

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-14128
Telecommunications Branch August 29, 1990

R E S O L U T I O N

RESOLUTION T-14128. REQUEST BY GTE CALIFORNIA, INC., FOR PROVISIONAL AUTHORITY TO INTRODUCE A NEW INTRALATA 800 SERVICE OFFERING, "BUSINESS LINE 800," AND EXPAND ITS SWITCHED ACCESS SERVICE OFFERING TO PROVIDE TEN-DIGIT 800 CUSTOMER IDENTIFICATION, BY MEANS OF THE NEW GTE 800 DATABASE.

BY ADVICE LETTER NO. 5243, FILED ON MARCH 13, 1990, ADVICE LETTER SUPPLEMENT NO. 5243A, FILED ON MARCH 21, 1990, SUPPLEMENT NO. 5243B, FILED ON JULY 18, 1990, AND SUPPLEMENT NO. 5243C, FILED ON AUGUST 24, 1990.

SUMMARY

This resolution authorizes GTE California, Inc.'s (GTEC) request in Advice Letter No. 5243 for provisional authority to introduce a new intraLATA 800 service offering, "Business Line 800," and expand its switched access service offering to provide ten-digit 800 customer identification by means of the new GTE 800 Database. Provisional authority is granted for 24 months, effective August 29, 1990 to August 28, 1992, unless otherwise ordered by this Commission.

This resolution accepts GTEC's categorization in Advice Letter No. 5243 of the new Business Line 800 service as Category II (discretionary and partially competitive), in accordance with D.89-10-031, the new regulatory framework for Pacific Bell (Pacific) and GTEC. GTEC has not requested pricing flexibility for this service but reserved the right to do so at a later date. Such request must be made in our expedited application docket in accordance with D.89-10-031, Ordering Paragraph 3.

In Advice Letter No. 5243, GTEC did not differentiate the ten-digit 800 customer identification feature being added to its switched access service ("GTE's 800 Database") from the new Business Line 800 service in its request for Category II treatment. As noted in Resolution T-14064 (April 11, 1990), in D.89-10-031 we clearly included switched access services in Category I (monopoly services). Consistent with our action in that matter (Pacific Bell's CUSTOM 800 and switched access expansion), we specify that GTEC's 800 customer identification features offered within its switched access service are Category I (monopoly services). As specified in D.89-10-031's Ordering Paragraph 20, requests for recategorization of services must be made by application.

During the 24-month provisional period, GTEC will track certain specified data on a monthly basis and report this data quarterly to the Commission Advisory and Compliance Division (CACD). GTEC will also track specified cost data monthly and report it annually to the CACD. However, we direct GTEC to be prepared to provide cost data when requesting pricing flexibility for these services.

If the requisite petition to discontinue the 800 NXX Plan has not been filed with the Federal Communications Commission within one year of this resolution's effective date, GTEC is ordered to adjust its demand forecast and revise its imputed costs, rates and charges accordingly. GTEC is also ordered to adjust the imputed costs, rates and charges for these services in accordance with any change which affects them, including the revision of access charges pursuant to our Phase III decision and/or a change in the surcredit used to impute the costs associated with Business Line 800 service. Further, GTEC must identify and incorporate a rate element to recover the costs associated with intrastate interexchange carrier (IEC) usage of the GTE 800 Database no later than when GTEC discontinues its 800 NXX Plan, regardless of whether the Phase III rate design is completed.

BACKGROUND

The 800 service market has grown dramatically since it was first introduced in 1967. A 1988 San Francisco Consulting Group study put the national growth rate of 800 call volumes, over ten years, at 19% per year. Prior to 1986, 800 service was provided exclusively by the Local Exchange Companies (LECs) for intraLATA traffic and by AT&T for interLATA traffic, and both benefited by this growth in the 800 market.

Since 1984, LECs have sought to deploy a new 800 Database to provide equal access for 800 service to all interexchange carriers, and thereby open the 800 market to full competition. This strategy is based on the premise that true equal access can only be provided through a central 800 Database for number administration. The Federal Communications Commission (FCC) has thus far refrained from ordering all carriers to "load their numbers" into this centralized database, which inhibits consumer mobility among carriers (since customers often place a high value on their specific 800 number). In response to a carrier request supported by Judge Greene, LECs made the "800 NXX Plan" available to all carriers in late 1986. The 800 NXX Plan is an interim form of equal access which allocates 800 NXX prefixes to specific carriers, and thereby allows LECs to switch 800 calls using the carrier-identifying prefix. MCI and US Sprint became active in the California 800 marketplace in mid-1987. Since then, numerous alternatives to the LECs' 800 service have been introduced to provide universally recognized toll-free calling, including:

AT&T MEGACOM (Interim Authority granted 11/23/88)
MCI 800 Service (Dedicated Access Lines)
MCI Business Line 800
US Sprint Ultra 800 (Dedicated Access Lines)
US Sprint FONLine 800
Cable & Wireless 800

GTEC currently concurs in Pacific Bell's tariff to offer four intraLATA 800 subscription alternatives in California: Metro 800, Service Area 800, Half State 800 and Full State 800. Half and Full State 800 services are offered in conjunction with AT&T. GTEC provides customers with the terminating dedicated access line and intraLATA usage, while AT&T completes interLATA calls.

Interexchange 800 carriers other than AT&T are not required, under the 800 NXX Plan, to hand off intraLATA calls to LECs for transport and billing. The LECs have alleged that this "bypass" of intraLATA 800 traffic is eroding their 800 revenue base, primarily in the high volume market segment (MEGACOM, MCI 800, Sprint Ultra 800). However, with the introduction of intrastate 800 service on regular telephone lines by MCI, Sprint, Cable & Wireless, and most recently AT&T, the LECs are starting to experience erosion in the mid- and low-end market segments as well.

On April 11, 1990, the Commission granted AT&T-California (AT&T-C) interim authority to provide intrastate 800 READYLINE service on regular business or residential lines (D.90-04-023/A.89-03-046). This proceeding was split into two phases: Interim Authority and the main phase. Interim authority was granted based on a settlement agreement among AT&T-C and the LECs; permanent authority is expected to be considered within two months.

In accordance with the proposed settlement in A.89-03-046, Pacific filed two complementary advice letters on February 16, 1990. Advice Letter No. (A.L.) 15686 sought authority to offer a new intraLATA "CUSTOM 800" service, available (for the first time) on regular business lines as well as on dedicated lines. The CUSTOM 800 offering also includes optional features of two major types, "Call Handling and Destination" and "Service Management and Control." Complementary to this offering was A.L. 15690, which expanded Pacific's 800 Access service to allow for the assignment of a single ten-digit 800 number to the subscriber for both intraLATA and interLATA calling (rather than just six-digits under the 800 NXX Plan), thus providing access to Pacific's network for intraLATA calls and access to a single interexchange carrier for interLATA calls.

In compliance with D.89-10-031 (Phase II, Alternative Regulatory Framework), Advice Letters No. 15686 and 15690 proposed categorization of these services for purposes of pricing flexibility. A.L. 15686 established CUSTOM 800 as a new Category II (discretionary and partially competitive) service,

but did not request flexible pricing. A.L. 15690 recognized that the existing 800 Access service being expanded was classified in D.89-10-031 as Category I, monopoly services, but proposed that the optional features associated with the expanded functionality be classified as Category II services. Pricing flexibility for these optional features was not requested, either. In both cases, Pacific reserved the right to propose a flexible pricing structure at a later date.

On April 11, 1990, this Commission granted Pacific provisional authority to offer CUSTOM 800 and the new ten-digit 800 Access Service feature, which would enable interexchange carriers (IECs) including AT&T-C to offer complementary interLATA 800 service in conjunction with Pacific. (Resolution T-14064) The Commission accepted Pacific's categorization (in A.L. 15686) of the new CUSTOM 800 service as Category II (discretionary and partially competitive), in accordance with D.89-10-031, the new regulatory framework for Pacific and GTE California, and confirmed that later pricing flexibility must be requested by application in the expedited application docket, in accordance with D.89-10-031, Ordering Paragraph 3. The Commission observed that in A.L. 15690, Pacific correctly recognized that the ten-digit customer identification feature being added to its 800 access service requires this existing service's categorization in D.89-10-031 as Category I, monopoly services. The Commission rejected Pacific's categorization of the associated optional features as Category II. As specified in that decision's Ordering Paragraph 20, requests for recategorization of existing services must be made by application.

