

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-14689
Telecommunications Branch December 18, 1991

R E S O L U T I O N

**RESOLUTION T-14689. GTE CALIFORNIA, INCORPORATED.
REQUEST FOR PROVISIONAL AUTHORITY TO FILE ADVICE LETTERS
TO WAIVE OR DISCOUNT SPECIFIC TARIFFED CHARGES DURING A
PROMOTIONAL PERIOD.**

BY ADVICE LETTER NO. 5329, FILED ON JULY 3, 1991.

SUMMARY

This Resolution authorizes GTE California, Incorporated (GTEC) to file advice letters with this Commission to specify optional services that will be offered during a promotional period with waived or discounted tariffed nonrecurring charges. The services promoted will be those offered to all customers or those optional services which are newly available, either throughout the utility's intrastate service territory or due to the upgrade of the utility's serving facilities. Any promotion must be offered to all classes of customers to whom the promoted service is available. A promotion cannot be provided in tandem with market trials or technology tests. The duration of each promotional period shall not exceed 120 days.

Authorization is provisional and will expire 24 months after the effective date of this Resolution, unless cancelled, changed, or extended by Commission order.

BACKGROUND

Currently, when GTEC offers a new optional service, subscribers are charged the full tariffed rates and charges and are not allowed to subscribe to the service on a reduced-cost trial basis. Section X of General Order 96-A requires utilities to "first obtain the authorization of the Commission to carry out the terms of...any contract or deviation for the furnishing of public utility service at rates or under conditions other than the rates and conditions contained in its tariff schedules on file and in effect at the time."

In Advice Letter No. 5329, filed on July 3, 1991, GTEC requests authorization to introduce a provisional tariff allowing it to offer selected network and exchange optional services at waived

or reduced nonrecurring tariff charges. GTEC requests its provisional tariff to be in effect for two years from the effective date of Resolution T-14174 which authorized Pacific Bell's provisional promotional tariff on October 12, 1990.

GTEC proposes the following Special Conditions:

1. Promotional offerings will be extended to those services listed in [Cal Schedule P.U.C. No. A-42.IV.B], as approved by Advice Letter
2. Promotional offerings for those services listed in Schedule Cal. P.U.C. No. A-42, Section IV.B, will be subject to all rules and regulations in the Utility's Schedules.
3. The Utility may promote optional services which are offered to all customers or those optional services which are newly available, either throughout the utility's intrastate service territory or due to the upgrade of the utility's serving facilities.
4. The duration of a promotion will not exceed 120 days per offering. All promotions will be approved by advice letter filings which shall include but not be limited to the following information:
 - service selection
 - nonrecurring charges
 - promotional area
 - duration
 - customer notification plan.
5. Promotional pricing of services will be subject to and offered only where facilities and operating conditions permit.
6. Promotional offerings will be limited to serving central offices designated by the Utility.
7. The method of customer notification of the promotional campaign will be determined by the Utility.
8. Customers may cancel at any time during or at the conclusion of the promotional period without penalty. Minimum charge for service as set forth in Schedule Cal. P.U.C. D&R Rule No. 10 is applicable to a promotional offering.
9. Customer notification pertaining to the retention of services subscribed to during the promotional period is required as set forth in Schedule Cal. P.U.C. D&R Rule No. 3.
10. Promotional Pricing is a provisional tariff offering which will terminate October 12, 1992 unless cancelled, changed, or extended.

GTEC proposes to submit a post-implementation analysis to the Commission Advisory and Compliance Division (CACD) within 60 days of the ending date of each promotional program, and receive approval before the next promotion commences. The analysis will include customer response to the promotion, the impact of the promotion scheme on the profitability of the promoted service as a whole, actual revenues and expenses, and all customer complaints or concerns.

PROTESTS

Notice of this Advice Letter was published in the Commission Calendar on July 10, 1991. The CACD has received no protests to GTEC's Advice Letter No. 5329.

DISCUSSION

A. The Terms of Commission Authorization

GTEC's Advice Letter No. 5329 proposes to establish a Commission authorized (as required by G.O. 96-A, Section X) platform from which specific promotional offerings may be offered. Once the Commission authorizes and adopts a promotional program by resolution (i.e., via this Advice Letter), no further Commission resolutions should be required for promotional offerings which meet the terms and conditions of that authorization. Such subsequent filings can be made as advice letters which will go into effect on regular notice without a Commission resolution.

