

permanent solution for service provider number portability is implemented, interim number portability (INP) shall be provided by Remote Call Forwarding (RCF), Direct Inward Dialing (DID), or other equivalent means.

In September of 1995, Pacific and GTEC filed draft tariffs for INP service. These tariffs allow competitive local carriers (CLCs) to purchase wholesale INP services from the local exchange carrier in order to provide number portability to CLC end-use customers. Pacific's wholesale INP service is known as "Directory Number Call Forwarding" (DNCF) to distinguish it from retail remote call forwarding. GTEC dubbed its wholesale INP service "Service Provider Number Portability" (SPNP). In October 1995, parties filed comments on the reasonableness of terms and conditions contained in the proposed tariffs and the Commission held evidentiary hearings on rates for INP.

In D.96-04-052, the Commission adopted wholesale rates for INP based on direct embedded costs. The decision ordered Pacific and GTEC to file tariffs for wholesale INP conforming to the prices, terms and conditions set forth in their September 1995 draft filings, except as modified by D.96-04-052.

On April 17, 1996, Pacific filed advice letter 18165 and on April 19, 1996, GTEC filed advice letter 8067 containing wholesale INP tariffs to comply with D.96-04-052.

NOTICE

Pacific and GTEC state in their advice letters that copies of their respective advice letters were mailed to competing and adjacent utilities and interested parties. The advice letters were listed in the Commission's Daily Calendar.

PROTESTS

The California Telecommunications Coalition² (Coalition) filed a protest to Pacific advice letter 18165 and GTEC advice letter 8067 on May 9, 1996. Pacific and GTEC filed separate responses to the Coalition's protest on May 16, 1996. The protest and responses are summarized below by issue.

1. Nonrecurring Charges

The Coalition objects that Pacific's tariff includes a nonrecurring charge (NRC) of \$45.15 for changes to the forwarded

² Coalition members filing this protest include AT&T Communications of California, Inc.; California Association of Long Distance Telephone Companies; California Cable Television Association; MCI Telecommunications Corporation; Teleport Communications Group and Time Warner AXS of California.

to number, number of access paths, and alternate billing services. The Coalition states that the only nonrecurring charge approved by the Commission is a \$4.15 installation charge. All other nonrecurring charges were either rejected by the Commission or not addressed.

Pacific replies that the \$45.15 nonrecurring charge for changes to DNCF was contained in Pacific's original draft tariff filed in September 1995. Decision 96-04-052 did not specifically order Pacific to change or eliminate this charge.

2. Retail Rates

The Coalition states that Pacific's tariff inappropriately includes a retail rate for number referral service upon disconnection, while GTEC's tariff inappropriately includes a retail rate for DID service. The Coalition argues that according to D.96-04-052, all rates for wholesale INP must be based upon direct embedded costs (DEC). Pacific and GTEC should remove all rates not set at DEC as well as any charges that are not in the local exchange carriers' current retail RCF tariffs.

Pacific responds that the retail rate for referral of calls is the same rate charged to any RCF customer. D.96-04-052 disallows the installation charge for referral of calls but does not specifically disallow the monthly charge.

GTEC states that DID rates contained in its tariff are not retail rates, but are DEC rates developed in IRD. GTEC states it will modify these DID tariffs as appropriate pending a Commission order on DID.

3. Letter of Authorization

The Coalition protests that Pacific's and GTEC's tariffs require a CLC to obtain a written letter of authorization (LOA) from the CLC's customer before discontinuance of existing utility exchange service and provision of INP service. The Coalition states that this requirement inappropriately allows the incumbent utility to regulate its competitor. Further, the Coalition states that this LOA requirement extends beyond the verification rules set forth in Public Utilities (PU) Code Section 2889.5.

Pacific responds that LOA requirements were contained in Pacific's September 1995 draft tariff filing. Because Ordering Paragraph 1 of D.96-04-052 ordered Pacific to file tariffs conforming to prices, terms and conditions set forth in its draft tariff filing "except for the modifications set forth below," Pacific argues that the LOA requirements are valid. Further, Pacific states it will only request the CLC produce a LOA in the event of a dispute.

GTEC also responds that it will only require a LOA from the CLC in the event of a dispute or discrepancy. GTEC claims this requirement complies with PU Code Section 2889.5.