GTEC became a party to the settlement agreement in A.89-03-046 (Readyline) on February 5, 1990, after a proposed settlement agreement between AT&T-C and Pacific to enable each of those parties to introduce their comparable 800 services was submitted. AT&T-C's application had been pending before the Commission since March 1989 and had undergone extensive review in interim authority hearings. Pacific had tendered a tariff proposal to the Commission Advisory and Compliance Division (CACD) in August 1989 which included comprehensive cost data and financial analyses. When GTEC attached its draft tariff sheets to the February 5, 1990 proposed settlement agreement, this was the first opportunity any party had to consider its Business Line 800 and GTE 800 Database (800 Access Service) service proposals. GTEC provided no cost study or financial analysis in support of its proposed service, and stated that it was unnecessary since it was concurring in Pacific Bell's tariff. (A.89-03-046 at Tr. 2300-2301)

On March 13, 1990, pursuant to the proposed settlement agreement in A.89-03-046, GTEC filed A.L. 5243 with the CACD requesting to initiate Business Line 800 Service and GTE's 800 Database (800 Access Service) as a provisional Category II service without pricing flexibility. GTEC reserved "the right to request flexible pricing for this service when the cost studies and pricing of service issues have been defined and established in

Phase III of I.87-11-033." (A.L. No. 5243, at p. 2) GTEC's proposed Business Line 800 Service "allows a customer to terminate an 800 service on a regular, PBX or CentraNet business line, thereby, eliminating the need for a dedicated line." Further, "when a customer subscribes to additional service areas, GTEC will provide Business Line 800 Service in conjunction with an Interexchange Carrier (IXC). GTEC will provide the intraservice area portion and the IXC will provide the interservice area portion. For the interservice area which the IXC provides, the NRCs and monthly recurring charges of the IXC will apply." (Schedule Cal.P.U.C. No. B-3 I.j.1)

"Due to the controversy surrounding the offering of the proposed optional features," GTEC also reserved "the right to request authority to offer these optional services at a future date upon written notification to the Commission." (A.L. 5243, at p. 2) On March 21, 1990, GTEC filed Advice Letter Supplement No. 5243A to add language in its C-1 Access tariff, similar to that proposed in its B-3 tariff by A.L. 5243, to withhold the offering of the tariffed optional services (Call Handling and Destination) "due to the controversy surrounding" them. (Supplement 5243A, at p. 1)

On July 18, 1990, GTEC filed Advice Letter Supplement No. 5243B to delete these optional services and features from the proposed tariff sheets.

On August 24, 1990, GTEC filed Advice Letter Supplement No. 5243C to increase the Business Line 800 Weekend/Holiday rate to comply with the imputation test adopted in D.89-10-031 (from \$6.00 to \$6.60 per hour), state the annual revenue effect of the filing (\$6.6 million in 1991), and delete a 90-day deviation from the tariffed recurring Business Line 800 usage rates.

PROTESTS

GTEC informed the CACD on March 20, 1990, that an incorrect version of A.L. 5243 had been distributed to the interested parties, and that the correct version would be sent to them. GTEC requested that protestors be granted additional time past the twenty days following the filed date set by General Order (G.O.) 96-A. GTEC's letter did not indicate that it was served on interested parties, and there is no other evidence that this request was conveyed to the interested parties; it is unlikely that they were aware of GTEC's offer. Despite the delay of over a week to receive the correct version of A.L. 5243, AT&T-California (AT&T-C), the Division of Ratepayer Advocates (DRA) and MCI Telecommunications Corporation (MCI) all filed timely protests within twenty days of the filed date.

AT&T-C-C's Protest: AT&T-C protests the inclusion of a feature in this Advice Letter which AT&T-C believes is not needed to implement GTEC's 800 Access Service and not consistent with the Modified Final Judgment (MFJ). AT&T-C specifically objects to delivery of the "POTS routable number ... to the IC premises" on

GTEC's proposed tariff Schedule Cal.P.U.C. No. C-1, 3rd Revised Sheet. (POTS = Plain Old Telephone Service; IC = Interexchange Carrier; AT&T-C Protest at p. 1)

AT&T-C states that GTEC's ability to offer number translation capability is currently pending before the Decree Court, and recommends that this Commission not approve this specific feature of GTEC's Advice Letter until the Court rules. AT&T-C does not oppose Commission approval of the remainder of GTEC's A.L. 5243.

DRA's Protest: While acknowledging the customer need for the proposed service, DRA believes that GTEC has "carelessly and intentionally" chosen to disregard requirements established in D.89-10-031 for the tariffing of new services, in GTEC's "haste to enter the marketplace." DRA "strongly protests GTEC's AL No. 5243 and requests that AL No. 5243 not be approved by the Commission," but instead converted to an application and set for hearing. (DRA's Protest at pp. 2-3, and p. 20) DRA's specific reasons for protest are:

1. "GTEC should provide the Commission with studies which show that the total revenue will cover the total cost of offering Business Line 800 Service and GTEC's 800 Access Service." (At p. 3)

DRA cites several factors in support of its position that GTEC is required to provide cost studies and demand/revenue forecasts, among them, Conclusion of Law 17 in D.89-10-031:

"'Floors for flexibly priced services should be based on direct embedded costs in order to protect competitors against possible predatory pricing.'" (At pp. 3-4)

DRA posits that the Commission did not intend that a cost study would not be required for Category II services if the utility chooses not to request flexible pricing, and cites Pacific's provision of cost studies for its comparable Custom 800 and 800 Access Services in support of this premise. DRA also observes that without demand and revenue forecasts, nor the cost study, the Commission "has absolutely no basis upon which to determine the reasonableness of GTEC's requested rates and charges or the extent to which competitors might be subject to possible predatory pricing if the Commission were to authorize GTEC's requested rates and charges." (At p. 4)

DRA rebuts GTEC's concurrence in Pacific's tariff, pointing out that GTEC has cited the wrong tariff schedule (A7.1, Pacific's Basic 800 Services, not A7.2, established for Pacific's new Custom 800 Service), and therefore GTEC cannot rely on Pacific's service data to support GTEC's new service request. DRA also challenges what it alleges to be GTEC's assumption that GTEC's costs, revenues and demand for the requested service are the same as those for Pacific's Custom 800 service, pointing out

differences in network configuration, investment and expenses, as well as in demand, revenues, costs and revenue/cost ratios. DRA specifically cites the "approximately \$195 million in settlement flows from Pacific to GTEC" as showing that "GTEC's cost of providing message toll and message toll-related services (including toll private line services) such as the proposed Business Line 800 Services exceed Pacific's costs." (At p. 7) DRA also cites GTEC's offering of a 90-day introductory usage rate of \$7.50 per hour (regardless of time of day) as an example of the difference between GTEC's and Pacific's revenues, since Pacific did not offer such a rate.

2. "GTEC's proposed rates and charges for Business Line 800 Service fail to meet the imputation requirements of D.89-10-031." (At p. 7)

DRA reports that GTEC provided its calculation of the imputed access cost for offering Business Line 800 Service, and that GTEC includes the current surcredit applicable to Access Services in this calculation, which results in a decrease of 19% in this figure (from \$7.72 to \$6.29 per hour). While questioning this use of the current surcredit and observing that Pacific did not do so for its Custom 800 Service, DRA accepts that GTEC's inclusion of the surcredit in the imputation calculation complies with D.89-10-031. It concludes that GTEC should be required to recalculate the imputed access cost whenever GTEC's surcredit amount changes, in accordance with Finding of Fact 68 of D.89-10-031:

"In order to maintain the integrity of the imputation process, it is reasonable to update rate floors which are established by imputation of one or more tariffed rates for monopoly building block components by reflecting any changes in the tariffed rates for monopoly building block components directly and updating the remaining portion of the floor by the GNP-PI." (DRA Protest at p. 9)

DRA also observes that GTEC's proposed Weekend/Holiday rate (\$6.00/hour) is less than the imputed access cost of \$6.29/hour which GTEC has calculated.

3. "AL No. 5243 of GTEC does not comply with the requirements of General Order 96-A." (At p. 10)

DRA cites Section III.C of General Order (G.O.) 96-A as requiring each advice letter to include "an estimate of the annual revenue effect" if the filing "will result in an increase or decrease in revenues." DRA observes that A.L. 5243 fails to provide this information, and suggests that the following information is required:

"a. The revenue requirement impact and the estimated annual revenue effect of offering Business Line 800 Service based on an implementation date of July 1, 1990 (subject to CPUC approval), and

"b. The revenue requirement impact and the estimated annual revenue effect of offering GTEC's 800 Access Service based on an implementation date of July 1, 1990 (subject to CPUC approval)." (Id.)

4. "GTEC should not be allowed to include new service features in its tariffs which GTEC does not wish to offer to its customers." (Id.)

