

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Branch
Commission Advisory and Compliance Branch

RESOLUTION T-15956
September 20, 1996

R E S O L U T I O N

RESOLUTION T-15956. CONTEL OF CALIFORNIA INCORPORATED (U-1003-C). ORDER GRANTING PROVISIONAL AUTHORITY TO PROVIDE INTRALATA EQUAL ACCESS.

BY CONTEL OF CALIFORNIA'S ADVICE LETTER 1034, FILED JULY 19, 1996.

SUMMARY

This Resolution authorizes Contel of California Incorporated (Contel) 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 Contel's Advice Letter (AL) 1034, this Commission has before it an open proceeding dealing with intralATA equal access. A prehearing conference (PHC) on the issue of intralATA equal access in I.87-11-033 was held on June 12, 1996. Hearings on intralATA equal access are scheduled for September 24 through 27, 1996 and October 7 through 10, 1996.

Moreover, the Commission recently approved GTE California Incorporated's (GTEC's) AL 8114 and GTE West Coast Incorporated's (GTEWC's) AL 417, granting each company provisional authority to provide intralATA equal access. Provisional approval of AL 8114 and 417 was authorized 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 in the I.87-11-033 proceeding relating to intralATA equal access.

ADVICE LETTER

Contel filed AL 1034 on July 19, 1996, requesting authority to offer intralATA equal access. Contel plans to implement 1+/0+ intralATA dialing originating from Contel'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. Contel plans to

implement the conversion of its switches beginning in November 1996 and concluding with full conversion in March 1997. Contel requests that AL 1034 become effective on regular notice.

PROTESTS

Protests to Contel's AL 1034 were filed by AT&T Communications, Inc. (AT&T) and the Commission's Division of Ratepayer Advocates (DRA).

AT&T issued a protest on August 7, 1996. AT&T's protest requests that Contel's AL 1034 be subject to the same conditions as were attached to the Commission's provisional approval of GTE California's AL 8114 and GTE West Coast's AL 417. AT&T argues for application of the same conditions since the Commission has established in I.87-11-033 a generic proceeding to resolve issues concerning intraLATA equal access.

On August 14, 1996, DRA issued its protest of Contel's AL on the grounds that Contel is trying to prejudice the outcome of the intraLATA equal access proceeding (I.87-11-033). Given the provisional approval of GTEC's AL 8114, DRA notes that Contel's AL 1034 proposes to concur in GTEC's intraLATA equal access tariffs and employ a similar implementation method. Although DRA protests specific issues such as implementation costs and cost recovery methodology, DRA particularly disputes Contel's "me too" approach in filing AL 1034. Since Contel's AL only contains a proposed Equal Access Surcharge rate, DRA protests the failure of Contel's AL to even provide preliminary cost estimates upon which proposed recovery is based. Additionally, DRA states that approval of Contel's proposal would set the stage for disparate treatment of Contel vis-a-vis other local exchange carriers (LECs), and could deny discovery and due process rights of parties on the issue of intraLATA equal access in I.87-11-033. While DRA supports Contel in proceeding with the implementation of intraLATA equal access within its service area, DRA recommends that the Commission deny complete approval of Contel's AL 1034 and consolidate consideration of the issues raised by the AL and related protests in I.87-11-033. Instead of recommending approval for recovery of intraLATA equal access costs at this time, DRA supports authorizing a memorandum account, using cost categories contained in GTEC's AL 8114, to record equal access costs for possible later recovery.

RESPONSE

Contel issued a late-filed response to the protests on August 26, 1996. In general, Contel submits that the issues raised by the protests are moot and that the tariffs accompanying its AL 1034 should be approved in their entirety.

With regard to the AT&T protest, Contel states that it would have no objection to making the approval of AL 1034 subject to the same conditions that were imposed by the Commission in Resolution No. T-15934 with respect to GTEC's AL 8114. Moreover, Contel argues that since it expects to merge with GTEC by year end, it makes sense for the Commission to approve its

proposed intraLATA equal access tariff on the same basis that it approved the tariff for GTEC.

Contel contends that DRA's concern regarding the absence of cost estimates to support its equal access cost recovery charge is also moot. Contel responds that like GTEC it intends to establish a memorandum account to track its actual equal access conversion costs, so that the company only recovers the actual cost it incurs. Contel notes that those costs would be subject to approval by this Commission.

