

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Branch
Commission Advisory and Compliance Branch

RESOLUTION T-15934
July 17, 1996

R E S O L U T I O N

RESOLUTION T-15934. GTE California Incorporated (U-1002-C). ORDER GRANTING PROVISIONAL AUTHORITY TO PROVIDE INTRALATA EQUAL ACCESS.

BY GTE CALIFORNIA'S ADVICE LETTER NO. 8114, FILED
MAY 24, 1996.

SUMMARY

This Resolution authorizes GTE California Incorporated (GTEC) to provide intraLATA equal access (also referred to as intraLATA presubscription) on a provisional basis. The provisional authority does not refer directly to the offering of intraLATA equal access but rather to issues including, but not limited to: cost calculation, cost recovery, terms, conditions, call routing, customer notification and customer operations.

BACKGROUND

In addition to GTEC's Advice Letter No. 8114, this Commission has before it an open proceeding dealing with intraLATA presubscription. A prehearing conference (PHC) for the issue of intraLATA presubscription in I.87-11-033 was held on June 12, 1996. Parties at the PHC raised the issue of GTEC's Advice Letter No. 8114 before Administrative Law Judge Glen Walker. Because parties do not want to delay the implementation of intraLATA equal access, no party suggests that GTEC's Advice Letter No. 8114 be consolidated into the formal proceeding.

ADVICE LETTER

GTEC filed Advice Letter 8114 on May 24, 1996, requesting authority to offer intraLATA presubscription. GTEC plans to implement 1+/0+ intraLATA dialing originating from GTEC's end offices by using the full 2-Primary Interexchange Carrier (PIC) methodology. A benefit of intraLATA equal access provided through a 2-PIC methodology is that customers are able to independently choose an interLATA carrier and an intraLATA carrier. GTEC plans to implement the conversion of its switches beginning in September 1996 and concluding with full conversion in March 1997. GTEC requests that AL No. 8114 become effective July 3, 1996.

PROTESTS

Protests to GTEC's AL No. 8114 were filed by AT&T Communications, Inc., the California Association of Long Distance Companies, MCI Telecommunications Corporation and Sprint Communications Company (hereafter collectively referred to as Joint Protestants), Pacific Bell (Pacific), and the Commission's Division of Ratepayer Advocates (DRA).

Joint Protestants do not believe that the Advice Letter process is the best forum to resolve significant issues. The Joint Protestants listed the following issues in their protest: competitively neutral notice to customers, PIC charges and related issues, payphone PICs, competitively neutral implementation practices (e.g., GTEC business office practices, order processing and marketing), costs subject to recovery, and Equal Access Recovery Charge (EARC). The Joint Protestants request that the Commission allow all protestants until July 12 to modify or withdraw their protests. Joint Protestants recommend that if settlement is not reached that the tariff be allowed to become effective on an interim basis only on condition that GTEC first agree to competitively neutral implementation practices concerning such matters as order processing, customer contacts, and marketing, or on the condition that the Commission, in advance of the effective date of the tariff, hold hearings and order compliance with such competitively neutral practices. The last suggestion of the Joint Protestants is that the EARC be collected subject to refund and that a memorandum account be established to facilitate any such refund.

Pacific Bell focuses on four issues: (1) the routing of operator "0-" calls, (2) converting to equal access for intraLATA toll calls on a phased basis rather than a statewide slash-cut basis, (3) providing lists of intraLATA service providers to customers when the customer fails to select such a carrier, and (4) set owners of public and semi-public payphones choose the intraLATA PIC for the payphones. Pacific goes into detail regarding each of these four issues, however, it summarizes its protest in the last sentence of the protest letter:

"In conclusion, we reiterate that, for the most part, we do not object to the ILP [IntraLATA Presubscription] implementation methods proposed in GTEC's advice letter, except to the extent, if any, that we would be bound to follow certain procedures GTEC proposes to follow in implementing intraLATA presubscription."

DRA protests GTEC's Advice Letter on the grounds that GTEC is trying to "short circuit" the outcome of the equal access proceeding. Although DRA protests specific issues such as implementation costs and cost recovery methodology, the recurring theme sounded by DRA is that GTEC's proposals could prejudice the outcome of the intraLATA equal access proceeding already underway. Additionally, DRA states that approval of GTEC's proposals would set the stage for disparate treatment of GTEC vis-a-vis other Local Exchange Carriers (LECs), and could deny discovery and due process rights of parties in the equal access proceeding. DRA also takes issue with GTEC's advice letter with regard to customer notice. DRA states that GTEC's

estimated costs for customer notice can not be fully evaluated because this Commission has not determined the appropriate customer notice program. In the absence of an appropriate customer notice program, GTEC has full latitude to determine the nature and extent of customer notification. Therefore, DRA recommends that this Commission not authorize a prospective recovery of customer notice costs when no customer notice program has been approved. In conclusion, DRA recommends that GTEC's AL 8114 be denied and that the issues be addressed in I.87-11-033.

RESPONSE

GTEC responded to the protests on June 24, 1996. In general, GTEC submits that the protests are without merit and should be rejected.

With regard to the protest of the Joint Protestants, GTEC states that many of the objections are unreasonable since they simply reflect the desire to have the Commission impose conditions on GTEC that would give the Joint Protestants a competitive advantage once intralATA equal access has been implemented. GTEC states that it is prepared to implement competitively neutral procedures. GTEC refers to its filing "Opposition to the Joint Petition" in I.87-11-033 for further discussion on these issues.

GTEC responds to both Pacific and DRA's concern about the precedential impact of GTEC's AL 8114. GTEC acknowledges that the concerns are legitimate but believes they are overstated. GTEC suggests that differences such as (1) a flash cut conversion rather than a phased-in conversion and (2) the handling of "0-" calls are not significant enough to postpone the approval of GTEC's tariffs. GTEC also notes that Citizens Utility Company has already agreed to intralATA equal access. GTEC reasons that the Commission, by approving Citizen's proposal, has apparently recognized that there can be differences in the way intralATA equal access is offered in different areas of California.

GTEC addresses the EARC concerns of DRA and Joint Protestants. GTEC states that the workpapers that support the costs and charges were provided to DRA and Joint Protestants yet neither party presented any information as to why the proposed charges are unreasonable.

GTEC agrees that the concern of DRA and Joint Protestants regarding customer notice is legitimate. However, GTEC does not believe this issue should delay tariff approval. GTEC states that it is confident that a reasonable resolution of this issue can be negotiated between the parties which will be submitted to the Commission's Public Advisor for approval.

Parties in the intraLATA equal access phase of I.87-11-033 held informal negotiations on June 20 and 21, 1996. GTEC lists areas where parties were already in agreement prior to negotiations. These issues are as follows:

1. Balloting and allocation of customers for intraLATA presubscription should not take place.
2. The 2-PIC method should be used for customer selection of their intraLATA and interLATA long distance carriers.
3. GTEC's proposed schedule for converting its end offices to intraLATA equal access.
4. The types of calls that should be presubscribed. (The only exceptions are "0-", coin, and semi-public coin calls.)
5. Existing GTEC customers who do not affirmatively select a long distance carrier at the time their central office is converted will default to GTEC.
6. Pending the impact of the Telecommunications Act on customer proprietary information, GTEC will make available (at the tariffed rate) the name, address, and telephone number of business and residence customers served by a converting central office.
7. The procedure that GTEC will follow when a new customer contacts its business offices and asks to be presubscribed to an identified intraLATA (sic) carrier.

GTEC also lists the following four areas in which it believes that significant progress was made during negotiations: (1) the type of customer notice, (2) the intraLATA equal access information that should be included in the information pages of GTEC's directories, (3) the procedures GTEC will follow when a new customer contacts it and asks for information regarding intraLATA carriers, and (4) the categories of costs GTEC will incur in connection with the implementation of intraLATA equal access.

Based on the progress made in negotiations, GTEC recommends that its AL 8114 be approved. GTEC notes that if further negotiations (scheduled for July 3, 1996) do not result in further progress to resolve the remaining issues, GTEC reserves the right to amend, supplement or withdraw the tariff.