Advice Letter No. 5329 requests a provisional tariff to be in effect for two years from the effective date of Resolution T-14174 which authorized Pacific Bell's provisional promotional tariff on October 12, 1990. This action would unnecessarily complicate GTEC's authorization by linking the expiration of its provisional tariff to dates established by Commission Resolution T-14174 for Pacific Bell's provisional tariff. Expiration of GTEC's provisional tariff is more appropriately established in the ordering paragraphs of this Resolution.

Resolution T-14174, which authorized Pacific Bell's provisional promotional tariff, made reference to GTEC in its discussion. GTEC mistakenly understood these references to include GTEC in the authorization granted by Resolution T-14174, leading to GTEC's request for authorization during the time frame granted to Pacific. Because Resolution T-14689 is an entirely new authorization granted to GTEC alone, it will provide authority for GTEC's promotional tariff during a two year period from the effective date of this Resolution, as have other resolutions granting similar authority to local exchange companies.

Similar authority has been granted to Pacific Bell in Resolution T-14174 (October 12, 1990), Contel Service Corporation in Resolution T-14231 (February 21, 1991), CP National Corporation

and Tuolumne Telephone Company (April 24, 1991) in Resolution T-14361, and Evans Telephone Company (May 22, 1991) in Resolution T-14394.

Special Conditions 8 and 9 of proposed Schedule Cal. P.U.C. No. A-42 reference GTEC Schedule Cal. P.U.C. D&R Rule Nos. 10 and 3, respectively. GTEC Schedule Cal. P.U.C. D&R Rule No. 3 (Disclosure of Rates and Charges and Information to be Provided to the Public) contains the provisions and conditions under which GTEC issues customer notifications. GTEC Schedule Cal. P.U.C. D&R Rule No. 10 (Rendering and Payment of Bills) contains the provisions and conditions for payment of customer bills. We have reviewed these rules in relation to the instant filing and find no inconsistencies or conflict between these rules and the instant filing, and find that reference to these rules does not change or modify the contents of the instant filing.

B. Definition of Legitimate Services/Offerings

Public Utilities (P.U.) Code Section 453(c) prohibits public utilities from establishing or maintaining "any unreasonable difference as to rates, charges, services, facilities, or in any other respect, either as between localities or as between classes of service." In order to satisfy this statute, promotional offerings should be available to all customers using equivalent services and facilities, regardless of class or locale. Therefore, promotional offerings (reduced or waived nonrecurring charges) are appropriate when offered to all customers or when an optional service is newly available, either throughout the utility's intrastate service territory or due to the upgrade of the utility's serving facilities.

Market trials and technology tests should continue to require separate evaluation and authorization as currently required, since by definition they are conducted prior to services being made available throughout the utility's service territory and already constitute a "deviation" from the utility's tariff.

In considering whether a "service" is appropriate for promotion, we should consider the definition of "new service" which we adopted in D.87-07-017, D.88-12-091, and D.90-11-029. Therein, we have agreed with AT&T's definition of new service as "an offering which customers perceive as a new service and which has a combination of technology, access, features or functions that distinguishes it from any existing services" (D.88-12-091 at p. 53). We adopted this definition with the qualifier that "repricing or repackaging of an existing service would not be considered a new service" and observed that "the definition does not classify an optional calling plan which discounts existing service as a new service" (Id. at pp. 53-54).

C. Conclusion

Authorizing the promotional pricing of optional services will allow customers the benefit of making an informed decision based

on personal use of such optional services. There may be an added benefit of stimulation in the usage of optional services after the promotional period ends.

Each promotion-specific advice letter must include the following elements, in order to avoid discriminatory treatment and mitigate any negative impact on subscribers or the general ratepayers:

- a. The overall criteria for waiving or discounting the nonrecurring charge during the promotional program.
- b. The financial impact of the promotion on the entire service to reflect the revenue required to recover the cost of the promotion.
- c. The start and end dates of the promotion(s).
- d. The program for customer notification/participation.
- e. Samples of the notification materials.
- f. Any limitations or safeguards (e.g., customer selection, rate structure, and program monitoring).
- g. The tracking (post-implementation analysis) plan.

Within sixty (60) days of the end date of each promotional offering and prior to commencement of any subsequent promotional offering, a post-implementation analysis report should be submitted to CACD and include the following:

- nonrecurring revenue loss from the promotion;
- nonrecurring costs of the promotion;
- recurring revenue gain from new customers;
- recurring expenses;
- number of subscribing customers;
- record of any complaints;
- record of how long customers retain the service during the promotional period.

