

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Branch
Commission Advisory and Compliance Branch

RESOLUTION T-15951¹
August 2, 1996

R E S O L U T I O N

RESOLUTION T-15951. GTE West Coast Incorporated (U-1020-C). ORDER GRANTING PROVISIONAL AUTHORITY TO PROVIDE INTRALATA EQUAL ACCESS.

BY GTE WEST COAST'S ADVICE LETTER NO. 417, FILED JUNE 3, 1996.

SUMMARY

This Resolution authorizes GTE West Coast Incorporated (GTEWC) 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: terms, conditions, cost estimate, cost recovery methodology, and customer notification.

BACKGROUND

In addition to GTEWC's Advice Letter No. 417, 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 GTE California's Advice Letter No. 8114 (which is similar to GTEWC's Advice Letter No. 417) before Administrative Law Judge Glen Walker. No party wishes to delay the implementation of intraLATA equal access; however, parties do not want intraLATA equal access implemented incorrectly.

ADVICE LETTER

GTEWC filed Advice Letter 417 on June 3, 1996, requesting authority to offer intraLATA presubscription. GTEWC plans to implement 1+/0+¹ intraLATA dialing originating from its 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

¹ GTEWC's Advice Letter No. 417 does not explicitly list the request to offer 0+ intraLATA presubscription. A discussion with GTEWC clarified that it does intend to offer 0+ intraLATA presubscription.

independently choose an interLATA carrier and an intraLATA carrier. GTEWC plans to convert all of its California switches in September 1996.

PROTESTS

Two protests to GTEWC's AL No. 417 were filed. The first protest was filed on June 20, 1996, 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). The second protest was filed on July 12, 1996, by the Division of Ratepayer Advocates (DRA). DRA states that its protest is not timely for the simple reason that GTEWC did not serve a copy of AL No. 417 upon DRA. GTEWC informed DRA that GTEWC did not serve any other party to the pending intraLATA equal access proceeding (I.87-11-033).

Joint Protestants refer to its protest of GTE California's Advice Letter No. 8114 because that Advice Letter is similar to GTEWC's Advice Letter No. 417.² In summary, the Joint Protestants do not believe that the Advice Letter process is the best forum to resolve significant issues. The Joint Protestants suggests that GTEWC participate in settlement discussions that have arisen out of I.87-11-033. Joint Protestants recommend that GTEWC's Advice Letter not be allowed to take effect until the parties have had an opportunity to engage in settlement discussions to resolve issues such as order processing, customer contacts and marketing. Consistent with its earlier protest, Joint Protestants note that it is imperative that GTEWC collect its proposed Equal Access Recovery Charge (EARC) subject to refund. Joint Protestants request that GTEWC be ordered to establish memorandum accounts to track its conversion costs and the rates collected for the EARC to facilitate the processing of refunds if the EARC is later found to be too high. However, unlike its previous protest, Joint Protestants do not suggest that GTEWC's Advice Letter become effective on an interim basis.

DRA refers to I.87-11-033 which will address, among other issues, the cost of implementing intraLATA equal access, the method and timing of recovery of any such costs - in the event recovery is permitted - and the accuracy of the cost assertions and assumptions offered by the incumbent LECs. DRA is concerned that GTEWC's AL 417 will "short-circuit" the outcome of the equal access proceeding by setting forth some estimated total costs, and by proposing prospective authorization of recovery of

² The Joint Protestants protest of GTE California's Advice Letter No. 8114 contained the following list of issues in dispute: competitively neutral notice to customers, PIC charges and related issues, payphone PICs, competitively neutral implementation practices (e.g., business office practices, order processing and marketing), costs subject to recovery, and Equal Access Recovery Charge.

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those estimated costs, as well as a recovery methodology. DRA states that it cannot endorse the specific implementation cost or recovery proposals. DRA is particularly concerned about GTEWC's recommendation pertaining to the base for recovery of implementation costs. DRA claims that the billing base used to calculate cost recovery is a contested issue in the current negotiations, and Commission resolution of the issue here would be grossly prejudicial to the outcome of the negotiations. DRA fears that support at this juncture for GTEWC's proposals generally could prejudice both the settlement negotiations and the intraLATA equal access proceeding already underway. DRA continues by saying that approval of GTEWC's proposals here would set the stage for disparate treatment of GTEWC vis-a-vis other LECs, and could deny discovery and due process rights of parties in the equal access proceeding. DRA concludes its argument on the cost issues by noting that the advice letter lacks many important details including specific implementation cost calculations. DRA recommends that the Commission not authorize prospective recovery of asserted implementation costs when settlement negotiations are ongoing, and when no final schedule for implementation or program for same have been approved.