DRA observes that to add new service features to GTEC's tariffs and to condition the provision of these new service features to indicate that GTEC will not offer these features is "nonsensical and only serves to add an unnecessary layer of complexity to the tariffs." (At p. 11)

5. "GTEC does not clearly identify the basis for requesting that the Business Line 800 Service and the 800 Access Service tariff offerings be provisional." (At p. 12)

DRA believes that the 24-month provisional period is necessary because there is no historical data on which to base permanent authority for these new products, and GTEC intends to propose a pricing flexibility structure at a later date, thereby setting a precedent for establishing pricing flexibility authorized by D.89-10-031. DRA again calls on GTEC to provide cost studies, using the embedded direct cost method and based on GTEC's demand forecast for these two products over a ten year period. DRA reports that GTEC has provided a "rough estimate of the usage demand distribution by time of day to calculate the average usage revenue per hour," but that "GTEC has provided no basis for these demand weightings and therefore these estimates cannot be reviewed or tested." (At p. 13)

GTEC has not provided monitoring guidelines for these two new offerings in the Advice Letter, and based on GTEC's recent response to the CACD's interim monitoring guidelines (pursuant to D.89-10-031), DRA is concerned that GTEC does not intend to perform adequate monitoring/tracking. DRA recommends that GTEC be required to track certain data for these new products monthly, and report it to the CACD within 45 days of the month-end. The data which DRA recommends that GTEC track monthly are:

A. BUSINESS LINE 800

1. Total call messages and call minutes by Time of Day:
8 a.m. - 5 p.m., 5 p.m. - 11 p.m., and 11 p.m. - 8 a.m.
2. Total number of lines using Business Line 800 Service
3. Total 800 nos. on Business Line 800 Service
4. Migration volumes as
 - a. total number of lines per month
 - b. total number of call messages per month
 - c. total number of call minutes per month

FROM each of the existing 800 services

- a. Half State
- b. Full State
- c. Metro
- d. Universal
- e. Service Area

TO Business Line 800 by terminating line type

5. New User volume (as no. of lines, call messages and call minutes per month) NOT from GTEC existing 800 services by terminating line type
6. Total number of optional features subscribed (by no. of lines, call messages and call minutes per month)
7. Actual incurred revenues and costs to provide Business Line 800 basic service, as
 - a. non-recurring revenue
 - b. non-recurring cost
 - c. recurring revenue
 - d. recurring cost
 - e. total usage revenue
 - f. total usage cost
8. Actual incurred revenues and costs of providing Business Line 800 optional feature service, as
 - a. non-recurring revenue
 - b. non-recurring cost
 - c. recurring revenue
 - d. recurring cost
 - e. total usage revenue
 - f. total usage cost

B. 800 ACCESS SERVICE

1. Total no. of access customers (CPUC-certificated interLATA service providers) participating in GTEC's 800 Database Service
2. Total 800 nos. participating in GTEC's 800 Database Service
3. Total data base queries per access customer
4. Total no. of optional features subscribed (as no. of lines, call messages, call minutes)
5. Actual incurred revenues and costs to provide optional features of 800 Access Service for:
 - a. non-recurring revenue
 - b. non-recurring cost
 - c. recurring revenue
 - d. recurring cost

7. "DRA notes that the proposed Business Line 800 Service will not be offered to residential customers without requiring them to purchase a 1MB business line." (At p. 16)

DRA observes that this condition is unlike AT&T-C's Readyline 800 Service (and every other comparable IEC 800 service), which is available on a residential or business line. DRA also notes that despite the "holding out" restriction in the interim authority settlement agreement, a residential customer can sign up with AT&T-C's or any other IEC's service directly. GTEC will only transport the intraLATA traffic for those IECs' purchasing the 800 Access Service proposed in Advice Letter 15690.

8. "GTEC does not clearly indicate which parts of its proposed Business Line 800 Service and 800 Access Service belong in Category II." (At p. 17)

In Advice Letter 5243, "it is still not clear to DRA whether all the rate elements of Business Line 800 service, namely the non-recurring charge, recurring rate and usage rates, belong in Category II and therefore will be subject to pricing flexibility in the future." (Id.) DRA directs the same question to the proposed C-1 tariff revisions for the 800 Access Service optional features. DRA specifically cites the reference in proposed tariff sheet B-3, 2nd Sheet 5 to "applicable charges as shown in Schedule Cal. P.U.C. No. A-41," and wonders whether GTEC considers these charges to be in Category II as well. (At p. 18)

DRA recommends that the Commission require GTEC to clearly define the requested categorization of each recurring and non-recurring rate or charge element of Business Line 800 Service and 800 Access Service, for consideration in future requests for pricing flexibility.

9. "GTEC has refused to cooperate with DRA in the provision of tariff proposals and advice letters." (At p. 18)

DRA reports that it requested same-day delivery of all Advice Letters and proposals filed with the CACD by GTEC, by letter to GTEC's Mr. K. Kramer on July 13, 1989. By July 24, 1989, letter, GTEC's Mr. Payne agreed to DRA's request.

However, DRA reports that so far it has received only one tariff filing since GTEC's commitment, noting that the subject advice letter was not provided to DRA until requested by a DRA staff member. DRA cites "GTEC's unwillingness to provide DRA with tariff filings on a timely basis as a further indication of the lack of GTEC's cooperation which is contrary to Ordering Paragraph 18 of D.89-10-031 ...,"

'All local exchange carriers shall cooperate fully with Commission staff in providing information necessary for monitoring, audits and investigations.'" (At p. 19)

DRA reports that Roseville, Citizens and Continental (sic) have fully cooperated with a similar request, and that Pacific has done so for many years. DRA seeks to bring GTEC's refusal to cooperate to the Commission's attention by way of this protest, and to put GTEC on notice that unless it corrects its behavior soon, "DRA will raise this issue formally before the Commission." (Id.)

MCI's Protest: MCI opposes the approval of A.L. 5243 "because it appears to lack the required cost support, fails to comply with Phase II requirements, and is inconsistent with antitrust law and federal policy."

1. "Contrary to GTEC's declaration, Advice Letter 5243 is not in compliance with the unbundling and imputation requirements of the CPUC's Phase II order in D.89-10-031." (At p. 1)

MCI avers that GTEC has not complied with D.89-10-031 in seeking to introduce a new service which faces competition without demonstrating that the rates in this filing comply with the principles of unbundling, nondiscriminatory access, imputation, and rate structure adopted in this decision. It is unclear to MCI "how GTEC can claim compliance with the unbundling and imputation requirements, when filing rates identical to Pacific Bell's Custom 800 tariff." (At p. 2) MCI cites D.87-11-033 (at p. 152) as making such "follow-the leader pricing inconsistent with GTEC's new obligations in the post-Phase II environment." (Id.) Further, MCI notes that GTEC's per minute access rates (including 800 access) are generally 17-18% higher than those charged by Pacific Bell; thus IECs' costs for providing 800 services are higher in GTEC's service territory than in Pacific's. MCI points out the illogic in GTEC asking the Commission to establish rates based not on its own access charges, but on Pacific's lower access charges (in concurring with Pacific's Custom 800 rates).

MCI also points out that imputation of the access charges is only part of the equation required by D.89-10-031. GTEC must also impute to itself the same rate charged to competitors for other (non-access) monopoly building blocks employed to provide the service; in the absence of tariffed rates, the costs must be included, as well as the cost of each other monopoly function bundled in the proposed service's rates. MCI further believes that GTEC must "demonstrate that those elements common to both offerings are provided in a nondiscriminatory manner to ensure that local exchange carriers do not favor their own competitive services at the expense of either monopoly ratepayers or competitors." (At p. 3).

Since GTEC's filing is incomplete documentation of compliance with required unbundling, imputation and nondiscriminatory access, MCI recommends rejecting A.L. 5243 without prejudice so that GTEC can revise and complete the filing. MCI, like DRA, believes that a hearing "may be necessary to fully examine the question of compliance... with the Phase II order." (At p. 3)

2. "GTEC cannot rely on concurrence with Pacific Bell rates as a substitute for costing. And GTEC has provided no evidence whatsoever that its own costs mirror those of Pacific." (Id.)

MCI again cites the fact that GTEC does not concur in Pacific's access rates and has rates that are 17-18% higher. MCI posits that in the absence of cost support for this advice letter, it can be inferred that GTEC may not be imputing tariffed rates in its proposed service rates, that GTEC's bundled feature costs are lower than Pacific's, or that GTEC will cross-subsidize this service with monopoly revenues through below-cost pricing. Again, like DRA, MCI avers that the "Commission cannot be expected to pass on GTEC's rates without cost support in the record for all parties to analyze." (At p. 4)

3. "MCI opposes Category II treatment of GTECs (sic) Business Line 800 Service at this time... Category II treatment of 800 service is inappropriate while the ban on intraLATA competition exists in California. What is more, MCI sees no logical reason for Category II treatment without flexible pricing." (Id.)

MCI observes that "the emergence of complementary (800) services with various IECs can hardly be considered an attempt to open up the LATA to competition for 800 service." (At p. 5) MCI cites number portability and post-dial delay as other issues which must be considered before this service can be considered competitive. MCI invokes its objections to the AT&T-C Readyline interim authority settlement from which this (and Pacific's) service have emerged. It also avers that GTEC will be performing an alternate POTS translation contrary to federal policy. Finally, it restates its objections to GTEC's concurrence with Pacific's rates, and its failure to provide cost support as anticompetitive.

MCI challenges GTEC's designation as Category II for this service, since GTEC is not requesting flexible pricing at this time, for which MCI quotes the Commission as specifying that Category II was established.

4. MCI believes that clarification of two issues is needed:

- a. "The provisional nature of this filing must be clarified to reveal the limits of this initial filing and what will happen at the end of the 2-year provisional period... IECs must be apprised of the future of the new complementary approach before a decision to participate can be made." (At p. 5)
- b. "In the Advice Letter, GTEC states that it 'reserves the right to request authority to offer these optional service at a future date upon written notification to the Commission.' GTEC's reference to written notification is not entirely clear. What is clear is that these new offerings, when proposed, must be filed for review by all interested parties and receive approval by the Commission ..." (at p. 6)

RESPONSE BY GTEC TO PROTESTS

GTEC responded to AT&T-C's protest on April 8, 1990, within the five business days of receipt mandated by G.O. 96-A.

