PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

TELECOMMUNICATIONS DIVISION

RESOLUTION T-15968*
December 20, 1996

R E S O L U T I O N

RESOLUTION T-15968. PACIFIC BELL (PACIFIC). (1001). GTE OF CALIFORNIA (GTEC). (U1002). REQUEST FOR APPROVAL OF RATES FOR RESALE OF CALLER ID SERVICE TO COMPETITIVE LOCAL CARRIER (CLC) RESELLERS.

BY PACIFIC'S ADVICE LETTER NO. 18380, FILED ON JULY 25, 1996 AND SUPPLEMENTAL ADVICE LETTER NO. 18380 A, FILED ON SEPTEMBER 3, 1996. BY GTEC'S ADVICE LETTER NO. 8226, FILED ON AUGUST 23, 1996 AND SUPPLEMENTAL ADVICE LETTER NO. 8226A FILED ON OCTOBER 25, 1996.

SUMMARY

This resolution requires Pacific and GTEC to supplement their advice letters on resale of Caller ID service by competitive local carriers (CLCs) with tariffs providing resale rates reflecting the discounts stated in D. 96-03-020. Pacific's revised tariffs shall include rates showing a discount of 17 percent off its current retail rate; GTEC's revised tariffs shall include rates showing a discount of 12 percent off its current retail rate. These advice letters shall be supplemented within 10 days of the effective date of this resolution.

BACKGROUND

The Telecommunications Act of 1996 (The Act), enacted on February 8, 1996, requires incumbent LECs to offer certain services for resale at wholesale rates (Section 251(c)(4). Specifically, section 251(c)(4)(A) requires an incumbent LEC "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers". Section 252(d)(3) of the Act sets forth the pricing standard that states must use in determining wholesale rates in arbitration. State commission(s) shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier."

The Commission, in D.96-03-020, issued on March 13, 1996, instituted the resale of local exchange service by CLCs effective March 31, 1996. This decision required Pacific and GTEC to offer a broad range of services for resale. It adopted interim wholesale rates for bundled local exchange service, pending approval of cost studies in the OANAD proceeding. The incumbents were directed to make all other vertical services missing from current wholesale tariffs available to CLCs effective March 31, 1996. Table 1 on page 27 of the decision lists the category II services subject to resale, which includes " All vertical features (except for grandfathered services)". Pacific and GTEC were instructed to price the wholesale rates to reflect at least a 17 percent and 12 percent discount respectively off their retail rates (except for residential service).

On July 26, 1996, Sprint Communications Company LP (Sprint), AT&T Communications of California, Inc. (AT&T) and MCI Telecommunications Corporation (MCI) filed a petition to modify D.96-03-020. The petition requests the Commission to modify its decision to ensure that all services, including new vertical services, offered by Pacific or GTEC, are introduced both on a resale and retail basis at the same time. The focus of this petition is the availability of Caller ID, which is a vertical service, for resale.

On August 8, 1996, the FCC issued its First Report and Order (96-235) implementing rules for local exchange interconnection. Section VIII of this order addresses local exchange resale issues. It provides guidelines for state commissions to comply with The Act's requirements for implementing resale service requirements. In paragraph 871 it interprets Section 251(c)(4)(A) of The Act, concluding that an incumbent LEC "must establish a wholesale rate for each retail service that: (1) meets the statutory definition of a "telecomunications service;" and (2) is provided at retail to subscribers who are not "telecommunications carriers."

Concerning pricing, the FCC order provided two methods for state commissions to adopt resale rates. The FCC's rules concerning pricing, to be effective on September 28, 1996, were stayed on October 15, 1996, pending judicial review.

Pacific and GTEC's advice letter filings do not provide tariffs offering Caller ID service at a wholesale rate for resale by CLCs. Their proposed tariffs instead mirror their retail rates.