DISCUSSION

Similar to protests of ALs 8114 and 417, protestants of AL 1034 want Contel to implement intraLATA equal access but they do not want the implementation done incorrectly. Neither AT&T nor DRA has suggested that intraLATA equal access should be delayed. Instead, AT&T requests provisional approval of Contel's AL 1034 under the same conditions as GTEC AL 8114 and GTEWC's AL 417 were approved. DRA recommends that Contel be granted approval in part to proceed with intraLATA equal access, but that cost recovery be suspended. Contel does not object to approval of its Advice Letter under the same conditions as GTEC AL 8114. Therefore, we will allow Contel 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 and/or hearings in I.87-11-033.

Although this resolution will adopt Contel's terms and conditions, we take note of DRA's concerns regarding Contel's showing in AL 1034 of the intraLATA equal access costs upon which its proposed recovery is based. Contel has noted however that it will track intraLATA equal access costs in a memorandum account. So that parties will be able to comment on the appropriateness or the amount of actual costs, we direct Contel to submit those costs for review in accordance with the terms set in the forthcoming decision in I.87-11-033 on the intraLATA equal access issue. In addition to cost recovery, we are also concerned about the handling of "0-" calls and customer notice. We explicitly note that all terms and conditions, along with the equal access surcharge rate, associated with Contel's AL 1034 may be changed pending a decision arising from settlement discussions and/or hearings in I.87-11-033. As we did with the provisional approval of ALs 8114 and 417, we also reaffirm our conclusion that the Advice Letter process is not the best forum to resolve all the issues of intraLATA equal access, especially in light of the fact that a formal proceeding is underway. We still hold that avenues such as settlement discussions, workshops or hearings as more appropriate when compared to the Advice Letter/Protest process.

Furthermore, we note that the provisional approval of AL 1034 shall not be regarded as this Commission's determination that any area defined by Contel within which it will offer intraLATA equal access is pro-competitive and in the public interest, pursuant to the Federal Communications Commission's (FCC's)

recent order FCC 96-333, "The Second Report and Order and Memorandum Opinion and Order". FCC 96-333 details rules on implementing certain sections of the Telecommunications Act of 1996, including toll dialing parity. Paragraph 56 of FCC 96-33 instructs that non-BOC LECs that implement dialing parity may choose which LATA within their state they deem most appropriate to define the area within which they will offer intraLATA toll dialing parity (intraLATA equal access). The state commission must determine whether the proposed LATA association is pro-competitive and in the public interest, according to the same paragraph of that order. All matters relating to the FCC order should be addressed in the handling of the intraLATA equal access issue in I.87-11-033.

Finally, we note that although this resolution does not change any of the terms and conditions that Contel requests in its offering of intraLATA equal access, such terms and conditions are not to be considered precedential.

FINDINGS

1. Contel's AL 1034 filed July 19, 1996, proposes to implement intraLATA equal access over a phase-in basis beginning in November 1996 and ending by March 1997.
2. Protests against Contel's AL 1034 were filed by AT&T and DRA.
3. Protestants do not want to delay Contel's planned implementation schedule. Protestants want Contel to be subject to only provisional approval of intraLATA equal access and to suspend cost recovery until a later date.
4. Contel will establish a memorandum account to track its actual costs related to intraLATA equal access.
5. 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. Hearings will be held September 24 through 27, 1996 and October 7 through 10, 1996.
6. Provisional tariffs will allow Contel's AL 1034 to become effective without foreclosing changes that arise out of a decision in I.87-11-033.
7. AT&T's protest is accepted 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. Contel of California Incorporated's Advice Letter Number 1034 shall be effective today on a provisional basis.
2. Contel of California Incorporated's Advice Letter Number 1034 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. The Advice Letter and accompanying tariff sheets should be marked as approved by Resolution T-15956.
3. Contel of California Incorporated shall establish a memorandum account to track its actual costs related to intraLATA equal access. Contel of California Incorporated shall submit those costs for review in accordance with the terms set in the forthcoming decision in I.87-11-033 on the intraLATA equal access issue.
4. 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 September 20, 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