DRA also objects to GTEWC's implementation which appears to assume that customer balloting for an intraLATA toll provider would occur. DRA notes that GTEWC also apparently assumes that there will be some form of customer allocation (customers who do not select an intraLATA carrier will be assigned or "allocated" to carriers). DRA believes that this apparent assumption that balloting and allocation would occur is both improper and prejudicial to the Commission's determinative authority on these issues.

In summary, DRA recommends that the Commission deny approval of GTEWC AL 417 at this time. The issues raised in AL 417 should be addressed in the settlement negotiations and the intraLATA equal access proceeding, in docket I.87-11-033. DRA mentions that if its concerns are resolved in the course of negotiation meetings, DRA will consider modifying or withdrawing its protests to the GTEC and GTEWC advice letters, to the extent that the issues in both ALs are common ones.

RESPONSE

GTE West Coast responded to the protest of the Joint Protestants on July 3, 1996. In general, GTEC submits that the protest is without merit and should be rejected.

Specifically, GTEWC states that many of the objections are unreasonable since they simply reflect the desire to have the Commission impose conditions on GTEWC that would give the Joint Protestants a competitive advantage once intraLATA equal access has been implemented. GTEWC states that it is prepared to implement competitively neutral procedures.

Based on the potential for settlements and agreements, GTEWC recommends that its AL 417 be approved. GTEWC notes that if

further negotiations (scheduled for July 3, 1996) do not result in further progress to resolve the remaining issues, GTEWC reserves the right to amend, supplement or withdraw the tariff.

GTEWC responded to DRA's protest on July 25, 1996. GTEWC states that it followed its standard procedures for advice filing distribution and that DRA is not normally a recipient. GTEWC adds that it believes that it correctly followed G.O. 96-A notice requirements but will ensure that DRA is copied on all further communications in this matter. GTEWC responds to DRA's concern that Commission approval of Advice Letter 417 could "short-circuit" the current intraLATA equal access proceeding relative to the method, timing and authority for cost recovery. GTEWC states that it will monitor actual expenses and reconcile these expenses to the revenue recovered. The reconciliation will be used to adjust the recovery charge in the last year of cost recovery. GTEWC notes that this is the same methodology as proposed by GTE California in Advice Letter 8114 as approved by Resolution T-15934. With regards to DRA's third issue concerning PIC Choice and Balloting, GTEWC admits that the section was filed in error. GTEWC states that this portion of the proposed tariff will be removed.

DISCUSSION

Joint Protestants state 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. Joint Protestants recommend avenues such as settlement discussions, workshops or hearings as more appropriate when compared to the Advice Letter/Protest process. We generally agree and therefore will authorize GTEWC's Advice Letter No. 417 subject to change pending a decision that arises from settlement discussions, workshops, and/or hearings in I.87-11-033. Although Joint Protestants want GTEWC to implement intraLATA equal access in a timely manner, the Joint 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.

With regard to DRA's protest, the first issue to consider is whether to accept the late-filed protest. Although it appears that GTEWC is not technically required by any rule or order to serve DRA, the absence of GTEWC's service harms the Advice Letter process as well as jeopardizing the informal settlement discussions. DRA notes that GTEWC is on the service list of I.87-11-033 and therefore should be aware of the parties involved with the issue of intraLATA equal access. GTEWC apparently is aware of this proceeding and the negotiations because it references the negotiations that are being undertaken

in its response to Joint Protestants. GTEWC was aware (or should have been aware) of the interest of the parties on the service list of I.87-11-033 and should have served a copy of AL No. 417 to all parties on that service list. Therefore, in light of the fact that parties were not served, we will accept DRA's late-filed protest.