The financial impact report from the last promotional offering should be approved by CACD before the utility makes another promotional offering.

FINDINGS

1. Section X of General Order 96-A requires utilities to obtain authorization of the Commission to carry out any deviation from the rates and conditions contained in their tariff schedules.
2. GTEC's Advice Letter No. 5329 is generic and designed to provide the foundation for promotional offerings of optional services when offered to all customers or when an optional service is newly available, either throughout the utility's

intrastate service territory or due to the upgrade of the utility's serving facilities.

3. Once the Commission authorizes and adopts a promotional program tariff by resolution (i.e., via this advice letter), no further Commission resolutions should be required for promotional offerings which meet the terms and conditions of that authorization. Such subsequent filings can be made as advice letters which will go into effect on regular notice without a Commission resolution.

4. The authorizing resolution's effective date is the standard "trigger" for the duration of provisional tariffs, as well as for most compliance requirements.

5. In order to satisfy P.U. Code Section 453(c), promotional offerings should be available to all customers using equivalent services and facilities, regardless of class or locale.

6. Promotional offerings (reduced or waived nonrecurring charges) are appropriate when offered to all customers or when a service is newly available, either throughout the utility's intrastate service territory or due to the upgrade of the utility's serving facilities.

7. Market trials and technology tests should continue to require separate evaluation and authorization as currently required, and should not be included in the promotional program.

8. In considering whether a "service" is appropriate for promotion, we should consider the definition of "new service" we adopted in D.87-07-017, D.88-12-091, and D.90-11-029.

9. We adopted this definition with the qualifier that "repricing or repackaging of an existing service would not be considered a 'new service'" and observed that "the definition does not classify an optional calling plan which discounts existing service as a 'new service'" (Id. at pp. 53-54).

10. Authorizing the promotional pricing of optional services will allow customers the benefit of making an informed decision based on personal use of the service.

12. Each promotion-specific advice letter should include the following elements:

- a. The overall criteria for waiving or discounting the nonrecurring charge during the promotional program.
- b. The financial impact of the promotion on the entire service to reflect the revenue required to recover the cost of the promotion.
- c. The start and end dates of the promotion(s).
- d. The program for customer notification/participation.

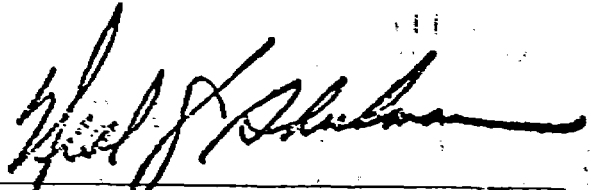
- e. Samples of the notification materials.
 - f. Any limitations or safeguards (e.g., customer selection, rate structure, and program monitoring).
 - g. The tracking (post-implementation analysis) plan.
13. Advice letters which comply with the conditions enumerated in the Findings should become effective on regular notice.
14. Within sixty (60) days of the end date of each promotional offering and prior to commencement of any subsequent promotional offering, a post-implementation analysis report should be submitted to CACD and include the following:
- nonrecurring revenue loss from the promotion;
 - nonrecurring costs of the promotion;
 - recurring revenue gain from new customers;
 - recurring expenses;
 - number of subscribing customers;
 - record of any complaints;
 - record of how long customers retain the service during the promotional period.
15. The post-implementation analysis report from the last promotional offering should be approved by CACD before the utility initiates another promotional offering.

THEREFORE, IT IS ORDERED that:

1. GTE California, Incorporated's request in Advice Letter No. 5329 for provisional authority to offer optional services having promotional periods with waived or discounted, tariffed, nonrecurring charges is granted. This authority will expire two years from the effective date of this Resolution unless cancelled, changed or extended by Commission order.
2. GTE California, Incorporated is authorized to promote only specific optional services which result from upgraded serving facilities, or territory-wide offerings of new or existing optional services.
3. GTE California, Incorporated shall file advice letters for specific optional services to be included in Schedule Cal. P.U.C. A-42 to become eligible for promotional pricing. Such advice letters shall include the elements specified in Finding 12, and shall be made in accordance with Finding 15.
4. After each promotional offering, GTE California, Incorporated shall submit to the Commission Advisory and Compliance Division a post-implementation analysis report containing the details specified in Finding 14.

5. 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 December 18, 1991. The following Commissioners approved it:



NEAL G. SHULMAN
Executive Director

PATRICIA M. ECKERT
President
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners