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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-15717  
Telecommunications Branch February 22, 1995

R E S O L U T I O N

RESOLUTION T-15717. ALL LOCAL EXCHANGE COMPANIES (LECS).  
ORDER REQUIRING ALL LECS TO FILE REVISED TARIFF SCHEDULES  
TO REFLECT THE ADJUSTMENT IN THE INCOME LIMITATION  
REQUIREMENT APPLICABLE TO UNIVERSAL LIFELINE TELEPHONE  
SERVICE.

SUMMARY

Section 3.1.1.1 of General Order 153 requires the Commission to adjust the Household Income Limitation requirement applicable to Universal Lifeline Telephone Service (ULTS) by February 15th of each year. This adjustment reflects inflation based on change in the Federal Consumer Price Index -- Urban Areas (CPI-U).

BACKGROUND

Currently, the income limitation requirement for the period of March 8, 1994 through March 7, 1995 is as follows:

<u>Household Size</u>	<u>Income Limitation</u>
1 - 2	\$15,700
3	18,400

(For each additional member, add \$3,700)

DISCUSSION

The latest data available from the January 1995 Review of the US Economy, by DRI/McGraw-Hill, shows that the percentage rate change in the 1994 calendar year for the U.S. City average, CPI-U, is 2.6 percent. Therefore, the new income limitation requirement which should be effective from March 8, 1995 through March 7, 1996 is as follows:

<u>Household Size</u>	<u>Income Limitation</u>
1 - 2	\$16,100
3	18,900

(For each additional member, add \$3,800)

The household income is subject to verification by the Commission or by the local service provider.

FINDINGS

1. Section 3.1.1.1 of General Order 153 requires the Commission to revise the Household Income limitation requirement applicable to the Universal Lifeline Telephone Service Program by February 15th of each year.
2. The latest available change in the Consumer Price Index -- Urban Areas is 2.6% and will be used in determining the Household Income Limitations for the period from March 8, 1995 through March 7, 1996.
3. Resulting income limits are as follows:

<u>Household Size</u>	<u>Income Limitation</u>
1 - 2	\$ 16,100
3	18,900

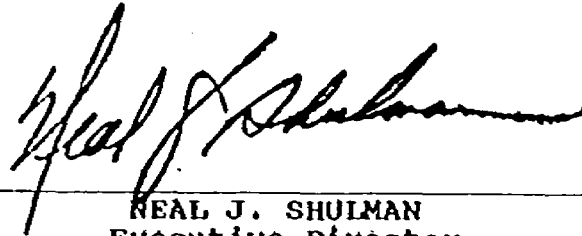
(For each additional member, add \$3,800)

4. The household income is subject to verification by the Commission or by the local service provider.

THEREFORE, IT IS ORDERED that:

1. All Local Exchange Companies shall file revised tariff schedules reflecting the increase in the income limitation requirement applicable to Universal Lifeline Telephone Service as specified in Finding No. 3 of this Resolution by March 1, 1995, and these revised tariff sheets shall be effective from March 8, 1995 through March 7, 1996. The household income is subject to verification by the Commission or by the local service provider.
2. All tariff sheets filed under the authority granted by this Resolution shall be marked to show that such sheets were authorized by Resolution No. T-15717 of the Public Utilities Commission of the State of California.
3. The effective date of this Resolution is today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on February 22, 1995. The following Commissioners approved it:



REAL J. SHULMAN  
Executive Director

DANIEL Wm. FESSLER  
President  
NORMAN D. SHUMWAY  
P. GREGORY CONLON  
JESSIE J. KNIGHT, JR.  
Commissioners

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CA-27

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-15719  
Telecommunications Branch February 22, 1995

R E S O L U T I O N

RESOLUTION T-15719. GTE CALIFORNIA, INC. (U-1002-C).  
REQUEST TO REVISE ITS PROMOTIONAL PRICING TARIFF, TARIFF  
SCHEDULE CAL. P.U.C. NO. A42, PROMOTIONAL PRICING.

BY ADVICE LETTER NO. 5673, FILED ON OCTOBER 24, 1994, AS  
SUPPLEMENTED BY ADVICE LETTER NO. 5673A, FILED ON  
JANUARY 18, 1995 AND BY ADVICE LETTER NO. 5673B, FILED  
ON JANUARY 30, 1995.

SUMMARY

This Resolution approves GTE California, Inc.'s (GTEC) request in Advice Letter (AL) No. 5673 as supplemented by AL No. 5673A and AL No. 5673B to revise its promotional pricing authority to conform with policies adopted in the Implementation Rate Design (IRD) Decision, D.94-09-065.