GTEC's Response to AT&T-C (August 8, 1990)

GTEC perfunctorily dismisses AT&T-C's protest as irrelevant, since "Compliance with the Consent Decree is not an issue here, nor is it correct to assume GTEC is subject to the modified Final Judgement." GTEC observes that its request (in the Advice Letter) to "limit several optional features was intended to deter contentious response to its filing. Number translation is not within this category, nor in violation of any Federal or State operating conditions for GTEC."

GTEC's Responses to DRA and MCI

No acknowledgement of DRA's and MCI's protests was forthcoming from GTEC until April 27th and May 1st, respectively; nor was a request for extension of time to G.O. 96-A, pursuant to Rule 43, made until more than a month after these responses were due.

When GTEC requested "authority to make a late filed response," simultaneous with its responses to DRA's and MCI's protests on April 27 and May 1, 1990, respectively, it cited "overwhelming demands in other matters before the Commission and other agencies" and the fact that "the requested effective date in the Advice is far in the future" (July 1, 1990) as justification for its delay in responding to DRA's and MCI's protests. In both letters, GTEC also stated that "No party will be prejudiced in any way by your acceptance of the ... response of GTEC ... Whereas GTEC would clearly be prejudice (sic) by your refusal to allow its voice to be heard ..." (GTEC Letters to K. Coughlan, 4/27/90, and N. Shulman, 5/1/90)

On May 3, 1990, DRA reacted to GTEC's request to file its late response:

"General is requesting that the Commission consider its late-filed response based on 'overwhelming demands in other matters before the Commission' and a unilateral finding by General that a delay in responding was appropriate. DRA is likewise faced with these same demands. DRA therefore requests that should the Commission elect, based on the problem of overwhelming demands as stated in General's request, to consider General's late filed response to DRA's protest, that DRA be given the same consideration in the future should DRA be unable to file a protest of an advice letter within the 20 day period provided for in General Order No. 96-A, Section III H." (Letter to K. Coughlan, pp. 1-2)

Finally, on May 23, 1990, GTEC properly requested an extension of time to comply with G.O. 96-A from the Executive Director, pursuant to Rule 43 of the Commission's Rules of Practice and Procedure. It asked that its responses to DRA's and MCI's protests be accepted on April 27 and May 1, 1990, respectively, and referred to its filings of those dates for the reasons and support for granting extensions and permitting acceptance on those dates.

On July 3, 1990, the Executive Director granted GTEC's requests for extension of time to comply with G.O. 96-A and respond to DRA's and MCI's protests. However, he expressed his concerns regarding GTEC's failure to follow established Commission orders and rules, and observed that "In order to conduct business in a timely fashion, it is incumbent upon all parties to follow the provisions of G.O. 96-A. Disregard of Commission rules cannot be tolerated."

GTEC's response to MCI's protest is a virtual subset of its response to DRA's protest, so they will be reviewed jointly. By

the time GTEC responded to these requests, the Commission had granted AT&T-C interim authority for Readyline 800 Service (maintaining the intraLATA "holding out" ban), and granted Pacific provisional authority for its Custom 800 and 800 Access Services on April 11, 1990. Therefore, GTEC was able to counter DRA's and MCI's calls for converting its advice letter to an application and conducting hearings as "completely inappropriate," since AT&T, Pacific and numerous IECs have comparable services already in the marketplace. (Response to DRA, at p. 1)

GTEC recounts that "Historically, Pacific has always supplied cost studies on behalf of all LECs who concurred in Pacific's toll and toll-like service (including 800 service) tariffs." (Id. at pp. 1-2) GTEC posits that since Pacific had tendered its Custom 800 cost study in August 1989, well before the issuance of D.89-10-031, its submittal of same had nothing to do with an interpretation of that decision. GTEC states that it has "interpreted the Commission's pronouncements differently ... The exact methodology and procedure for determining 'direct embedded costs' is to be determined in the cost methodology workshops which are currently ongoing. In fact, GTEC said in its Advice that a cost study would be submitted during the provisional period ... after actual data on costs and revenues are available for this service." (Id. at p. 2)

GTEC then states that it will relent on this point to "appease (the protestants) and to comply with the spirit of D.89-10-031," and submit an embedded cost study by June 1, 1990. (Id.) GTEC states that it will include its projection of the demand and revenues for Business Line 800 with this submittal. GTEC requests that the Commission permit the service to commence on July 1, 1990, as requested, until review of the study is complete, and cites the granting of interim authority to AT&T-C's Readyline 800 service pending approval of the supporting cost methodology as precedent.

GTEC goes on to postulate that "If a company meets the access imputation test, it is reasonable to assume that it would meet the direct embedded test also," since access rates are based on fully allocated costs by FCC rule which are greater than direct embedded costs. (Id.)

GTEC dismisses DRA's allegation that it concurred in the wrong Pacific tariff (A7.1 instead of the correct A7.2) as a "typographical error," which "is not appropriate grounds for withholding approval of this Advice." (Id.) It also dismisses DRA's use of the settlement payment GTEC receives from the intraLATA toll pool as evidence that its direct costs are proportionately higher than Pacific's, because the settlement flow derives from a fully allocated cost methodology (FCC Part 36) which allocates costs to jurisdictions based on usage, not the incremental costs associated with service provision in each jurisdiction.

GTEC agrees with DRA's suggestion that as GTEC's surcharge/surcredit changes, the imputed access calculations

using that figure will have to be updated. GTEC notes that "The surcredit factor is used in place of changing each discrete access rate and is an integral element of GTEC's rate design." (Id. at p. 3)

GTEC clarifies that its proposed \$7.50/hour rate will revert to rates equal to Pacific's Custom 800 tariff after the first 90 days, and (incorrectly) chides DRA for not mentioning that GTEC provided it with the weighted average revenue per hour (\$8.40). GTEC explains that the demand weighting was based on "management judgment" and that since "this is a business service targeted at small to medium sized businesses, GTEC assumes that most usage will occur during normal weekday business hours." (Id.) GTEC submits that "as long as the average revenue meets the (imputed access) test, the D.89-10-031 requirement is satisfied." (Id.)

GTEC defends its inclusion of "enhanced services" (optional features) in the proposed tariff, while withholding them from customers. It states that it "has every intention to offer these services in the future," and that by including them in the tariff, these intentions are clear to the customer. (Id. at p. 4)

GTEC leans on the Commission's Resolution T-14064, issued on April 11, 1990, to resolve several other questions raised by DRA and MCI:

- a. "For the same reasons that the Commission authorized Custom 800 service on a provisional basis, it should approve Business Line 800 service for a 24 month provisional period." (Id.)
- b. GTEC states that it will comply with a monitoring plan similar to that ordered in Resolution T-14064, if A.L. 5243, as supplemented, is approved.
- c. "Pacific's Custom 800 was approved without the requirement that it be offered on residence lines. No different requirement should be placed on GTEC." (Id.)
- d. The same categorization of rate elements adopted in Resolution T-14064 would apply to GTEC and should be adopted for the subject services.

GTEC characterizes DRA's request for cost studies based on a 10-year study period as "ludicrous" for a new service which is requested on a provisional basis for two years, and given the rapid changes in the communications and technological environments. (Id.) GTEC states that it has never performed such studies for existing services.

Finally, GTEC avers that its "procedure has always been to mail its Advice Letters to DRA and all other interested parties on the day GTEC submits its Advice Letters to CACD." GTEC admits to "some delays in 1989 caused by corporate reorganization," but emphasizes that its policy "has always been to cooperate with DRA to the fullest extent possible in satisfying DRA's

requests." GTEC seeks to mitigate any other perception that DRA may have by stating that any contrary action "was definitely not done intentionally or willfully ..." (Id at pp. 4-5)

DISCUSSION

There are two major areas in which issues and concerns have been raised by protestants regarding this Advice Letter:

1. The implementation of D.89-10-031 (Phase II, Alternative Regulatory Framework) relative to requests for new services, monitoring and categorization.
2. The implications of the Modified Final Judgment (MFJ) and the FCC's Report and Order in Docket No. 86-10.

1. IMPLEMENTATION OF D.89-10-031

DRA and MCI have each taken issue with GTEC's proposal to designate Business Line 800 and the GTE 800 Database as Category II services. DRA's issues are essentially about GTEC's omissions in proposing Category II designations. MCI is also concerned about omissions in GTEC's proposal, but it also challenges the designation of Category II itself. We will consider the procedural issues raised about the implementation of our D.89-10-031 first, as we did in Resolution T-14064.

a. Introduction of New Services

In Conclusion of Law 15 of our D.89-10-031, we directed that

"At the time Pacific or GTEC requests authority to offer a new service (including a new BSE or other ONA service), the utility should propose the proper categorization of the service for pricing purposes and should propose either below-the-line treatment or inclusion in the sharing mechanism." (at p. 378)

This Conclusion of Law resulted from our discussion of how new services should be introduced under the new regulatory framework we adopted in D.89-10-031. Therein, we observed that

"Utilities currently propose new services, except enhanced services and BSEs, through the advice letter process set out in General Order 96-A. This process appears to work fairly well and will be continued for all new services except those discussed below. (...enhanced services, BSEs, and any new services comparable to BSEs which might be offered due to the unbundling principles adopted today.") (at p. 327)

In A.L. 5243, GTEC complies with our directive by proposing the categorization of these new service offerings. While MCI questions the need for such designation without also requesting pricing flexibility, GTEC would have been remiss in not proposing categorization and we have not required it to request

pricing flexibility concurrently. In fact, by not requesting pricing flexibility at this time, GTEC subjects itself to a more rigorous examination of its request in our Expedited Application Docket, as required by Ordering Paragraph 3 of D.89-10-031:

"All local exchange carriers are authorized to file applications in expedited application dockets to request rate flexibility for Category II services, as provided in Section VII.A.6 of this decision ..." (at p. 390)

GTEC has not, however, proposed below-the-line treatment or inclusion in the sharing mechanism to complete its compliance with Conclusion of Law 15. Since this is GTEC's first new service request made under the new regulatory framework, some confusion and the need for clarification of procedures is understandable. At this time, we will rely upon our stated intent in D.89-10-031 to resolve this oversight:

"(Conclusion of Law) 34. Flexibly priced services should be included in the adopted sharing mechanism because competitive markets would not be harmed and potential benefits to basic ratepayers appear to outweigh risks." (at pp. 380-381)

Barring a compelling showing by GTEC in the appropriate venue to the contrary, we will assume that these services are included in the sharing mechanism.

MCI also raises the requirement placed on GTEC by Ordering Paragraph 2 that it

"...demonstrate as part of any future request to receive pricing flexibility or to provide additional enhanced services or any new services which face competition that such proposals comply with the principles (of unbundling, nondiscriminatory access, imputation, and basing rate structures of monopoly utility services on underlying cost structures) adopted in this Ordering Paragraph." (D.89-10-031 at pp. 389-390, emphasis added)

GTEC certifies in its A.L. 5243 that:

"The rates associated with this filing are in compliance with Decision 89-10-031, Ordering Paragraph 2, which states that the principles of unbundling, nondiscriminatory access, imputation, and basing rate structure of monopoly utility services on underlying cost structure are adopted in principle.

"Local exchange carriers shall impute the tariffed rates and charges of any function deemed to be a monopoly building block in the rates and charges for any bundled tariffed service which includes that monopoly function." (A.L. 5243 p. 2)

1) Staff's Review of GTEC's Cost, Demand and Revenue Analyses

On February 23, 1990, GTEC responded to a DRA data request for the calculation and results for the access imputed cost of GTEC's proposed Business Line 800 Service. The CACD first received these results with GTEC's cost study on June 1, 1990. After meeting with GTEC and DRA to review the methodology and results presented in this cost study on June 12, 1990, the CACD directed GTEC to finalize and resubmit the cost study to enable staff to review it. On July 2, 1990, GTEC resubmitted the cost study to the CACD and DRA, and following a very brief opportunity afforded for staff's questions, provided additional information on July 10, 1990. The application of GTEC's imputation calculation remained unclear to the staff, and in fact was compounded by the new cost study documentation. Due to the "overwhelming demand in other matters before the Commission and other agencies" from which GTEC sought shelter, the staff was forced to redirect its attention elsewhere and was only able to return to this matter after our August 8, 1990, meeting.

On August 13, 1990, the CACD provided GTEC with further questions (largely restated) regarding the methodology, assumptions and results of its cost and revenue analyses, including the imputation calculations. The CACD confirmed these questions and issues in writing on August 15, 1990, as an agenda for a further review meeting with GTEC and DRA on August 16, 1990. In its written response to these questions, provided at this meeting, GTEC characterized the answers to these questions as "contained in various documents that GTEC has submitted to both the CACD and DRA." (8/15/90 letter to K. Coughlan from L. Tong) However, despite GTEC's contention that staff did not require any further information, the meeting surfaced several significant new factors, including the addition of the cost associated with non-bottleneck functions (the database) in GTEC's imputation calculation, resulting in an increase of almost 10%, and GTEC's assumptions regarding FCC action in its 800 Database docket.

Discussions continued daily, with GTEC providing several revised cost and revenue worksheets, until the CACD was finally satisfied that the imputed cost calculation and all proposed rates meet the "demonstration" requirement of Ordering Paragraph 2. Of additional reassurance is that this information will be subjected to further and broader scrutiny in the event GTEC seeks pricing flexibility.

A point of clarification: on August 24, 1990, GTEC filed Supplement C to A.L. 5243 to increase the Weekend/Holiday rate to a level which exceeds its imputed costs. The CACD and DRA early and correctly interpreted D.89-10-031's imputation test to be applicable to each rate, not to an average.

2) Implications of Pending Regulatory Decisions

We need to recognize the implications and potential impact of two pending telecommunications regulatory decisions on GTEC's rate design and cost recovery for these new service offerings:

- i. Approval by the Federal Communications Commission (FCC) for the discontinuance of the 800 NXX Plan by the LECs.
- ii. Implementation of Phase III of our Alternative Regulatory Framework investigation (I.87-11-033), in which we expect evidentiary hearings to redesign rates, including access charges.

i. Discontinuance of the 800 NXX Plan

In its demand forecast and resultant cost allocation, GTEC has assumed that the FCC will take this action by October 1, 1991. GTEC's costs for its 800 Database are therefore allocated to all 800 traffic as of that date, not just to usage associated with its proposed Business Line 800 and "complementary" IEC 800 services which will be the only usage of the GTE 800 Database pending discontinuance of the parallel 800 NXX Plan. We note that in FCC Report and Order 89-106, the FCC states its conditions for such approval as:

- "If and when the LECs' deployment of CCS7 (common channel signalling network protocol) is sufficient so that the level of access delay associated with the data base system is substantially reduced, we will, upon appropriate petition, permit LECs to discontinue NXX access. Our current expectation is that we will be able to grant such a petition when CCS7 is deployed to access tandems and, on a nationwide average basis, to end offices accounting for eighty percent of originating 800 traffic." (Para. 39)

GTEC bases its assumption on the report in FCC 89-106 that GTE states that by 1992, 70% of its access lines should be serviced by end offices with CCS7 capabilities, and GTEC's belief that the Regional Bell Operating Companies (RBOCs) are further along in their CCS7 conversion and therefore will have CCS7 deployed to over 80% of their access lines (which represent more than 80% of access lines nationwide) by latter 1991. However, we also note that in FCC 89-106 (released on April 21, 1989), the FCC reports that:

- "Currently, LECs vary in their commitment to CCS7 end office deployment. Bell Atlantic states that it will deploy CCS7 capabilities in end offices serving 54% of its access lines by the end of 1989. BellSouth also indicates that it will pursue an aggressive deployment schedule. By the end of 1989, it plans to have CCS7 capabilities in end offices serving 29% of its access lines. On the other hand, Southwestern Bell, NYNEX and PacTel state that they have not yet established a definite schedule for CCS7 end office deployment. Among the ITCs (Independent Telephone Companies), GTE and Cincinnati Bell indicate a commitment

to deploying CCS7 at end offices. GTE states that by 1992, 70% of its access lines should be serviced by end offices with CCS7 capabilities. GTE states that this percentage will increase to over 90% by 1995. Cincinnati Bell states that it will deploy CCS7 in its end offices in 1990. In addition, ITCs participating in the U.S. Intelco/ITN network will apparently deploy CCS7 initially in their end offices." (Para. 21)

This does not seem to strongly support GTEC's optimism regarding the RBOCs' progress in deploying CCS7 by the latter part of 1991. In proposing its Custom 800 and IEC 800 Access services, Pacific assumed the FCC would act in 1993 on this issue, which is a more reasonably conservative estimate based on the foregoing. This range of expectation is another good reason for GTEC's Business Line 800 service and 10-digit Customer Identification access feature to be authorized provisionally, so that these pending developments may be factored into their final rates and charges. We believe it is reasonable to allow GTEC one year in which to validate its assumption on this issue; if the requisite petition to discontinue the 800 NXX Plan has not been filed with the FCC within one year, GTEC should adjust its demand forecast and revise its imputed costs, rates and charges accordingly.

ii. Implementation of Phase III in I.87-11-033

Another problematic area in GTEC's cost study and rate design is the absence of a discrete rate element to recover the new costs associated with the intrastate interLATA usage of the GTE 800 Database (10-digit customer identification). These costs, over GTEC's five-year study period, are not insignificant; however, in the first year (pending the FCC's discontinuance of 800 NXX Plan) they are very minor relative to GTEC's total costs and revenues (the estimated impact on GTEC's 1990 intrastate rate of return is 0.002%). We have not revised GTEC's access charges in several years (employing the surcharge/surcredit mechanism instead). We expect that they will be comprehensively reviewed as a result of our upcoming decision in Phase III of I. 87-11-033.