4. DID Service

The Coalition states that GTEC's tariff includes inappropriate references to a requirement for separate trunks for DID service. The reference is inappropriate because in D.96-04-052, the Commission deferred the issue of DID trunking arrangements pending a technical workshop. The Coalition asks GTEC to remove all references to separate trunking arrangements until the Commission rules on this issue.

GTEC responds that the tariff language corresponds to current DID arrangements. GTEC acknowledges that the tariff may be modified following Commission action.

5. Services Not Available with Wholesale INP

According to the Coalition, Pacific's tariff contains ambiguous references to services that are not available with DDCF. The Coalition argues that Pacific should provide a complete list of all services that are not available. In addition, GTEC's tariff contains ambiguous language that SPNP will not be provided with "any other service that may be functionally impaired by SPNP." The Coalition claims that ambiguous language could lead to anti-competitive behavior. Therefore, GTEC must clearly identify all services that will not be offered and prove that the services will be functionally impaired.

Pacific responds that tariff language limiting the services that are available with DDCF is identical to the September 1995 draft filing and changes to this language were not specifically ordered in D.96-04-052. Moreover, it is too burdensome for Pacific to list all services affected by DDCF.

GTEC replies that it is not possible to provide certainty regarding all services that may be affected by SPNP until carriers have some experience with the service.

6. Telephone Number Changes

GTEC's tariff states that when a CLC purchases SPNP, ownership of the telephone number is not transferred to the CLC. GTEC reserves the right to change the underlying telephone number that a CLC customer has ported. The Coalition states that this right to change a telephone number should only apply in the event of an area code split that affects the entire industry.

According to GTEC, the discretion to change telephone numbers is in full compliance with the Commission's previously issued rules and regulations. Rule 17 in GTEC's existing tariffs states that:

The assignment of a number to a customer's telephone service will be made at the discretion of the Utility. The customer has no propriety right in the number, and the Utility may make such reasonable changes in the telephone number that the requirements of the service may demand. (GTEC Tariff, Rule 17, Schedule Cal PUC No. D&R)

In addition, GTEC reiterates that it will provide a CLC 6 months notice and an explanation for any change.

7. Line Information Data Base (LIDB)

According to GTEC's tariff, a CLC must designate the appropriate LIDB indicator for the correct handling of collect, third party, and other operator handled calls to ported numbers. However, GTEC will not guarantee the operation of this indicator. The Coalition states that because of fraud concerns, CLCs need assurance that LIDB operates correctly with the same guarantees afforded to LEC customers.

In response, GTEC states that it cannot guarantee the operation of the LIDB database indicator because interexchange carriers and operator service providers may manually override this LIDB block.

DISCUSSION

Before resolving the specific protest issues, the Commission Advisory and Compliance Division (CACD) recognizes that many of the items protested by the Coalition were contained in the LECs' September 1995 draft tariff filings. Pacific and GTEC argue that the Coalition should have raised these items in their earlier comments on the September 1995 filings or during hearings.

CACD believes the Coalition's protest has merit and on that basis, the Commission should consider changes to the tariff even though procedurally, the items should have been raised sooner. The oversight is understandable given the intense pace of the local competition rulemaking and the drain this has placed on both Commission and stakeholder resources. It would be foolish for the Commission to ignore a meritorious protest simply because the issue was not raised earlier. Therefore, CACD recommends resolution of these issues consistent with the intent of D.94-06-052.

1. Nonrecurring Charges (NRCs)

In D.96-04-052, the Commission states that it "shall reject the NRCs proposed by Pacific for CLC-RCF, since these charges were not justified properly." (D.96-04-052, p. 49) This statement is reinforced in Finding of Fact 70 and Conclusion of Law 22 which state that the quantification of nonrecurring costs was inadequate. Furthermore, the decision rejects Pacific's proposed NRC for number referral upon disconnect because there is no retail equivalent for this charge. As the Coalition notes in its protest, there is no retail equivalent for the \$45.15 charge proposed by Pacific. Therefore, CACD recommends that the Commission reject Pacific's \$45.15 NRC for changes to DNCF to be consistent with D.96-04-052.

Pacific should clarify in its tariff (Schedule A.20.1.D.2) that changes to 1) the forwarded to number, 2) the number of access

paths, and/or 3) alternate billing services constitute a new DDCF order and a nonrecurring charge of \$4.15 would apply.

