WorldCom argues that in no event should a generic rule for sharing terminating switched-access revenue substitute for existing agreement provisions, particularly for arrangements that were negotiated rather than arbitrated. Instead, WorldCom believes any generic rule should be available on a tariffed basis so that CLCs may select them if they wish.

GST believes the rates in the interconnection agreements are inequitable and do not adequately compensate CLCs. GST claims that nationwide GTEC now routinely offers a division of ported-number access revenues of approximately 85% to the CLC for toll traffic terminating on the CLC network.

GTEC disputes GST's claim that the 85/15% CLC/LEC sharing ratio is "now something of an industry standard ratio." While some GTEC interconnection agreements offer an 85% payment to CLCs, GTEC states it does not routinely offer 85% to CLCs.

Pacific and GTEC object to GST's proposal that the Commission conduct an audit of GTEC's and Pacific's toll-access revenues arguing that such an audit would be overly burdensome given the limited number of calls utilizing INP. GTEC also disagrees with GST's proposal that the sharing ratio calculation include imputed intraLATA toll revenues. GTEC argues it is under no obligation to share toll revenues and such a calculation would overstate the revenues to be shared.

TCG/ICG recommend a multiple bill/single tariff approach, whereby each party bills the IXC for its share of the switched access charges associated with terminating the call. Under this approach, the forwarding carrier (generally, the ILEC) would provide sufficient call detail (date and time of each call, whether interstate or intrastate, number of access minutes, and IXC from which call was received) to the forwarded-to carrier (generally, a CLC).

Pacific and GTEC object, claiming that the systems and methodologies that would need to be developed for sharing revenues that are more precise than those ordered in the arbitrations would be unjustified at this late date, given the imminence of permanent number portability (PNP), the

comparatively small amount of revenues subject to sharing, and the burden of developing and administering a different way to share revenues.

Discussion

We shall extend the provisions for the sharing of access revenues embodied in Pacific's arbitrated interconnection agreements to be made available generically to all CLCs on a prospective basis. Under the arbitrated agreements, the porting party pays the ported-to party \$1.75 per month for each business line and \$1.25 per month for each residence line associated with the INP arrangement.

Given the impending implementation of permanent number portability on a broad scale, we conclude that the use of the \$1.75/\$1.25 sharing arrangement is sufficient for the interim period, and will avoid any disruption in existing business arrangements. No party offered a more persuasive proposal. While it may be possible theoretically to determine a more precise sharing of revenues, the ILECs presently lack the measurement capabilities to determine a more precise sharing arrangement. We conclude that it would not be an efficient use of limited resources to require the ILECs to develop the systems and methodologies necessary for a sharing of revenues based on more precise measurement of call termination detail.

The adopted revenue-sharing terms shall be made available to any CLC that so wishes when entering into a new interconnection agreement which becomes effective on or after the date of this order. Previously negotiated interconnection agreements that were not subject to arbitration may have included different sharing arrangements. Such preexisting interconnection agreements shall not be changed as a result of the prospective adoption of this generic policy on the sharing of switched access revenues.

Findings of Fact

1. D.97-10-029 adopted a modified cost-recovery approach to reflect an allocation of INP costs among all facilities-based LECs and CLCs based on the quantity of active end-user telephone numbers and utilizing incremental costs plus an allowance for shared and common costs.

2. The modified INP cost-recovery method adopted in D.97-10-029 was responsive to the FCC's First Report and Order on telephone number portability issued July 2, 1996 which required departure from cost-causation principles in order to adopt a competitively neutral standard for recovery of INP costs.

3. The FCC order further requires that the cost measure for INP is to be an incremental cost, not a direct embedded cost, as was used in determining INP costs and rates in D.96-04-052.

4. INP cost studies based on TSLRIC were approved for Pacific in the OANAD proceeding in D.96-08-021.

5. The costs associated with the offering of INP include shared and common costs.

6. To quantify an INP cost-recovery factor based on the incremental costs referenced in OANAD, it is necessary to determine the applicable number of total active telephone numbers and the total amount of TSLRIC associated with porting telephone numbers.

7. In computing an INP surcharge, the use of historical data regarding the quantity of total active telephone numbers and ported numbers will result in less administrative burden and controversy than would the use of estimated data.