Given the minor impact of the projected intrastate interLATA usage on GTEC's costs and revenues pending the FCC's discontinuance of the 800 NXX Plan, and our expectation that GTEC's access charges will be revised as a result of our upcoming action in I.87-11-033, we will not order GTEC to set a rate element to recover the costs associated with intrastate interLATA usage of the GTE 800 Database at this time. However, in keeping with the provisional nature of the authority we will grant GTEC, we expect GTEC to adjust the imputed costs, rates and charges for these services in accordance with any change which affects them, including the revision of access charges pursuant to our Phase III decision and/or a change in the surcredit it used to impute the costs associated with Business Line 800 service. We also expect that GTEC will identify and incorporate a rate element to recover the costs associated with intrastate IEC usage of the GTE 800 Database no later than when

GTEC discontinues its 800 NXX Plan, regardless of whether the Phase III rate design is completed.

3) Remaining Protest Issues

a. Annual Revenue Impact: By A.L. Supplement 5243C filed on August 24, 1990, GTEC has included the annual revenue effect of the filing in accordance with G.O. 96-A (\$6.6 million in 1991). This resolves DRA's complaint of noncompliance with Section III.C of that Order.

b. Optional Feature Withholding: By A.L. Supplement 5243B, filed on July 18, 1990, GTEC deleted the "Optional Features" from both its B-3 and C-1 tariffs, including the language conditioning offering of these features. When GTEC wishes to offer these features, it will file for authority appropriately.

c. Category II Rate Elements: GTEC responded to DRA's request for clarification of which rate elements would be included in Category II by deferring to our discussion of this issue in Resolution T-14064. Therein, Pacific clarified that its proposed Category II designation for the Custom 800 service in its Schedule A7.2 did not extend beyond that schedule. Accordingly, we conclude from GTEC's response that its proposed Category II designation for the Business Line 800 service is limited to those rate elements delineated in its Schedule B-3 i.j. We further expect that when requests for pricing flexibility are made, they will detail the rates and charges for which flexibility is requested.

b. Monitoring

DRA requested that we order GTEC to track extensive data and report it monthly to the CACD (within 45 days of the month-end) during the provisional period. In its response to DRA's protest, GTEC agreed to comply with a monitoring plan similar to that ordered in Resolution T-14064 (for Pacific's Custom 800 and 800 Access services). Therein, we recounted that Pacific agreed to much of DRA's request (virtually identical to its request to GTEC) and had detailed which data it was unable to provide. Accordingly, we adopt DRA's tracking plan for GTEC consistent with the relevant revisions we made in Resolution T-14064:

- 1) In recognition of the resource-intensiveness of cost allocation analysis, we accepted Pacific's proposal to provide DRA's requested cost data annually; GTEC will track such data monthly and report it to the CACD within 60 days of the year-end (December 31). However, GTEC must be prepared to provide data such as this at the time it requests pricing flexibility for these products, as well as under the circumstances discussed in Section 1.A.2) of this Discussion.
- 2) GTEC will track all other data monthly and report it to the CACD quarterly, within 60 days of the quarter-end.

c. Categorization

In D.89-10-031, we established Categories I, II and III for pricing purposes. Category II was created "to include discretionary or partially competitive services for which there should be downward only pricing flexibility." (Conclusion of Law 10 at p. 377) In the discussion from which this Conclusion resulted, we elaborated on Category II services as those

"for which the local exchange carrier retains significant (though perhaps declining) market power. We are not willing to allow local exchange carriers discretion to raise rates for these services above levels found to be reasonable by this Commission. Recognizing the necessity to price certain of these services above relevant cost measures in order to maintain a reasonable overall revenue level, we believe that such above-cost pricing should occur only with explicit Commission review and approval in order to protect adequately the interests of these still largely captive ratepayers." (D.89-10-031 at p. 152, emphasis added)

This discussion clearly shows our understanding that Category II services would have significant monopoly characteristics, hence our concern to protect the interests of "still largely captive ratepayers." MCI has both raised the continuation of the ban on IECs "holding out" intraLATA service as inconsistent with a finding that the proposed services are properly placed in Category II, ostensibly because intraLATA competition is not sanctioned. However, as the foregoing demonstrates, the LEC can retain "significant market power" and still have the service included in Category II for pricing purposes. For example, we included custom calling/vertical services and information access services in Category II (D.89-10-031 at p. 155), and the same intraLATA ban certainly applies in those markets, as well. Business Line 800 is clearly differentiated from GTEC's existing 800 services in that it is the first 800 product which GTEC will offer independent of AT&T's 800 numbers, and has distinctly different features available. We also believe that a sufficient showing has been made that competitive challenges to this new product exist. We conclude that Business Line 800 is a new service appropriately included in Category II.

We disagree with GTEC's inclusion of its GTE 800 Database (800 Access service expansion) in Category II, however. By GTEC's own description, these features are an expansion of its existing switched access (Category I) service. If there is any doubt of the categorization of this existing service, it should be dismissed by our Conclusion of Law 14 in D.89-10-031:

"14. Because of their monopoly characteristics, all other local exchange carrier services not listed in Conclusions of Law 11, 12, and 13 should be placed in Category I for pricing purposes." (At p. 378, emphasis added)

Conclusion of Law 11 refers to enhanced services and Yellow Page directory services; 12 refers to inside wiring; and 13 enumerates the Category II services: Centrex and EBSS features, custom calling/vertical services, high speed digital private line services, current information access services, high speed special access services, and billing and collection services. In D.89-10-031, we clearly direct how pricing flexibility for an existing Category I service must be requested:

"(Conclusion of Law) 16. If Pacific or GTEC wants a service to be recategorized for pricing purposes or for below-the-line treatment versus inclusion in the sharing mechanism, it should make such a request through an application, in order to allow full review and evaluation of market conditions. However, Pacific and GTEC should also be allowed to request in Phase III of this proceeding recategorization for pricing purposes of Category I services for which they also propose intraLATA competition." (At p. 378, emphasis added)

Ordering Paragraph 20 specifically directs the steps Pacific and GTEC must follow to apply for recategorization. (At p. 396)

2. THE MODIFIED FINAL JUDGMENT (MFJ) AND FCC POLICY

AT&T-C and MCI have warned us against approving certain features in these Advice Letters which they claim violate the MFJ and FCC policy. The MFJ forbids LECs from offering interLATA service. The services proposed by GTEC in this advice letter, as supplemented, do not involve any interLATA telecommunications transmissions, and appear to have been designed to comply with MFJ restrictions. It appears to us that the use of the LEC's data base to provide an intraLATA 800 service and 800 access service would encourage competition among IECs and enable those without a data base to enter the 800 market. (Our observation is shared by the FCC in 89-106, Para. 2.) We cannot rule on MFJ or FCC policy, and suggest that parties petition those bodies if they believe these offerings violate such policies.

3. COMPLIANCE WITH PUBLIC UTILITIES CODE SECTION 2893

A final issue not raised by protestors, but which should be noted, regards Public Utilities (P.U.) Code Section 2893 (Chapter 483, Statutes of 1989), which directs the CPUC to require any call identification service offered by a telephone corporation, or by any other person or corporation that makes use of the facilities of a telephone corporation, to allow the caller, at no charge, to withhold, on an individual basis, the display of the caller's telephone number from the telephone instrument of the individual receiving the call. Exempted from this requirement is any identification service provided in connection with any "800" or "900" access code telephone service until the telephone corporation develops the technical capability to comply, as determined by the Commission.

The CACD has recommended that the Commission address P.U. Code 2893 by requiring any request for intrastate 800 service to address compliance with P.U. Code Section 2893. The request should clearly state whether call identification service is offered in connection with the 800 service, and if so, how and when it will comply with P.U. Code Section 2893:

1. Allow a caller to withhold display of the caller's telephone number, on an individual basis, from the telephone instrument of the individual receiving the call placed by the caller.
2. No charge will be assessed to the caller who requests that his or her telephone number be withheld from the recipient of any call placed by the caller.
3. Notification to corporation subscribers that their calls may be identified to a called party, thirty or more days before a call identification service is offered.

GTEC stated for the record in A.89-03-046 that the calling party's number will not be delivered as part of the Business Line 800 service offering. (Tr. 2298) Pacific's revised tariffs submitted with A.L. 15686 specified that "Calling party identification is not available on 800 service." (Schedule Cal P.U.C. No. A7.1.2.B.6, at Sheet 13.2) While GTEC did not make a similar filing, it states in its tariff that:

"Except as otherwise stated in EXCEPTIONS, the rates and special conditions applicable to WATS and 800 Services are those in effect in Pacific Bell's Schedule Cal.P.U.C. No. A7.1." (GTEC Schedule Cal.P.U.C. No. B-3 I)

There are no "EXCEPTIONS" regarding Pacific's A7.1.2.B.6 or Calling Number Identifications in GTEC's current or proposed (in A.L. 5243, as supplemented) B-3 I tariff. Therefore, we conclude that GTEC observes the same condition in its 800 services.

FINDINGS

1. Since 1987, numerous alternatives to the LECs' 800 service have been introduced to provide universally recognized toll-free calling.
2. GTEC currently concurs in Pacific Bell's tariff to offer four intraLATA 800 subscription alternatives in California: Metro 800, Service Area 800, Half State 800 and Full State 800. Half and Full State 800 services are offered in conjunction with AT&T. GTEC provides customers with the terminating dedicated access line and intraLATA usage, while AT&T completes interLATA calls.

3. Interexchange 800 carriers other than AT&T are not required, under the 800 NXX Plan, to hand off intraLATA calls to LECs for transport and billing.

4. On April 11, 1990, the Commission granted AT&T-California (AT&T-C) interim authority to provide intrastate 800 READYLINE service on regular business or residential lines (D.90-04-023/A.89-03-046). Interim authority was granted based on a settlement agreement among AT&T-C and the LECs.

5. On April 11, 1990, the Commission granted Pacific provisional authority to offer CUSTOM 800 and the new ten-digit 800 Access Service feature, which would enable interexchange carriers (IECs) including AT&T-C to offer complementary interLATA 800 service in conjunction with Pacific. (R. T-14064)

6. In T-14064, the Commission accepted Pacific's categorization of the new CUSTOM 800 service as Category II (discretionary and partially competitive), in accordance with D.89-10-031, and confirmed that later pricing flexibility must be requested by application in the expedited application docket, pursuant to D.89-10-031, Ordering Paragraph 3.

7. In T-14064, the Commission rejected Pacific's categorization of the optional features associated with its new 800 Access Service feature as Category II. In D.89-10-031, existing switched access services were clearly included in Category I. As specified in that decision's Ordering Paragraph 20, requests for recategorization of existing services must be made by application.

8. When GTEC attached its draft tariff sheets to the February 5, 1990 proposed settlement agreement in A.89-03-046 (Readyline), this was the first opportunity any party had to consider its Business Line 800 and GTE 800 Database (800 Access Service) service proposals.

9. GTEC offered no cost study or financial analysis in support of its proposed service, and stated that it was unnecessary since it was concurring in Pacific Bell's tariff. (A.89-03-046 Tr. 2300-2301)

10. On March 13, 1990, pursuant to the proposed settlement agreement in A.89-03-046, GTEC filed A.L. 5243 with the CACD requesting to initiate Business Line 800 Service and GTE's 800 Database (800 Access Service) as a provisional Category II service without pricing flexibility. GTEC reserved "the right to request flexible pricing for this service when the cost studies and pricing of service issues have been defined and established in Phase III of I.87-11-033." (A.L. 5243, at p. 2)

11. GTEC's proposed Business Line 800 Service "allows a customer to terminate an 800 service on a regular, PBX or CentraNet business line, thereby, eliminating the need for a dedicated line." Further, "when a customer subscribes to additional service areas, GTEC will provide Business Line 800 Service in conjunction with an Interexchange Carrier (IXC). GTEC will

provide the intraservice area portion and the IXC will provide the interservice area portion. For the interservice area which the IXC provides, the NRCs and monthly recurring charges of the IXC will apply." (Proposed Schedule Cal.P.U.C. No. B-3 I.j.1)

12. "Due to the controversy surrounding the offering of the proposed optional features," GTEC also reserved "the right to request authority to offer these optional services at a future date upon written notification to the Commission." (A.L. 5243, at p. 2)

13. On March 21, 1990, GTEC filed Advice Letter Supplement No. 5243A to add language in its C-1 Access tariff, similar to that proposed in its B-3 tariff by A.L. 5243, to withhold the offering of the tariffed optional services (Call Handling and Destination).

14. On July 18, 1990, GTEC filed Advice Letter Supplement No. 5243B to delete these optional services and features from the proposed tariff sheets.

15. On August 24, 1990, GTEC filed Advice Letter Supplement No. 5243C to increase the Business Line 800 Weekend/Holiday rate to comply with the imputation test adopted in D.89-10-031 (from \$6.00 to \$6.60 per hour), state the annual revenue effect of the filing (\$6.6 million in 1991), and delete a 90-day deviation from the tariffed recurring Business Line 800 usage rates.

16. Timely protests were received by the CPUC on April 2, 1990, from AT&T-C, DRA, and MCI.

17. AT&T-C protested a limited aspect of the Advice Letter. DRA and MCI opposed approval of this Advice Letter in full.

18. GTEC responded to AT&T-C's protest on April 8, 1990, within the five business days of receipt mandated by G.O. 96-A.

19. No response to DRA's and MCI's protests was forthcoming until April 27th and May 1st, respectively; requests for extension of time to G.O. 96-A, pursuant to Rule 43, were not made at this time.

20. On May 3, 1990, DRA reacted to GTEC's request to file its late response, requesting that if this request is granted, "DRA be given the same consideration in the future should DRA be unable to file a protest of an advice letter within the 20 day period provided for in General Order No. 96-A, Section III H." (Letter to K. Coughlan, pp. 1-2)

21. On May 23, 1990, GTEC requested an extension of time to comply with G.O. 96-A from the Executive Director, pursuant to Rule 43 of the Commission's Rules of Practice and Procedure.

22. On July 3, 1990, the Executive Director granted GTEC's requests for extension of time to comply with G.O. 96-A and respond to DRA's and MCI's protests. However, he expressed his concerns regarding GTEC's failure to follow established Commission orders and rules, observing that "In order to conduct business in a timely fashion, it is incumbent upon all parties to follow the provisions of G.O. 96-A. Disregard of Commission rules cannot be tolerated."

23. There are two major areas in which issues and concerns have been raised regarding this advice letter: implementation of D.89-10-031 (Phase II, Alternative Regulatory Framework) relative to requests for new services, monitoring and categorization; and implications of the Modified Final Judgment (MFJ) and the FCC's Report and Order in Docket No. 86-10.

24. In D.89-10-031 we concluded that utilities may continue to propose new services through the advice letter process set out in General Order 96-A, except for enhanced services, BSEs, and any new services comparable to BSEs.

25. Advice Letter No. 5243 complies with our directive in D.89-10-031 (Conclusion of Law 15) by proposing the categorization of these new services and features.

26. MCI's protest of such designation without requesting pricing flexibility should be denied, since GTEC would have been remiss in not proposing categorization and we have not required it to request pricing flexibility concurrently.

27. By not requesting pricing flexibility at this time, GTEC subjects itself to a more rigorous examination of its request in our Expedited Application Docket, as required by Ordering Paragraph 3 of D.89-10-031.

28. GTEC has not complied fully with D.89-10-031, Conclusion of Law 15, as it does not propose below-the-line treatment or inclusion in the sharing mechanism. At this time, we will rely upon our stated intent in D.89-10-031, Conclusion of Law 34, to resolve this oversight and assume that these services are included in the sharing mechanism.

29. In Ordering Paragraph 2 of D.89-10-031, we required Pacific and GTEC to

"...demonstrate as part of any future request to receive pricing flexibility or to provide additional enhanced services or any new services which face competition that such proposals comply with the principles (of unbundling, nondiscriminatory access, imputation, and basing rate structures of monopoly utility services on underlying cost structures) adopted in this Ordering Paragraph." (at pp. 389-390, emphasis added)

30. GTEC certifies in its A.L. 5243 that its offering is in compliance with Ordering Paragraph 2.

31. On February 23, 1990, GTEC provided DRA with the calculation and results for the access imputed cost of GTEC's proposed Business Line 800 Service. The CACD first received the results with GTEC's cost study on June 1, 1990.

32. After reviewing the methodology and results presented in the cost study, the CACD directed GTEC to finalize and resubmit the cost study to enable staff to review it.

33. On July 2, 1990, GTEC resubmitted the cost study to the CACD and DRA.

34. Following several revisions to GTEC's cost worksheets, the CACD was finally satisfied that the imputed cost calculation and all proposed rates meet the "demonstration" requirement of Ordering Paragraph 2.

35. The CACD and DRA early and correctly interpreted D.89-10-031's imputation test to be applicable to each rate, not to an average.

36. In its demand forecast and resultant cost allocation, GTEC has assumed that the FCC will authorize LECs to discontinue the 800 NXX Plan by October 1, 1991.

37. In FCC Report and Order 89-106, the FCC states its conditions for such approval as:

"If and when the LECs' deployment of CCS7 (common channel signalling network protocol) is sufficient so that the level of access delay associated with the data base system is substantially reduced, we will, upon appropriate petition, permit LECs to discontinue NXX access. Our current expectation is that we will be able to grant such a petition when CCS7 is deployed to access tandems and, on a nationwide average basis, to end offices accounting for eighty percent of originating 800 traffic." (Para. 39)

38. GTEC bases its assumption its belief that the Regional Bell Operating Companies (RBOCs) are further along in their CCS7 conversion than GTE and therefore will have CCS7 deployed to over 80% of their access lines (which represent more than 80% of access lines nationwide) by latter 1991.

39. FCC 89-106 (released on April 21, 1989) does not strongly support GTEC's optimism regarding the RBOCs' progress in deploying CCS7 by the latter part of 1991.

40. In proposing its Custom 800 and IEC 800 Access services, Pacific assumed the FCC would act in 1993 on this issue, which is a more reasonably conservative estimate.