GTEC states that of particular importance is the mechanism for recovering the costs to implement intraLATA equal access. GTEC plans to recover costs from all intrastate originating access minutes. Joint Protestants propose to recover the costs from only intraLATA originating access minutes. GTEC is prepared to track the costs in an interest-bearing memorandum account to assure that the amounts collected do not exceed its actual costs. However, GTEC urges the Commission to decide the appropriate access minutes that the surcharge should apply to in

order for GTEC to recover its costs contemporaneously with the proposed conversion schedule.

DISCUSSION

All protestants strike a constant theme -- that the Advice Letter process is not an appropriate forum to resolve all the issues of intraLATA equal access, especially in light of the fact that a formal proceeding has begun. Protestants recommend avenues such as settlement discussions, workshops or hearings as more appropriate when compared to the Advice Letter/Protest process. We fully agree. Issues that are controversial should not take the Advice Letter route especially in light of the fact that a Pre-Hearing Conference was held and a proceeding is underway. However, all parties do not wish to delay implementation of intraLATA equal access. Put simply, protestants want GTEC to implement intraLATA equal access but the protestants do not want the implementation done incorrectly. The protestants believe that the guidelines to correctly implement intraLATA equal access can best be resolved through settlement discussions, workshops and/or hearings.

The solution to this problem is clear. We will allow GTEC to implement intraLATA equal access on a provisional basis with the requirement that the terms and conditions that are originally set may be changed pending a decision arising from settlement discussions, workshops and/or hearings. Although this resolution will adopt GTEC's terms and conditions, we are especially concerned about potentially inconsistent handling of "0-" calls, customer notice and the recovery of costs. With regards to the issue of cost recovery, we are comforted by the fact that GTEC will track its costs and surcharge amounts. With regards to all issues, we are comforted that parties are still negotiating and that if parties should fail to find a negotiated settlement, the Commission will hold workshops and/or hearings. We explicitly note that all terms and conditions, along with the amount estimated to be the cost to provide intraLATA equal access and the methodology used to calculate cost recovery may be changed pending a decision arising from settlement discussions, workshops and/or hearings in I.87-11-033.

Although this resolution does not change any of the terms and conditions that GTEC requests in its offering of intraLATA equal access, such terms and conditions are not to be considered precedential.

FINDINGS

1. GTEC's AL No. 8114 filed May 24, 1996, proposes to implement intraLATA equal access over a phase-in basis beginning in September 1996 and ending by March 1997.
2. Protests against GTEC's AL No. 8114 were filed by AT&T Communications, Inc., the California Association of Long Distance Companies, MCI Telecommunications Corporation and Sprint Communications Company (collectively referred to as Joint Protestants), Pacific Bell, and DRA.

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3. Protestants do not want to delay GTEC's planned implementation schedule. Protestants do not want GTEC's terms, conditions, cost estimate, cost recovery methodology, customer notification, and any other issue to be considered precedential.
4. A formal proceeding has begun in I.87-11-033 on the topic of intraLATA equal access. A PHC was held on June 12, 1996.
5. Provisional tariffs will allow GTEC's AL No. 8114 to become effective without foreclosing changes that arise out of a decision in I.87-11-033.
6. Joint Protestants' protest is denied except to the extent set forth herein.
7. Pacific Bell's protest is denied except to the extent set forth herein.
8. DRA's protest is denied except to the extent set forth herein.

THEREFORE, IT IS ORDERED that:

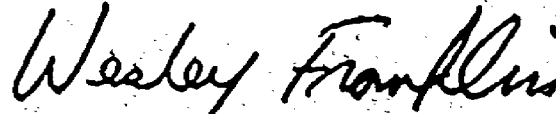
1. GTE California Incorporated's Advice Letter Number 8114 shall be effective today on a provisional basis.
2. GTE California Incorporated's Advice Letter Number 8114 shall be granted provisional authorization pending any change to the following list of issues, which includes but is not limited to: terms, conditions, cost estimate, cost recovery methodology, and customer notification as ordered by a decision arising from I.87-11-033.

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3. This resolution shall not be considered precedential on any issue involving intraLATA equal access.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on July 17, 1996. The following Commissioners approved it:



WESLEY M. FRANKLIN
Executive Director

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