2. Retail Rates

The April 1996 decision concludes that INP rates should be based on DEC (D.96-04-052, Conclusion of Law 2, pg. 70). Pacific's tariff for wholesale INP includes a monthly charge for referral service after disconnection based on the retail rate for this service. However, the tariff does not make clear that under the retail tariff, this referral is free for residential customers for three months and for business customers for 12 months or until the next directory issue date, whichever is longer. CACD recommends that this same free referral period apply for DDCF, with the same distinctions for business and residential customers. Pacific should clarify in its tariff (Schedule A.20.1.D.3.a) that the monthly charge is only applicable following the free period. Further, Pacific should revise the monthly charge to DEC to be consistent with D.96-04-052.

With regard to the Coalition's protest of GTEC's DID rate, CACD notes that D.96-04-052 directs the LECs to file DEC-based tariffs for DID service following the Commission's subsequent order on DID. This order on DID is pending at this time. Therefore, GTEC should remove all references to DID service from its SPNP tariff until further notice from the Commission (Schedule K-4, Original Sheet 8, Item IV.B and Original Sheet 9, Item V.B).

3. Letter of Authorization (LOA)

CACD agrees with the Coalition that PU Code Section 2889.5 does not require a written LOA in all circumstances. The code states that if a subscriber is solicited by telephone or by some other method, the corporation must verify the subscriber's decision to change service providers through either 1) a follow-up call 2) a prepaid confirmation postcard 3) customer signature, or 4) electronic means. CACD considers it unreasonable for LEC tariffs to mandate a CLC to obtain a written LOA because this goes beyond PU Code requirements. In any event, it is the CLC's responsibility to comply with PU Code Section 2889.5 to protect itself from slamming allegations. Therefore, CACD recommends that Pacific and GTEC remove references in their tariffs to CLCs obtaining LOAs (Pacific tariff A.20.1.B.1.g and GTEC tariff K-4, Original Sheet 5, Item III.5). Instead, Pacific and GTEC should either paraphrase PU Code Section 2889.5 or state that that CLCs must comply with it.

4. DID Service

As stated above, the Commission has not resolved all DID issues and further workshops and comments on DID trunking arrangements are scheduled. GTEC should remove the sections of its tariff relating to DID service until the Commission issues further orders on this issue (Schedule K-4, Original Sheet 4, paragraph 6).

5. Services Not Available with Wholesale INP

CACD agrees with the Coalition that Pacific's and GTEC's tariffs contain ambiguous references to services that are not available with wholesale INP. CACD recommends that Pacific revise its tariffs to provide a complete list of services that are not available with DNCF at this time (Item A.20.B.1.i). Pacific should revise its tariff to define and list "Optional Services" (Item A.20.B.1.n). GTEC should revise its tariffs to state specifically those services that are not offered with SPNP (Schedule K-4, Original Sheet 4, paragraph 3). Along with these revisions, both Pacific and GTEC should submit an explanation why these services are not available with INP. As Pacific and GTEC gain further experience with INP, they may file modifications to these tariffs as needed to update these lists.

6. Telephone Number Changes

CACD agrees with GTEC that Rule 17 in its tariff already grants GTEC the right to change a telephone number. It is not necessary to adopt the Coalition's suggestion to revise this language because Rule 17 only allows for "reasonable" changes. GTEC's SPNP tariff already states that the company will provide 6 months notice of the change. However, the Commission should place GTEC on notice that the Commission will scrutinize for reasonableness and adequate notice any change by the utility to telephone numbers forwarded to CLC customers.

7. Line Information Data Base (LIDB)

CACD agrees with the Coalition that GTEC should provide CLCs who purchase wholesale INP the same guarantees regarding collect, third party, and operator-handled calls that LEC customers receive. At the same time, GTEC raises a valid concern that it cannot prevent calling card toll fraud if interexchange carriers and operator service providers manually override LIDB blocks. To resolve parties' concerns, CACD recommends that GTEC revise its tariff (Schedule K-4, Original Sheet 6, Item III.9) to state specifically the reasons the LIDB indicator may fail. Any provisions of GTEC's tariff regarding LIDB should be identical to the conditions under which LEC customers receive access to LIDB.

8. Directory Listings

CACD notes that on page 55 of D.96-04-052, the Commission directs Pacific to revise its tariff to clarify that numbers ported using DNCF will be given primary directory listings and

included in the directory assistance database. While Pacific did revise this language in its filing, CACD recommends that Pacific further clarify this language to state that Pacific "will" furnish a primary listing and "will" furnish a directory assistance listing (Schedule A.20.C.1).

