

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission Advisory and Compliance Division RESOLUTION T-15157
Telecommunications Branch December 16, 1992

R E S O L U T I O N

RESOLUTION T-15157. GTE CALIFORNIA, INC. (U-1002-C).
REQUEST TO ESTABLISH DIGITAL SPECIAL ACCESS SERVICE,
INTRALATA AND INTERLATA.

BY ADVICE LETTER NO. 5396, FILED ON JUNE 4, 1992, AND
ADVICE LETTER NO. 5420, FILED ON SEPTEMBER 10, 1992.

SUMMARY

This Resolution rejects the request of GTE California, Inc. (GTEC) to offer Digital Special Access Service on an interim basis at rates and terms proposed in its Advice Letters Nos. 5396 and 5420 pending review and final determination of appropriate rates and categorization in the Implementation Rate Design (IRD) portion (Phase III) of the Commission's Alternative Regulatory Framework Proceeding (I.87-11-033). The Division of Ratepayer Advocates (DRA) is contesting GTEC's proposed rates and charges for these services in IRD. The Commission denies GTEC's request on the grounds that approving these rates by way of the advice letter process tends to undermine the procedural integrity of the Commission's formal investigation process by circumventing I.87-11-033.

BACKGROUND

On June 4, 1992, GTEC filed Advice Letter No. 5396, proposing a new tariff offering, Basic Digital Special Access Service. This is a digital private line service which is designed to provide digital transport between two or more points for data communications. It is designed to connect with Pacific Bell's InterLATA Advanced Digital Network (which Pacific provides to its customers by way of interconnection with an interexchange carrier). On September 10, GTEC filed Advice Letter No. 5420 to establish its own IntraLATA Digital Special Access tariff.

NOTICE/PROTESTS

Notice of Advice Letter No. 5396 was published in the Commission's Daily Calendar of June 8, 1992. A timely protest was filed by the Division of Ratepayer Advocates (DRA) on June 23, 1992. GTEC responded to DRA's protest, and in turn filed

Advice Letter No. 5420 on September 10, 1992. Notice of Advice Letter No. 5420 was published in the Commission's Daily Calendar of September 30, 1992, at which time DRA filed a protest. DRA's protests and GTEC's responses are discussed below.

DISCUSSION

According to Advice Letter No. 5396, the Basic Digital Special Access service is a two-point or multi-point, digital private line service for data communications. The service is designed to connect with Pacific Bell's InterLATA Advanced Digital Network (ADN) services, the interexchange segment of which is provided by an interexchange carrier. The filing also proposes several tariff changes for the Digital Data Service. The rates and charges proposed for the services described in Advice Letter No. 5396 are the same rates and charges proposed by GTEC in its I.87-11-033 IRD proposal, filed September 23, 1991.

DRA states three reasons for its protest of Advice Letter No. 5396:

- 1) GTEC's proposed rates and charges for these services are currently a matter of contention in the IRD proceeding.
- 2) DRA has proposed different rates and charges for these services, than those proposed by GTEC in its advice letter and IRD filings.
- 3) GTEC currently provides these services by concurring in Pacific Bell rates and charges as its current rates and charges.

DRA requests that GTEC's Advice Letter No. 5396 be denied by Commission Resolution unless it adopts GTEC's current rates and charges for these services.

GTEC responded that the price for the new service is the same as that proposed in IRD, and asked the Commission to give interim authority for GTEC to offer the new service at the proposed IRD price, at least until IRD is completed.

DRA in turn commented on GTEC's response stressing that special access (SA) circuits in the new service are the same as private line (PL) circuits in GTEC's intrastate Digital Data Service (Schedule Cal. P.U.C. No. G-8) which GTEC currently provides by concurring in Pacific Bell's tariff schedules. In IRD, GTEC and DRA propose to make PL and SA rates and charges the same. DRA insists that the same rates and charges which GTEC currently applies in Schedule Cal. P.U.C. No. G-8 should be applicable to its new service proposed in Advice Letter No. 5396.

GTEC responded in turn to DRA's comments by filing Advice Letter No. 5420, in which it requested removal of concurrence in Pacific's tariff, and establishment of its own IntraLATA Basic and Premium Digital Data Services, equally rated to its

InterLATA Basic and Premium Digital Data Services. DRA protested Advice Letter No. 5420, stating that DRA has proposed rates and charges in the IRD proceeding that are different than those proposed by GTEC in Advice Letter No. 5420 and GTEC's IRD filing.

We are reluctant to accept GTEC's Advice Letters Nos. 5396 and 5420, in which rates and charges are currently in dispute between GTEC and DRA in our IRD proceeding, and believe that in granting GTEC interim authority for its Advice Letters Nos. 5396 and 5420 we could compromise the procedural integrity of our formal investigation which is currently a closed record under submission to the assigned Administrative Law Judges. Therefore, we will reject Advice Letters Nos. 5396 and 5420 without prejudice pending a decision in I.87-11-033. In its protests, DRA has proposed interim alternatives for GTEC to consider if it wishes to refile for IntraLATA/InterLATA digital services by concurrence in Pacific Bell schedules for Digital Data Service and Advanced Digital Network services.

FINDINGS

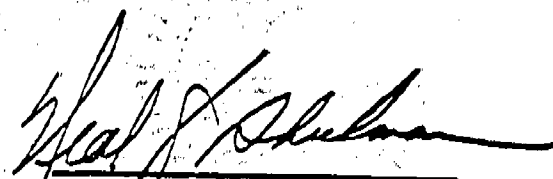
1. GTEC filed Advice Letter No. 5396 on June 4, 1992, proposing a new tariff offering, Digital Special Access Service, designed to connect to Pacific Bell's InterLATA Advanced Digital Network.
2. DRA protested GTEC's Advice Letter No. 5396, stating that it has proposed different rates for the service in the Commission's IRD proceeding, I.87-11-033.
3. GTEC responded by requesting interim authority for the new service at its proposed IRD price, at least until IRD is completed.
4. DRA responded that circuit elements of the new InterLATA service are the same as those provided in GTEC's IntraLATA digital services tariff, offered at a different price.
5. GTEC responded by filing Advice Letter No. 5420, in which it sought to establish its own IntraLATA digital special access tariff at rates equal to its InterLATA IRD proposal.
6. DRA protested Advice Letter No. 5420 stating that it has proposed rates and charges in IRD that are different from GTEC's Advice Letter No. 5420 and GTEC's IRD filing.
7. Granting GTEC interim authority for its Advice Letters Nos. 5396 and 5420 could compromise the procedural integrity of our IRD investigation.
8. GTEC's Advice Letters Nos. 5396 and 5420 should be rejected without prejudice to avoid compromising the procedural integrity of our IRD investigation.

December 16, 1992

THEREFORE, IT IS ORDERED that:

1. GTE California, Inc.'s request to offer InterLATA and IntraLATA Digital Special Access Service on an interim basis until completion of IRD (Phase III of I.87-11-033) by Advice Letters Nos. 5396 and 5420 is denied without prejudice.
2. Advice Letters Nos. 5396 and 5420 shall be marked rejected and returned to GTE California, Inc., in accordance with Section VII. of our General Order No. 96-A.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on December 16, 1992. The following Commissioners approved it:


NEAL J. SHULMAN
Executive Director

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

I dissent.

/s/ PATRICIA M. ECKERT
Commissioner