

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-14593
Telecommunications Branch October 23, 1991

R E S O L U T I O N

RESOLUTION T-14593. GTE CALIFORNIA INCORPORATED.
REQUEST OF GTE CALIFORNIA INCORPORATED TO PROVIDE VOICE
MESSAGING SERVICE AND BASIC SERVICE ELEMENTS FOR THE
CONNECTION OF ENHANCED SERVICES TO ITS TELEPHONE
NETWORK.

BY ADVICE LETTER 5332, FILED JULY 3, 1991.

SUMMARY

GTE California Incorporated (GTEC), by Advice Letter (AL) 5332 filed July 3, 1991, requests approval of tariffs to provide voice messaging services and Basic Service Elements (BSE) for the connection of enhanced services to the telephone network as authorized by Decision (D.) 91-04-024. This Resolution rejects GTEC's proposed tariffs and authorizes GTEC to file revised tariffs under a supplementary advice letter with a shortened protest period for further Commission consideration.

A limited protest to this Advice Letter was filed by the Division of Ratepayer Advocates (DRA).

BACKGROUND

On April 10, 1991, the Commission issued D.90-04-024 authorizing GTEC to provide voice messaging services to end user customers on an interim tariffed basis without structural separation, and required the tariffing of both the services and the associated BSEs. The requirements for filing of advice letters to provide voice messaging services were set forth in the ordering paragraphs of D.91-04-024. Among other requirements, D.91-04-024 ordered GTEC to seek Commission approval of its initial voice messaging tariffs, and to include in those tariffs the dates upon which its enhanced services are estimated to be available in each end office.

On July 3, 1991 GTEC filed AL 5332 requesting authority to offer voice messaging services to its end user customers on an interim tariffed basis for a period of two years from the effective date of the tariffs, without structural separation. Without structural separation means that the utility would provide

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enhanced services on an integrated basis through its monopoly service operations. In addition, GTEC also proposed tariffing BSEs so that enhanced service providers can interconnect with GTEC's network to provide voice messaging services, or other enhanced services, to their end user customers.

GTEC's proposed tariff Schedule E-3, Enhanced Services, consists of a list of effective sheets, table of contents, preliminary statement, rates, and special conditions. The rates section in toto states:

"Rates are variable and subject to market conditions, demand, volume, and other conditions. Customers will be notified in writing in advance of price changes.

"Enhanced services are Category III services provided below the line (BTL) as established in Decision No. 89-10-031."

There is no further description in the tariff sheets accompanying AL 5332 of the rates GTEC proposes to charge for its voice messaging services.

NOTICE/PROTESTS

The Advice Letter indicated that GTEC provided notice in accordance with G.O. 96-A to all competing utilities, adjacent utilities, and all other utilities and interested parties having requested such notification. Notification of GTEC's AL 5332 appeared in the Commission's Daily Calendar on Wednesday, July 10, 1991.

A limited protest was filed by the Division of Ratepayer Advocates on July 24, 1991. DRA believes that the Commission should consider the issues inherent in GTEC's filing, such as the costs, rate design, and development and deployment of enhanced services, in depth in a more generic proceeding which it sees as the proper forum to fully litigate the introduction of enhanced services. DRA also suggests that the Commission grant GTEC limited two year tariff authority pending a review of these services and further decision(s) in the Implementation Rate Design portion of I.87-11-033.

On July 29, 1991 GTEC responded to DRA's limited protest. In its response, GTEC stated that it "would comply with any further Commission ruling arising from the [Implementation Rate Design proceeding]." GTEC also asserted that concerns outlined in the DRA limited protest regarding limited interim authority for voice messaging services have already been addressed in D.91-04-024 and its AL 5332. Ordering Paragraph 11 of D.91-04-024 states: "Authority is granted on an interim basis for a 2-year period, subject to any conditions which the Commission may impose following a broader investigation in this or any related proceeding." GTEC's proposed Schedule E-3, under Special Conditions, states "Voice Message Service is provided on an interim basis for a period of two years from the effective date of this tariff."

The Commission has received two letters from Pacific Alliance Search Association in support of GTEC's advice letter filing. For economic reasons the Association seeks speedy Commission approval.

DISCUSSION

GTEC's failure to specify in its proposed enhanced services tariff the rates it would charge for voice messaging services is troubling.

In D.89-10-031, we placed enhanced services including voice mail and voice store and forward in Category III (fully competitive), and concluded that Category III services should have the "maximum pricing flexibility allowed by law." (See 33 Cal. P.U.C. 2d 43 at 125, 126, and 227 (Conclusion of Law No. 10).) In D.91-04-024 we specifically authorized GTEC to provide voice messaging services to end user customers on an interim basis as Category III services. (Mimeo at 17-18.)

In D.91-04-024 we also ordered GTEC to provide its voice messaging services on a tariffed basis. (Mimeo at 16-18.) The requirement that GTEC tariff its voice messaging services is entirely consistent with our recent decisions concerning Pacific Bell's application for authority to provide Fax Store and Forward service, D.90-07-052 and D.91-04-072. In those decisions we concluded that, under Public Utilities (P.U.) Code §489, when a company already recognized as a public utility telephone corporation itself offers an enhanced service that includes use of its public utility telephone lines, then that enhanced service must be tariffed. (See D.91-04-072 at 1-2.)

