

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division

RESOLUTION T-15977
December 20, 1996

R E S O L U T I O N

RESOLUTION T-15977. GTE California Incorporated (U-1002-C). ORDER APPLYING THE ADOPTED PRICE CAP MECHANISM IN COMPLIANCE WITH DECISIONS 89-10-031, 94-09-065, AND 95-12-052 THROUGH ADJUSTMENTS TO SURCHARGES/SURCREDITS TO BE EFFECTIVE JANUARY 1, 1997.

BY ADVICE LETTER NO. 8269, FILED OCTOBER 1, 1996.

SUMMARY

This Resolution orders GTE California Incorporated (GTEC) to increase its annual revenue by \$27.518 million effective January 1, 1997, to implement its 1997 annual price cap index filing in Advice Letter (AL) Number (No.) 8269. The adopted revenue requirement adjustments and surcharge changes are shown in Appendices A and B attached to this Resolution. The revisions to GTEC's price floors to reflect the change in the inflation factor are adopted as filed and are effective January 1, 1997.

The January 1, 1997 revenue increase reflects the net Z-factor and other adjustment increase of \$27.518 million.

Protests to GTEC's AL No. 8269 were filed by AT&T Communications of California (AT&T) and MCI Telecommunications Corporation (MCI) jointly and by the Commission's Office of Ratepayer Advocates (ORA) [1].

GTEC filed AL No. 8269 on October 1, 1996, requesting an increase to its 1997 revenue of \$27.518 million to be effective January 1, 1997.

1 The Office of Ratepayer Advocates was formerly known as the Division of Ratepayer Advocates.

The adopted revenue changes are summarized in the following table:

<u>1997 Price Cap Revenue Change (in \$000s)</u>	
Price Cap Impact (1.7%) without Z-Factors	\$ 0
Z-factors: ongoing revenue impact	
PBOPs Adjustment	(5,704)
Interstate High Cost Fund	792
EAS Fixed Payment	19,774
Sub-Total	<u>14,862</u>
Z-factors: one-time revenue impact	
CNEP Costs to Implement CPN	12,656
Sub-Total	<u>12,656</u>
Net Z-factor adjustment	27,518
Total Price Cap Impact with Z-factors Effective January 1, 1997	\$27,518

Note: Revenue reduction in ()

BACKGROUND

In our Decision (D.) 89-10-031, we adopted an incentive-based regulatory framework for Pacific Bell (Pacific) and GTEC. In that decision, we stated:

This new regulatory framework is centered around a price cap indexing mechanism with sharing of excess earning above a benchmark rate of return level...

Following a startup revenue adjustment (D.89-12-048)... prices for the utilities' basic monopoly services and rate caps for flexibly priced services will be indexed annually according to the Gross National Product Price Index (GNP-PI) inflation index reduced by a productivity adjustment of 4.5%.

The indexing formula also allows for rate adjustments for a limited category of exogenous factors whose effects will not be reflected in the economy wide GNP-PI (since replaced by the GDP-PI). While all such costs cannot be foreseen completely, we recognize that the following factors may be reflected in rates as exogenous factors (called Z-factors): changes in federal and state tax laws to the extent that they affect the local exchange carriers disproportionately, mandated jurisdictional separations changes, and changes to

intraLATA toll pooling arrangements or accounting procedures adopted by this Commission.

However, the Commission did not authorize Z-factor treatment for all unforeseen or exogenous factors. In D.89-10-031 the Commission also stated that:

normal costs of doing business (including costs of complying with existing regulatory requirements) or general economic conditions would be excluded as Z-factor items.

In D.93-09-038, the Commission ordered GTEC to replace the GNP-PI with the Gross Domestic Product Price Index (GDP-PI) commencing with GTEC's 1994 price cap filing. In addition, the Commission adopted a productivity factor of 4.6% for GTEC for 1996.

In D.94-09-065, we authorized GTEC to implement the 1995 price cap rate adjustments through the billing surcharge/surcredit mechanism.

On December 20, 1995, we issued D.95-12-052 regarding the Second Triennial New Regulatory Framework (NRF) Review. In O.P. 4 of that decision, we suspended the application of the GDP-PI minus productivity factor formula used in price cap regulation of GTEC until further order of this Commission or until a final decision is issued in the next triennial review. The next triennial review is anticipated to be undertaken in 1998.

On October 1, 1996, GTEC filed AL No. 8269 requesting billing surcharge/surcredit changes to be effective January 1, 1997, in order to implement the 1997 price cap index mechanism and certain Z-factor adjustments.

