

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION
Telecommunications BranchRESOLUTION NO. T-12070
February 24, 1988R E S O L U T I O N

RESOLUTION NO. T-12070. PROTESTS OF CONTECH MOBILE TELEPHONE CO. (U-4024-C) AND BAY AREA CELLULAR TELEPHONE CO. (U-3007-C) TO ADVICE LETTER NO. 19 OF GTE/MOBILNET OF CALIFORNIA (U-4028-C) AND ADVICE LETTER NO. 10 OF GTE/MOBILNET OF SAN FRANCISCO, L.P.

SUMMARY

By Advice Letter No. 19, filed December 4, 1987, GTE Mobilnet of California, the retail subsidiary of GTE Mobilnet, Inc. which is a general partner of GTE/Mobilnet of San Francisco, Limited Partnership (LP), the wireline cellular carrier in the Greater San Francisco Bay Area, introduced two offerings:

1) A "Personal Communications Plan" whereby new subscribers (or existing subscribers, should they elect to changeover from their existing service plan) would pay \$25.00 per month for a cellular phone number (access), \$0.90 per minute peak air-time usage (during business hours) and \$0.20 per minute off-peak air-time usage (nights, weekends, and holidays). The current tariffed subscriber rates are \$45.00 per month (access), \$0.45 per minute peak air-time usage, and \$0.20 per minute off-peak air-time usage.

2) A one-year customer "Contract Option" providing free enhanced services and 100 minutes free air time to any retail customer purchasing cellular service for a minimum of one year. Enhanced Services are comprised of the following features:

1. Call Forwarding
2. No-Answer Transfer
3. Call Waiting
4. Three-Way Calling
5. Busy Transfer

The Enhanced Services are normally offered as an optional package; retail customers pay \$10.00 per month for any or all of the additional features while wholesale customers are charged \$7.50 per

month. The customer, however, would incur a \$200.00 termination liability charge if he/she terminated their service before the "contract option" year expires. All interested parties and customers were notified of these new offerings. Bay Area Cellular Telephone Co. and Comtech Mobile Telephone Co. filed protests with the CACD Telecommunications Branch.

BACKGROUND

GTE/Mobilnet of San Francisco, LP, the wireline cellular carrier in the Greater San Francisco Bay Area, introduced two offerings via Advice Letter No. 19, filed December 4, 1987. On December 15, 1987, Bay Area Cellular Telephone Co. (BACTC) filed a protest alleging that:

- 1) GTE/Mobilnet of California's Advice Letter No. 19 was a rate increase and not a new offering, and thus, requiring a formal application since GTE/Mobilnet's annual revenue exceeds \$750,000.
- 2) The \$25.00 retail access charge proposed by GTE/Mobilnet is less than the wholesale cost of a cellular number.
- 3) The rates proposed in GTE/Mobilnet's personal Communications Plan and Service Contract Option are non-compensatory, and therefore, predatory in nature.
- 4) The \$200.00 termination liability for the contract option constituted marketing abuse.

On December 15, 1987, in response to discussion with staff of the Telecommunications Branch of the Commission Advisory & Compliance Division, GTE/Mobilnet of San Francisco, the carrier, filed Advice Letter No. 10 which provided a comparable wholesale personal communications plan, thus, maintaining a "level playing field", whereby certified resellers could compete with the carrier's retail subsidiary.

This wholesale offering provides cellular telephone numbers at a monthly access cost of \$17.00, with wholesale air-time costs of \$0.72 per minute for peak and \$0.16 per minute for off-peak usage.

GTE/Mobilnet of California supplemented its Advice Letter No. 19 to extend the effective date of that offering to coincide with the effective date of the wholesale offering, Advice Letter No. 10, from the carrier GTE/Mobilnet of San Francisco.

On December 17, 1987, Comtech Mobile Telephone Co. filed a protest in regards to GTE/Mobilnet of California's Advice Letter No. 19 and GTE/Mobilnet of San Francisco's Advice Letter No. 10.

Comtech contends that the wholesale margins offered by way of the personal communications plan are less than the margins that were originally established for normal service through Decisions D. 84-11-029 and D. 85-04-008. In addition, Comtech alleges that the one-year service "contract option" is anti-competitive and similar to the non-compensatory "free service" offering that was proposed by GTE/Mobilnet of California in its Advice Letter No. 6, and ultimately suspended by the Commission (I&S 85-08-044).

GTE/Mobilnet, however, withdrew its Advice Letter No. 6 before the Commission ruled on the offering.

In response to discussion with staff, GTE/Mobilnet of California filed a second supplement to Advice Letter No. 19 on January 7, 1988, thereby withdrawing the contract rate option portion of Advice Letter No. 19. Meanwhile, BACTC filed Advice Letter No. 15 on January 15, 1988, and Comtech filed Advice Letter No. 6 on January 25, 1988, anticipating Commission approval of Mobilnet's personal communications wholesale-retail plan as supplemented. BACTC requests less than statutory notice for its Advice Letter No. 15 (normally effective after 40 days) in order to remain competitive with GTE/Mobilnet's offerings which became effective after 15 (as extended by supplement) and 40 days for retail and wholesale offerings, respectively.

DISCUSSION

BACTC's and Comtech's protests against the wholesale-retail personal communications plan of GTE/Mobilnet are not justified for the following reasons:

- 1) GTE/Mobilnet of California's Advice Letter No. 19 presents a new offering as opposed to a rate increase.
- 2) Advice Letter No. 19 has been supplemented with a comparable wholesale offering, that is, GTE/Mobilnet of San Francisco's Advice Letter No. 10.
- 3) A similar offering from the Los Angeles SNSA carrier in Southern California has been in effect in Los Angeles since August 1987, and has proved to be successful at the wholesale and retail levels for carrier and reseller alike.
- 4) GTE/Mobilnet of California has withdrawn the contract option portion of Advice Letter No. 19.

BACTC has requested less than statutory notice for its Advice Letter No. 15, which was filed in anticipation that GTE/Mobilnet of California's Advice Letter No. 19 and GTE/Mobilnet of San Francisco's Advice Letter No. 10 would become effective. We will soon issue a decision in OIR 87-08-017, which will determine revised

filing periods for cellular carrier and reseller advice letters. Until such time, all advice letter filings will be made effective on regular notice periods, that is, 15 days for resellers and 40 days for carriers.

FINDINGS

We find that no good cause appears to sustain the protest as described.

IT IS ORDERED that:

1. The protests of Bay Area Cellular Telephone Company and Comtech Mobile Telephone Company to Advice Letters Nos. 19 of GTE/Mobilnet of California and 10 of GTE/Mobilnet of San Francisco, L.P. are denied.

2. The effective date of this resolution is today.

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on May 29, 1987. The following Commissioners approved it:

STANLEY W. HULETT
President
DONALD VIAL
JOHN B. OHANIAN
Commissioners



Executive Director