BACKGROUND

Resolution T-14689 granted GTEC provisional authority to file advice letters with the California Public Utilities Commission (Commission) to specify optional services that will be offered during a promotion with waived or discounted tariffed nonrecurring charges. The services promoted under authority granted by this resolution resulted from new or upgraded utility serving facilities or statewide offerings of new or existing optional services. Resolution T-14689 specified that any promotion filed must be offered to all classes of customers to whom the promoted service is available. Promotions granted under this provisional authority were not to exceed 120 days. Authorization for promotional pricing was granted for two years after the effective date of Resolution T-14174, December 18, 1991, unless canceled, changed or extended by the Commission.

Resolution T-15567, effective on July 8, 1994, reinstated GTEC's Promotional Pricing tariff, which expired on December 18, 1993, until July 12, 1996, or unless cancelled, changed or extended by the Commission.

On October 24, 1994, GTEC filed AL No. 5673 requesting revision of its Promotional Pricing tariff. GTEC requests the following changes in AL No. 5673:

- allow Monthly Recurring charges to be waived and/or discounted for promotion AL offerings.
- allow Usage charges to be waiver and/or discounted for promotion AL offerings.
- allow repeat/extension of promotion by a ten-day memorandum notice on the condition that repeated or extended promotions will be limited to 120 days for each repeated or extended promotion.

On January 18, 1995, GTEC filed AL No. 5673A requesting further revisions to its Promotional Pricing tariff. In its supplement, GTEC requests the authority to:

- file for Category II and Category III services promotions on 5-days' notice, with a 20-day protest period.
- offer waivers and/or discounts for Category II and Category III services in conjunction with third party promotions.
- repeat or extend promotions on 5-days' notice.
- Advertise promotions prior to their approval with the caveat "... pending Commission approval" in their advertisement.

On January 30, 1995, GTEC filed AL No. 5673B requesting its promotional pricing authority be revised to include existing Category II and Category III services.

In Resolution T-15613, dated January 24, 1995, the Commission provisionally granted promotional pricing authority to Pacific Bell (Pacific) consistent with the Commission's Implementation Rate Design Decision, D.94-09-065.

#### PROTESTS

Advice Letter No. 5673 was filed on October 25, 1994, and appeared in the Commission's Daily Calendar of October 26, 1994. Advice Letter No. 5673A was filed on January 18, 1995 and appeared on the January 20, 1995 Daily Calendar. Advice Letter No. 5673B was filed on January 30, 1995 and appeared on the February 1, 1995 Daily Calendar. CACD has received no protest to Advice Letter Nos. 5673, 5673A and 5673B.

#### DISCUSSION

The Commission Advisory and Compliance Division (CACD) has reviewed GTEC's filings and concludes that GTEC's Advice Letter Nos. 5673, 5673A and 5673B jointly request the same promotional pricing authority granted Pacific in Resolution T-15613. Based on its review, CACD finds GTEC's requests reasonable and recommends that Advice Letter Nos. 5673, 5673A and 5673B be approved.

While CACD recommends approval of GTEC AL Nos. 5673, 5673A and 5673B, it notes that Pacific in Resolution T-15613 was warned of the risk involved in exercising its promotional pricing authority. CACD believes that the same notice should be restated for GTEC in this Resolution.

GTEC's request to file for Category II and Category III service promotions on 5-days notice, with a 20-day protest period is reasonable in light of the Commission's recent policies. For example, when the Commission recently authorized intraLATA competition, it also renewed its commitment to competitive safeguards. Here, GTEC will have an increased ability to compete in the market for Category II services such as intraLATA toll and interested parties will still have twenty days to review and protest any promotional filing, during and after which CACD will be examining whether the promotion follows the orders of the Commission regarding imputation, discriminatory pricing, etc. To lessen the potential confusion in the marketplace, GTEC should be ordered to place a disclaimer on all of its promotional materials. The disclaimer is described below. If after the review period the Commission found that a promotion was counter to its regulatory policies, then GTEC should be ordered to cease and desist immediately.

Additionally, if GTEC's violations were egregious in nature, GTEC could be ordered to impute in its earnings the revenues lost during the promotion. If further penalties are deemed necessary, the Commission could impose on GTEC penalties similar to those described on page 235 of the mimeo copy of the IRD decision, D.94-09-065, modified as follows:

- 1) the Commission could impose a penalty of \$10,000 or twice the difference between the revenues collected at the applicable tariffed and promotional rates over the life of the promotion, whichever is greater, and \$2,000 for each occurrence, payable to the state general fund, and
- 2) if the Commission found a pattern of egregious violations of the promotional pricing authority granted here, then such authority may be suspended.

This resolution maintains competitive safeguards for monopoly services. We believe that market forces should replace regulation where vigorous competition exists. GTEC's promotions authorized here for Category II and Category III services should face the same quick approval granted to GTEC's competitors. The ability to act quickly may well serve to intensify competition among the carriers, which will benefit consumers.