The proposed tariffs that GTEC has filed for its voice messaging services do not comply with the minimum requirements for a tariff set forth in P.U. Code §489(a). That section requires "every public utility . . . to file with the commission, schedules showing all rates, . . . charges, and classifications . . . to be collected or enforced, together with all rules . . . which in any manner affect or relate to rates . . ." GTEC's proposed tariff sheets do not contain any rates and therefore do not comply with the legal requirements of §489. Accordingly, GTEC must revise its proposed tariff sheets to specify the rates it proposes to charge for its voice messaging services. In addition, to meet the minimum requirements of law, GTEC's tariff must also specify all classifications and rules which are necessary to determine the applicable rate for its voice messaging services.

The requirement that GTEC tariff the rates for its voice messaging services is consistent with our statement in D.89-10-031 that Category III services should have the "maximum pricing flexibility allowed by law". As explained above, we believe that the law requires that GTEC tariff the rates for its voice messaging services. Moreover, a tariffing requirement is not the same as rate regulation. This tariffing requirement does not, in and of itself, limit the rates which GTEC may charge for enhanced services. It does, however, require that GTEC make rate information publicly available.

We also note that Ordering Paragraph 10 of D.91-04-024 requires GTEC's tariffs to "include dates upon which its enhanced services are estimated to be available in each end office." Any proposed tariff sheets that GTEC files for its voice messaging services must comply with this requirement as well.

We will reject GTEC's proposed tariffs and authorize GTEC to submit a supplemental advice letter meeting our concerns.

The issue of offering voice messaging services has already been addressed in D.91-04-024, and interested parties have been served with copies of GTEC's AL 5332 and provided a twenty day period to protest under G.O. 96-A. Only a small, albeit pivotal, section of AL 5332's proposed tariffs is at issue at this point. In some important respects the changes GTEC must make to proposed Schedule E-3 for it to conform to the requirements of §489(a) are analogous to the rate filings either increasing or decreasing rates for which we allowed only an eight day protest period under D.89-10-031. As we found in D.91-04-024, there is a public need for GTEC's voice messaging services. In light of this finding and the supporting letters indicating a need for prompt tariff approval, we believe it appropriate to limit the protest period for GTEC's supplemental advice letter to ten days pursuant to G.O. 96-A, Section XV.

FINDINGS

1. D.91-04-024 authorized GTEC to provide voice messaging services, and ordered the initial tariffs be subject to Commission approval before taking effect.
2. GTEC filed Advice Letter 5332 on July 3, 1991 requesting Commission approval of tariffs to provide BSEs for the connection of enhanced services to the telephone network by all parties wishing to provide such services, and voice messaging service.
3. GTEC's proposed tariff Schedule E-3 for enhanced services does not contain all the rates, classifications and rules which are necessary to determine the charges for voice messaging services, and therefore does not comply with the minimum requirements for a tariff set forth in P.U. Code Section 489(a).
4. The tariffs proposed by GTEC's AL 5332 do not include dates upon which its enhanced services are estimated to be available in each end office, and therefore do not comply with Ordering Paragraph 10 of D.91-04-024.
5. A limited protest to this Advice Letter was filed by DRA. DRA maintains that enhanced service issues need further litigation, and that GTEC's proposed tariff offerings should be on an interim two year basis only.
6. The restrictions of D.91-04-024 and statements in GTEC's Advice letter adequately resolve concerns raised in DRA's limited protest.

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7. The tariffs GTEC proposes in AL 5332 should be rejected, and GTEC should be authorized to submit a supplemental advice letter addressing the concerns expressed in this Resolution.

8. It is appropriate to limit the protest period for GTEC's voice messaging supplemental advice letter to ten days pursuant to G.O. 96-A, Section XV.

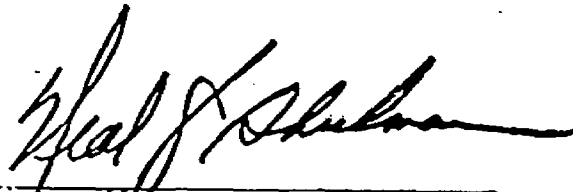
THEREFORE, IT IS ORDERED that:

1. The tariffs accompanying GTE California's Advice Letter 5332 are rejected without prejudice.

2. GTE California is authorized to file a supplement to Advice Letter 5332 addressing the concerns expressed in this Resolution. The protest period for GTE California's supplemental advice letter shall be limited to ten days, and the tariffs accompanying the supplemental advice letter shall not go into effect until approved by the Commission.

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 October 23, 1991. The following Commissioners approved it:



NEAL J. SHULMAN
Executive Director

PATRICIA M. ECKERT
President

JOHN B. OGANIAN
DANIEL Wm. FESSLER
NORMAN D. SHASSAY
Commissioners