NOTICE/PROTESTS

Public notice of Pacific's advice letter appeared in the Commission's Daily Calendar on July 30, 1996 and its supplemental advice letter on September 5, 1996. The supplement was filed to extend the effective date. Two limited protests were filed; one was filed by AT&T on August 13, 1996 and the other was filed jointly by Sprint and MCI on August 14, 1996. Both of the protests stated that Pacific was not complying with the directive of D.96-03-020 which requires Pacific to make call waiting and all other vertical services missing from its current wholesale tariff available to CLCs effective 3-31-96.

Sprint and MCI also cite D.96-03-020 requirements and Pacific's failure to comply with them and state that Pacific's filing violates Section 251(c)(4) of The Act. Both protestants recommend that the Commission require Pacific to refile its advice letter reflecting a 17 percent discount off its retail Caller ID service rate. Sprint and MCI propose an alternative whereby the Commission could require the 17 percent discount rate as an interim measure and set hearings to determine the appropriate wholesale rate. Revenues from the sale of the service would be collected subject to refund until the permanent rates were established.

Pacific's response to the limited protests, dated August 20, 1996, states why it believes the protests should be denied. Pacific finds nothing in D. 96-03-020 indicating the Commission's desire to include Caller ID services in Table 1. Furthermore, a proper wholesale discount has not been determined for Caller ID service. Pacific will apply the "proper wholesale discount" once it has been determined by examining the actual cost avoided.

Pacific goes on to state that Caller ID is a new service which was inaugurated on July 8, 1996. When D.96-03-020 was issued, Caller ID did not exist and, Pacific believes, was not contemplated by the decision. The protestants quote a provision of the decision that concerns services in Pacific's then current retail tariff, but which are not incuded in Pacific's proposed wholesale tariffs. Pacific reiterates that Caller ID was not included in Pacific's retail tariffs at that time and did not form a part of that decision. Any discounts from the retail tariff of new services such as Caller ID should await the determination of actual avoided costs.

Public notice of GTEC's advice letter appeared in the Daily Calendar on August 26, 1996 and its Supplemental advice letter on October 30, 1996. GTEC's advice letter supplement added CentraNet service to its resale offering, which GTEC stated had been omitted due to an oversight. On September 12, 1996, AT&T and MCI filed a joint limited protest and Sprint a limited protest on GTEC's advice letter. These protests in all but two respects mirrored their limited protests of Pacific's advice letter. AT&T and MCI protested the fact that GTEC's advice letter failed to include (1) its promotional offering of Caller ID service, which waives nonrecurring charges for 120 days from the effective date of the retail tariff, and (2) its Caller ID service for CentraNet customers.

As in Pacific's case, GTEC's response disagrees with AT&T, MCI and Sprint stating that: (1) Caller ID is a new retail service. (2) An avoided cost study has not been completed. (3) There is an outstanding petition before the Commission to modify D. 96-03-020 which was filed by AT&T, MCI and Sprint on July 26, 1996 before the Commission. GTEC states that this petition addresses the process of offering a new service for resale. GTEC argues that it would be procedurally incorrect for the Commission to address this issue outside of that petition. GTEC also states that the Commission is addressing resale of promotions and therefore it would be procedurally incorrect to require GTEC to resell a promotion before these issues are resolved.

DISCUSSION

Pacific and GTEC's responses to the limited protests do not argue that they are not required to offer resale of Caller ID service at wholesale rates. They justify their use of retail rates largely on procedural issues. GTEC argues that the issue of offering new services for resale must be considered by the petition to modify the decision. Both incumbents state that an avoided cost for Caller ID service has not been determined. (The incumbents fail to address, or they ignore, the average discount rates adopted in D.96-03-020 for offering vertical services for resale.)

An order is before the Commission which would grant the petition to modify D. 96-03-020. In all but one respect it satisfies the arguments raised by the incumbents. It clarifies that new services should be offered for resale at the adopted average discount rates for interim use until avoided costs are determined.