41. This range of expectation is another good reason for GTEC's Business Line 800 service and 10-digit Customer Identification access feature to be authorized provisionally, so that these pending developments may be factored into their final rates and charges.

42. It is reasonable to allow GTEC one year in which to validate its assumption on this issue; if the requisite petition to discontinue the 800 NXX Plan has not been filed with the FCC within one year, GTEC should adjust its demand forecast and revise its imputed costs, rates and charges accordingly.

43. GTEC has not proposed a discrete rate element to recover the new costs associated with the intrastate interLATA usage of the GTE 800 Database (10-digit customer identification). These costs, over GTEC's five-year study period, are not insignificant.

44. In the first year (pending the FCC's discontinuance of the 800 NXX Plan) the estimated impact on GTEC's intrastate rate of return is 0.002%.

45. We have not revised GTEC's access charges in several years (employing the surcharge/surcredit mechanism instead).

46. We expect that they will be comprehensively reviewed as a result of our upcoming decision in Phase III of I. 87-11-033.

47. We will not order GTEC to set a rate element to recover the costs associated with intrastate interLATA usage of the GTE 800 Database at this time.

48. GTEC should adjust the imputed costs, rates and charges for these services in accordance with any change which affects them, including the revision of access charges pursuant to our Phase III decision and/or a change in the surcredit it used to impute the costs associated with Business Line 800 service.

49. GTEC should identify and incorporate a rate element to recover the costs associated with IEC usage of the GTE 800 Database no later than when GTEC discontinues its 800 NXX Plan, regardless of whether the Phase III rate design is completed.

50. A.L. Supplement 5243C filed on August 24, 1990, resolves DRA's complaint of noncompliance with Section III.C of G.O. 96-A.

51. A.L. Supplement 5243B, filed on July 18, 1990, deleted the "Optional Features" from both its B-3 and C-1 tariffs, including the language conditioning offering of these features. When GTEC wishes to offer these features, it will file for authority appropriately.

52. We conclude from GTEC's response to DRA's protest that its proposed Category II designation for the Business Line 800 service is limited to those rate elements delineated in its Schedule B-3 I.j.

53. When requests for pricing flexibility are made, they should detail the rates and charges for which flexibility is requested.

54. In its response to DRA's protest, GTEC agreed to comply with a monitoring plan similar to that ordered in Resolution T-14064.

55. We adopt DRA's tracking plan for GTEC consistent with the relevant revisions we made in Resolution T-14064:

- a. In recognition of the resource-intensiveness of cost allocation analysis, we accepted Pacific's proposal to provide DRA's requested cost data annually; GTEC will track such data monthly and report it to the CACD within 60 days of the year-end (December 31). However, GTEC must be prepared to provide data such as this at the time it requests pricing flexibility for these products, as well as under the circumstances discussed in Section 1.A.2) of this Discussion.
- b. GTEC will track all other data monthly and report it to the CACD quarterly, within 60 days of the quarter-end.

56. In D.89-10-031, we established Categories I, II and III for pricing purposes. Category II was created "to include discretionary or partially competitive services for which there should be downward only pricing flexibility." (Conclusion of Law 10)

57. Our discussion in D.89-10-031 clearly shows our understanding that Category II services would have significant monopoly characteristics, hence our concern to protect the interests of "still largely captive ratepayers." (At p. 152)

58. The continuation of the ban on IECs "holding out" intraLATA service would be consistent with a finding that the proposed service are properly placed in Category II.

59. Business Line 800 is clearly differentiated from GTEC's existing 800 services in that it is the first 800 product which GTEC will offer independent of AT&T-C's 800 numbers, and has distinctly different features available. A sufficient showing has been made that competitive challenges to this new product exist.

60. We conclude that Business Line 800 is a new service appropriately included in Category II, and that MCI's protest should be denied.

61. We disagree with GTEC's inclusion of its GTE 800 Database (800 Access service expansion) in Category II. These features are an expansion of GTEC's existing switched access, Category I, service. Our Conclusion of Law 14 in D.89-10-031 firmly reinforces this categorization.

62. In D.89-10-031, Conclusion of Law 16, we clearly direct that recategorization must be requested by application, or may be requested in Phase III of that proceeding for services which are also proposed for intraLATA competition. (At p. 378)

63. Ordering Paragraph 20 of D.89-10-031 specifically directs the steps Pacific and GTEC must follow to apply for recategorization. (At p. 396)

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64. The Modified Final Judgment (MFJ) forbids LECs from offering interLATA service.
65. The services proposed in this Advice Letter, as supplemented, do not involve any interLATA telecommunications transmissions, and appear to have been designed to comply with MFJ restrictions.
66. The use of the LEC's data base to provide an intraLATA 800 service and 800 access service would encourage competition among IECs and enable those without a data base to enter the 800 market.
67. We cannot rule on MFJ or FCC policy. AT&T-C and MCI should petition those bodies if they believe these offerings violate such policies.
68. Public Utilities (P.U.) Code Section 2893 directs the CPUC to require any call identification service offered by a telephone corporation, or by any other person or corporation that makes use of the facilities of a telephone corporation, to allow the caller, at no charge, to withhold, on an individual basis, the display of the caller's telephone number from the telephone instrument of the individual receiving the call. Exempted from this requirement is any identification service provided in connection with any "800" or "900" access code telephone service until the telephone corporation develops the technical capability to comply, as determined by the Commission.
69. The Commission should address P.U. Code 2893 by requiring requests for intrastate 800 service to address compliance with P.U. Code Section 2893. The request should clearly state whether call identification service is offered in connection with the 800 service, and if so, how and when it will comply with P.U. Code Section 2893.
70. GTEC does not offer calling party identification in connection with its 800 services.
71. The provisional rates, charges, terms and conditions proposed in GTEC's Advice Letters No. 5243, 5243B and 5243C are just and reasonable; THEREFORE
- IT IS ORDERED that:**
1. GTE California Inc.'s request in Advice Letter No. 5243, as supplemented, for provisional authority to introduce a new intraLATA 800 service offering, "Business Line 800," and expand the current 800 access service offering to provide ten-digit customer identification by means of the new GTE 800 Database is authorized. Provisional authority is granted for 24 months, effective August 29, 1990 to August 28, 1992, unless otherwise ordered by this Commission.

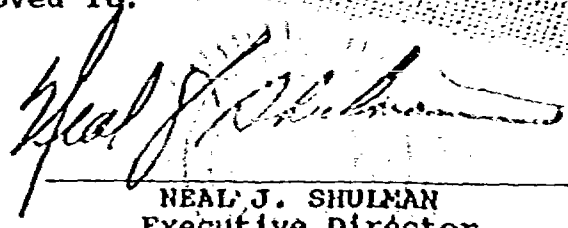
2. GTE California Inc.'s proposal in A.L. 5243 to categorize the new Business Line 800 service as Category II is accepted. Any subsequent request for pricing flexibility for this service must be made by application in our expedited application docket, in accordance with D.89-10-031, Ordering Paragraph 3.
3. GTE California Inc.'s proposal in A.L. 5243 to categorize the the ten-digit customer identification feature being added to its 800 access service is rejected. In order to recategorize this existing Category I service, GTEC must apply for authority as specified in Ordering Paragraph 20 and Conclusion of Law 16 of D.89-10-031.
4. During the 24-month provisional period, GTEC shall track the data as adopted in the discussion herein on a monthly basis and report this data quarterly to the Commission Advisory and Compliance Division (CACD) Telecommunications Branch Chief within 60 days of the quarter-end. GTEC shall also track the cost data adopted in the discussion herein monthly and report it annually to the CACD Telecommunications Branch Chief within 60 days of the year-end (December 31). GTEC shall provide copies of these reports to the Division of Ratepayer Advocates (DRA).
5. Within 30 days of the effective date of this resolution, GTEC will submit its confirmation of the tracking plan adopted herein, specifying the information which will be tracked and the reporting timetable, to the CACD Telecommunications Branch Chief and DRA.
6. If the requisite petition to discontinue the 800 NXX Plan has not been filed with the FCC within one year of this resolution's effective date, GTEC shall adjust its demand forecast and revise its imputed costs, rates and charges accordingly.
7. GTEC shall adjust the imputed costs, rates and charges for these services in accordance with any change which affects them, including the revision of access charges pursuant to our Phase III decision and/or a change in the surcredit used to impute the costs associated with Business Line 800 service. GTEC shall identify and incorporate a rate element to recover the costs associated with intrastate IEC usage of the GTE 800 Database no later than when GTEC discontinues its 800 NXX Plan, regardless of whether the Phase III rate design is completed.
8. Advice Letters No. 5243, 5243B and 5243C and their accompanying tariff sheets shall be marked to show this resolution's number and effective date. (A.L. 5243A was superceded by A.L. 5243B.)
7. The effective date of this Resolution is today.

Resolution T-14128

August 29, 1990

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on August 29, 1990. The following Commissioners approved it:

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
PATRICIA M. ECKERT
Commissioners



NEAL J. SHULMAN
Executive Director

Commissioner John B. Ohanian,
being necessarily absent, did
not participate.