FINDINGS

1. In D.96-04-052, the Commission adopted wholesale rates for INP based on direct embedded costs.
2. The Commission rejected the NRCs proposed by Pacific for INP services in D.96-04-052.
3. The Commission should reject Pacific's proposed \$45.15 charge for changes to DDCF.
4. Pacific's tariff should state that changes to DDCF service constitute a new service order and a \$4.15 nonrecurring charge will apply.
5. Pacific should revise its DDCF tariff to offer the same free referral period after disconnection that is contained in its retail tariff.
6. After the free referral period, Pacific should charge a monthly fee for number referral based on direct embedded costs.
7. The Commission has not resolved all issues pertaining to INP service using DID.
8. GTEC should remove all references to DID service from its SPNP tariff until further notice from the Commission.
9. Public Utilities Code Section 2889.5 does not require a written letter of authorization in all circumstances.
10. Pacific and GTEC should remove language requiring CLCs to obtain an LOA.
11. Pacific's and GTEC's tariff should either paraphrase PU Code Section 2889.5 or state that CLCs must comply with it.
12. Pacific and GTEC should revise their tariffs to provide a complete list of services that are not available with wholesale INP and explain why these services are not available.
13. GTEC's Rule 17 allows the utility to make reasonable changes to a customer's telephone number.
14. The Commission should closely examine any proposed changes to numbers ported to CLC customers.
15. Provisions of GTEC's SPNP tariff regarding LIDB should be identical to the conditions under which LEC customers receive access to LIDB.

16. GTEC should revise its SPNP tariff to state the reasons the LIDB indicator may fail.

17. Pacific should revise its DNCF tariff to state that it will furnish a primary listing and a directory assistance listing for numbers forwarded using DNCF.

THEREFORE, IT IS ORDERED that:

1. Pacific Bell shall file a supplement to Advice Letter 18165 within five days from the date of this order to revise its Directory Number Call Forwarding (DNCF) tariff as follows:

- a. Remove the \$45.15 charge for changes to DNCF and clarify that changes to 1) the forwarded to number, 2) the number of access paths, and/or 3) alternate billing services constitute a new DNCF order and a nonrecurring charge of \$4.15 applies.
- b. Offer the same free referral period for number referral upon disconnect that is currently offered to retail business and residential customers.
- c. Modify the monthly rate for number referral after the free period to a rate based upon direct embedded costs.
- d. Remove all language requiring competitive local carriers to obtain a written letter of authorization and replace this language with a reference to or paraphrase of Public Utilities Code Section 2889.5.
- e. Provide a complete list of services that are not available with DNCF.
- f. State that a primary listing and a directory assistance listing will be provided.

2. GTE California shall file a supplement to Advice Letter 8067 within five days from the date of this order to revise its Service Provider Number Portability (SPNP) tariff as follows:

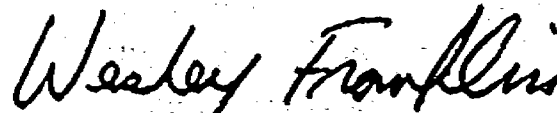
- a. Remove all references to Direct Inward Dialing service until further notice from the Commission.
- b. Remove all language requiring competitive local carriers to obtain a written letter of authorization and replace this language with reference to or paraphrase of Public Utilities Code Section 2889.5.
- c. Provide a complete list of services that are not available with SPNP.
- d. State the reasons the Line Information Data Base (LIDB) indicator may fail.

June 19, 1996

- e. Provide LIDB access under the same conditions available to local exchange carrier customers.
3. Along with their supplemental advice letter filings, Pacific Bell and GTE California shall submit an explanation why any services identified in 1.e and 2.c above are not available with their wholesale interim number portability tariffs.
4. Pacific Bell's Advice Letter 18165 as supplemented and GTE California's Advice Letter 8067 as supplemented shall be effective on not less than five days notice.
5. Pacific Bell's Advice Letter 18165 as supplemented and GTE California's Advice Letter 8067 as supplemented and the respective accompanying tariff sheets shall be marked to show they were authorized by Public Utilities Commission Resolution T-15932.

This resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on June 19, 1996. The following Commissioners approved it:



WESLEY M. FRANKLIN
Executive Director

P. GREGORY CONLON
President
DANIEL Wm. FESSLER
JESSIE J. KNIGHT, Jr.
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Commissioners