8. The inclusion of resold lines in the count of facilities-based carriers' active telephone lines provides for a more competitively neutral basis for allocating INP costs.

9. Pacific has designed, developed, and made available (through interconnection agreements) DNRI and Flexible DID versions of INP, beginning in June 1997.

10. Pacific has not currently received any orders from CLCs for any of its INP options, except for DNCF, but has carried out a successful joint-effort Network Validation Test of DNRI with AT&T, at AT&T's request.

11. GTEC has adapted its network to provide flexible DID, DNRI and RIPH.

12. INP forms other than SPNP and DID are available to those carriers that have negotiated for their inclusion in interconnection agreements with GTEC.

13. The provisions for the sharing of switched access revenues incorporated in Pacific's interconnection agreements call for the porting party to pay the ported-to party \$1.75 per month per business line and \$1.25 per month per residential.

14. No party proposed an alternative method of sharing switched-access revenue which was more appropriate than that incorporated in Pacific's interconnection agreements.

Conclusions of Law

1. Facilities-based carriers should produce the data as directed in Ordering Paragraph 1 below to provide an appropriate basis to revise the Commission's previously adopted INP rates.

2. D.97-10-029 should be modified to provide for the inclusion of resold lines in the facilities-based carriers' count of active lines for INP cost recovery purposes, but resellers should not count such lines in order to avoid double counting. CLCs that provide lines through the purchase of the LEC's UNEs (e.g., loops, switches, etc.) should include such lines in their count.

3. Telephone numbers assigned to wireless carriers should be excluded from the count of active numbers for INP purposes since wireless carriers are not obligated to provide INP service, and we have no jurisdiction over the rates

charged by wireless carriers. NDIEC should be excluded from the count since they do not offer local service.

4. Pacific and GTEC should not be required to file tariffs offering the variant forms of INP which have been developed subsequent to D.96-04-052, but should make available such alternative forms of INP through contracts on a nondiscriminatory basis.

5. The systems and methodologies that would need to be developed for sharing switched-access revenues that are more precise than those ordered in the ILEC arbitrations are unjustified at this time, given the imminence of PNP, the comparatively small amount of revenues subject to sharing, and the burden of developing and administering a different way to share revenues.

6. Each carrier, including ILECs, should be given discretion as to whether to impose the INP surcharge on its end users, or not.

O R D E R

IT IS ORDERED that:

1. Each certificated facilities-based local exchange carrier operating within the service territories of Pacific Bell (Pacific) and GTB California Incorporated (GTEC) are directed to file under seal with the Commission's Docket Office within 30 days following the effective date of this order the recorded data set forth below. Each carrier shall separately provide to the Director of the Commission's Telecommunications Division, a copy of the data. The following recorded data shall be provided separately stated for the Pacific and GTEC territories, as of December 31, 1997:

- (a) Total quantity of end-user telephone numbers in service, including lines provided to a competitive local carrier for resale.
- (b) Total active numbers which each carrier has ported to another carrier.

2. Following receipt of the data as directed in Ordering Paragraph (OP) 1, the Commission shall issue a subsequent decision deriving a revised interim-number-portability (INP) cost-recovery surcharge to apply to all active telephone lines of facilities-based wireline carriers, including resold lines, and ordering elimination of Pacific and GTEC's tariff rates for INP.

3. In the case of resold lines, the surcharge shall be billable by the facilities-based carrier to the competitive local carrier reseller.

4. All competitive local carriers may pass the surcharge through to their end users.

5. Pacific and GTEC shall offer on a nondiscriminatory basis the alternative forms of INP which they have previously made available through individual interconnection agreements.

6. With regard to the division of terminating switched-access revenues associated with the provision of INP in its various forms, the porting party shall pay the ported-to party \$1.75 per month for each business line and \$1.25 per month for each residential line associated with the INP arrangement.

7. Determination of the number of lines to which the above payment shall apply will be made at the time the INP arrangement is established. The payment shall be made based on the total number of lines included in the same hunting arrangement as the INP number.

8. Preexisting interconnection agreements which provide for a different sharing arrangement for switched access revenue than the amounts adopted in OP 4 shall not be affected by the requirements of OP 4.

This order is effective today.

Dated April 23, 1998, at Sacramento, California.

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