The one outstanding issue is whether the promotional offering in GTEC's Caller ID retail tariff should be included in its resale tariff. As promotions and other restrictions on resale service are already scheduled to be considered in Phase III of the local competition proceeding, we agree with GTEC that it would be inappropriate to address it here.

In all other respects, therefore, we believe there is no valid rationale for incumbents not to supplement their Caller ID resale advice letters with tariffs which include the average discount rates established in 96-03-020.

FINDINGS

1. Pacific filed Advice Letter No. 18380, supplemented by Advice Letter No. 18380A, requesting approval of its proposed resale rates for CLC use to provide mass market Caller ID service.

2. GTEC filed Advice Letter No. 8226, supplemented by Advice Letter No. 8226A, requesting approval of its proposed resale rates for use by CLCs to market Caller ID service to residential, small business and CentraNet (large business) customers.

3. Pacific and GTEC's proposed rates for resale of Caller ID service to CLCs are identical to their tariffed retail rates for residential, small business and, in the case of GTEC, CentraNet customers.

4. AT&T, Sprint and MCI filed limited protests to the Commission, requesting that incumbents' advice letters be rejected and that they be required to file advice letters exhibiting the discounted rates established in D.96-03-020.

5. Sprint recommended, as an alternative, that incumbents' charges could be collected subject to refund and that they file additional cost studies to determine the appropriate wholesale rates.

6. The Telecommunications Act of 1996, in Section 251(c)(4)(A) requires an incumbent LEC to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers.

7. Decision 96-03-020, issued on March 13, 1996, requires Pacific and GTEC to make all vertical services missing from its current wholesale tariff available to CLCs effective March 31, 1996 and applying 17 and 12 percent discounts off their retail rates.

8. On July 26, 1996, Sprint, AT&T and MCI filed a petition to modify D. 96-03-020 whereby the Commission would require that new services offered by incumbents are introduced both on a retail and resale basis simultaneously.

9. Conclusion of Law 2 of D. 96-12-XXX, which grants the petition to modify D. 96-03-020, concludes that the resale of Caller ID service should be required to become effective today.

10. The FCC, in its First Report and Order (96-235), Section VII, effective September 28, 1996, provides guidelines for state commissions to comply with the Act's requirements for implementing resale service requirements.

11. The FCC order concludes that under The Act (Section (c)(4)(A) incumbent LECs must establish a wholesale rate for each retail service that meets the statutory definition of a telecommunications service and is provided at retail to subscribers who are not telecommunications carriers.

12. The FCC rules on pricing have been stayed pending judicial review.

13. Pacific and GTEC should be authorized to offer Caller ID service at a discounted resale rate.

14. Pacific and GTEC shall supplement their advice letters with tariffs showing Caller ID resale tariffs providing rates reflecting a 17 and 12 percent discount respectively off their tariffed retail rates.

15. Pacific and GTEC's supplements should be filed within 10 days of the effective date of this resolution and made effective by the Telecommunications Division no sooner than 5 days after filing.

16. These discount rates shall be interim rates until final avoided costs are determined by the Commission.

THEREFORE, IT IS ORDERED that:

1. Pacific Bell (Pacific) and GTE of California (GTEC) are authorized to offer Caller ID service at a discounted resale rate to competitive local carriers (CLCs).

2. These discount rates shall be interim rates until final avoided costs for Caller ID service are determined by the Commission.

3. Pacific shall supplement its Advice Letters No. 18380 and 18380A with tariffs showing Caller ID service rates discounted by 17 percent off its retail Caller ID service.

4. GTEC shall supplement its Advice Letters No. 8226 and 8226A with tariffs showing Caller ID service rates discounted by 12 percent off its retail Caller ID service.

5. Pacific and GTEC shall supplement their advice letters within 10 days of the effective date of this resolution.

6. These revised tariffs shall be effective as interim rates upon approval by the Telecommunications Division but no sooner than 5 days after the filed date.

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 December 20, 1996. The following Commissioners approved it:

Wesley Franklin

WESLEY M. FRANKLIN
Executive Director

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