Although we share DRA's concerns on the issues of cost development and cost recovery, we do not believe the negotiations are harmed by our provisional authorization of GTEWC's advice letter. Although we will accept GTEWC's cost estimate and cost recovery methodology, we do so on a provisional basis. The effect of our action is that if parties do not agree on a cost estimate or cost recovery methodology in negotiations, then workshops and/or hearings will be held. A decision will then be issued by this Commission. The fact that a certain cost estimate or cost recovery methodology was originally used will have no bearing on the decision. This resolution clearly states that the terms and conditions authorized are not to be considered precedential.

The one area in which we will require GTEWC to modify its Advice Letter No. 417 is with regard to balloting and customer allocation. We do not want to pre-judge the negotiations, however, we note that we are not aware of any party that supports either balloting or customer allocation. In addition to the lack of support by parties, both procedures of balloting and customer allocation add complexity and cost. We will require that GTEWC's provisional offering of intraLATA equal access not include balloting and customer allocation.

Consistent with our resolution on GTE California's Advice Letter on intraLATA equal access (Resolution T-15934), we will allow GTEWC to implement intraLATA equal access on a provisional basis with the requirement that all 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 GTEWC's terms and conditions (with the exception of balloting and customer allocation), we remain concerned about potentially inconsistent handling of "0-" calls, customer notice and the recovery of costs. With regards to the issue of cost recovery, we will require GTEWC to 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.

With the exception of denying GTEWC's request to ballot customers on the choice of intraLATA carriers, this resolution does not change any of the terms and conditions that GTEWC requests in its offering of intraLATA equal access. However, such terms and conditions are not to be considered precedential.

FINDINGS

1. GTE West Coast's AL No. 417 filed June 3, 1996, proposes to implement intraLATA equal access by converting its switches in September 1996.
2. A protest against GTE West Coast's AL No. 417 was 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) on June 20, 1996.
3. A protest against GTE West Coast's AL No. 417 was filed by the Division of Ratepayer Advocates on July 12, 1996. The reason for the late-filed protest is that GTE West Coast did not serve a copy of its advice letter with the Division of Ratepayer Advocates.
4. Joint Protestants do not want to delay GTE West Coast's planned conversion schedule, but recommend that GTE West Coast's Advice Letter No. 417 not be approved. Protestants do not want GTE West Coast's terms, conditions, cost estimate, cost recovery methodology, customer notification, and any other issue to be considered precedential.
5. The Division of Ratepayer Advocates is concerned about the implementation costs and cost recovery methodology.
6. The Division of Ratepayer Advocates questions GTE West Coast's assumption that there will be balloting and customer allocation.
7. 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.
8. Provisional tariffs will allow GTE West Coast's AL No. 417 to become effective without foreclosing changes that arise out of a decision in I.87-11-033.
9. Joint Protestants' protest is denied except to the extent set forth herein.
10. The Division of Ratepayer Advocates' protest is denied except to the extent set forth herein.

THEREFORE, IT IS ORDERED that:

1. GTE West Coast Incorporated shall file a supplement to Advice Letter Number 417 to remove all terms and conditions related to balloting and customer allocation. The advice letter supplement shall also clarify that 0+ intraLATA equal access is offered. GTE West Coast shall file the advice letter supplement on or before 10 days after the effective date of this resolution. The supplement shall be effective 10 days after its filing. GTE West Coast's Advice Letter 417 and the supplement shall be effective on a provisional basis.

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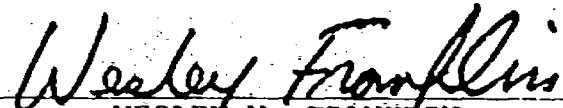
2. GTE West Coast Incorporated's Advice Letter Number 417 (and supplement) shall be granted provisional authorization pending any change to the following list of issues, which includes but is not limited to: terms, conditions, cost estimate, cost recovery methodology, and customer notification as ordered by a decision arising from I.87-11-033.

3. GTE West Coast Incorporated shall track both implementation costs and surcharge revenue. Surcharge revenue shall be collected subject to refund.

4. The terms and conditions that this resolution sets 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 August 2, 1996. The following Commissioners approved it:


WESLEY M. FRANKLIN
Executive Director

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