GTEC requests that it be able to advertise promotions prior to their approval with the caveat that such promotions are subject to Commission approval. With the authority granted in this Resolution, GTEC will be able to offer promotions on five-day notice. GTEC's competitors in the intraLATA market also have the ability to offer promotions on five-day notice, but, unlike

GTEC, these parties are also able to advertise their promotions prior to their approval. There is a need to balance the interests of a competitive market with the potential for customer confusion that is created by the possibility that a promotion will be denied by this Commission.

In order to accomplish this balance, We will require GTEC to notify its customers of the potential actions by the Commission with respect to the promotions. First, before and during the five-day notice period for a promotion, GTEC will be allowed to advertise a promotion with the disclaimer that this promotion will be effective by a certain date, five days after the expected filing of the advice letter, "pending Commission notification." This places GTEC at risk for filing the advice letter in a timely fashion should they choose to advertise the promotion before filing the advice letter. Second, after the five-day notice period and while parties and CACD review the advice letter, GTEC should be able to advertise the promotion with a disclaimer in all media where the promotion is discussed that states that "the promotion now effective is pending possible Commission action. All rates, terms and conditions are subject to change without notice." This places GTEC at risk for the promotion, and should lessen confusion if the Commission orders GTEC to cease and desist its promotion.

In Advice Letter Nos. 5673, 5673A and 5673B, GTEC did not explicitly state it would not seek Z-factor recovery for losses associated with its promotional pricing authority. GTEC did state verbally to CACD that it has not asked for Z-factor adjustment for its promotional pricing losses in the past and does not intend in the future. CACD recommends that this intention be memorialized and that no Z-factor adjustment be allowed for net revenue losses that GTEC may incur as the result of its promotional pricing authority.

GTEC should be reminded that its promotional pricing authority remains provisional and expires on July 12, 1996. All provisions of GTEC's promotional pricing authority remain in effect, except those explicitly modified by this Resolution.

FINDINGS

1. GTE's Advice Letter Nos 5673, 5673A and 5673B request revision to its promotional pricing authority, as stated on page 2 of this Resolution, for the provisional authority granted by Resolution T-14689 and reinstated by Resolutions T-15567.
2. GTEC's requests in Advice Letter Nos. 5673, 5673A and 5673B are reasonable given the Commission policy on promotional pricing authority as stated in Resolution T-15613.
3. Consumers may move freely between competitors' promotions.
4. Interexchange carriers may file promotions by advice letter effective on 5-day notice, with a normal 20-day protest period.
5. It is reasonable that competitors have equal regulatory treatment as long as competitive safeguards are in place.
6. Interexchange carriers can advertise promotions before they become effective.
7. Customer confusion can be lessened with appropriate disclaimers.
8. It is reasonable that no Z-factor adjustment should be granted for net revenue losses associated with promotional pricing offerings.

THEREFORE, IT IS ORDERED that:

1. GTE California, Inc.'s (GTEC) request to revise its promotional pricing authority in Advice Letter Nos. 5673, 5673A and 5673B is approved under the conditions of the Ordering Paragraphs of this Commission Resolution.
2. GTEC is authorized to advertise and market promotional pricing campaigns prior to the effective date of the promotion provided that all the media where the promotion is discussed contain the disclaimer that "this promotion will be effective on [specific date] pending Commission notification."
3. GTEC is authorized to advertise and market promotional pricing campaigns between the effective date of the promotion and forty days after filing, provided that all the media where the promotion is discussed contain the disclaimer that "the promotion now effective is pending possible Commission action. All rates, terms and conditions are subject to change without notice."

February 22, 1995

4. If the Commission determines that GTEC's promotion caused undue harm and anticompetitive results, then the company will be ordered to impute the revenues lost during the promotion in the sharing calculation. The Commission can also impose a penalty of \$10,000 or twice the difference between the revenues collected at the applicable tariffed and promotional rates over the life of the promotion, whichever is greater, and \$2,000 for each occurrence, which would be payable to the state general fund.

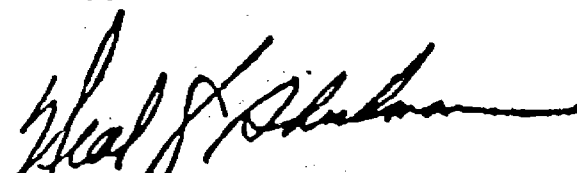
5. If the Commission found a pattern of egregious violations of the promotional pricing authority granted here, then such authority may be suspended.

6. GTEC will not be allowed to seek a 2-factor adjustment for any foregone revenue or net losses associated with the promotional pricing authority granted in this Resolution.

7. Advice Letter Nos. 5673, 5673A and 5673B shall be marked to show that they were authorized by Commission Resolution T-15719.

The effective date of this Resolution is today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on February 22, 1995. The following Commissioners approved it:

  
NEAL J. SHULMAN  
Executive Director

DANIEL Wm. FESSLER  
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