GTEC's filing consists of proposed revenue adjustments (reductions in parentheses) for:

1. Price Cap Index, 0 - This factor is calculated by using a GDP-PI factor less a productivity factor. This portion of the formula used in price cap regulation of GTEC was suspended by D.95-12-052.
2. Interstate High Cost Fund, \$.792 million - A Z-factor adjustment to reflect reduced recovery from the Interstate High Cost Fund. This adjustment is applicable to the local exchange billing surcharge only.
3. Post Retirement Benefits Other than Pensions (PBOPs) Adjustment, \$(5.704) million - A Z-factor adjustment to reflect a reduction of payments in connection with Statement of Financial Accounting Standards No. 106 (SFAS 106), Employers Accounting for Post Retirement Benefits Other than Pensions.
4. Customer Notice and Education Program (CNEP), \$12.656 million - A one-time cost associated with providing the

Customer Notification and Education on the passing of the Calling Party's Number.

5. Removal of Extended Area Service (EAS) Fixed Payment, \$19.774 million - A Z-factor adjustment to reflect termination of Extended Area Service payments from Pacific, effective January 1, 1997. D.91-07-044 authorizes recovery of this amount. This adjustment is applicable to the local exchange billing surcharge only.

The Price Cap Index factor is changed for GTEC with D.95-12-052. That decision orders that the application of the GDP-PI inflation factor minus productivity factor in price cap regulation is suspended.

GTEC's total 1997 Price Cap Index, Z-factor revenue adjustments and one-time revenue requirement adjustment request amounts to a \$27.518 million increase to be effective on January 1, 1997.

PROTESTS

Protests were filed to GTEC's AL No. 8269 by AT&T and MCI jointly on October 22, 1996 and by ORA on October 24, 1996.

GTEC responded to the joint AT&T and MCI protest on October 30, 1996 and to ORA's protest on November 4, 1996.

On November 8, 1996, ORA issued a rebuttal to GTEC's response to its protest. Moreover, GTEC issued additional comments regarding its 1997 Price Cap filing on November 15, 1996.

No protests were received with respect to GTEC's revenue adjustments for the Price Cap Index, Interstate High Cost Fund, and the Removal of EAS Fixed Payment.

In their protest, AT&T and MCI oppose GTEC's adjustment for CNEP costs. ORA protests GTEC's Z-factor adjustment for PBOPs and its omission of a Z-factor adjustment for USOA turnaround. We will discuss both the AT&T and MCI protest and the ORA protest in further detail below and adopt a final revenue adjustment for GTEC.

DISCUSSION

I. USOA Turnaround

GTEC did not include any adjustment for the USOA Turnaround in its 1997 Price Cap filing. GTEC believes that it has fulfilled its obligation of future ratepayer benefits as envisioned by the Commission in D.87-12-063 and in D.89-12-048. Resolution T-15696 required GTEC to continue the USOA Turnaround adjustment for \$11.527 million until the Commission has specifically ordered its suspension or termination.

GTEC filed A.95-02-011 to permanently eliminate this adjustment. (Pacific has filed a similar application, A.95-05-018.) A

decision on this matter is pending before this Commission. In D.95-11-061, we adopted the stipulation agreement filed by Pacific, GTEC, and ORA to stay the USOA adjustment for both Pacific and GTEC for 1996 and to establish interest-bearing memorandum accounts. On September 16, 1996, Pacific and GTEC filed a Joint Petition to modify D.95-11-061 requesting that this Commission suspend any further USOA rate reductions until decisions are issued on the pending applications on this matter. ORA opposed the Joint Petition because it took issue with the indefinite suspension of the rate reductions that would flow through to ratepayers as a result of the USOA turnaround adjustment. In D.96-11-006, we concluded that granting Pacific and GTEC's request would not result in an indefinite suspension of the USOA turnaround adjustment. Therefore, we authorized Pacific and GTEC to exclude this adjustment from their 1997 price cap filings pending a final order in this proceeding. We also ordered Pacific and GTEC to include their 1997 USOA turnaround adjustments in their respective interest-bearing, memorandum accounts.

ORA protests GTEC's treatment of the USOA Turnaround in the 1997 Price Cap filing on the same grounds that it protested Pacific and GTEC's Joint Motion. Thus, ORA recommends that an adjustment of \$(11.527) million for USOA turnaround be included in GTEC's price cap filing. We reaffirm our conclusion in D.96-11-006 that GTEC's request does not result in indefinite suspension. ORA's protest is denied.

II. Customer Notification and Education Program (CNEP)

GTEC requests a one-time, Z-factor adjustment of \$12.656 million to recover the costs of providing CNEP in relation to the passing of the Calling Party Number (CPN).

In May 1995, the Federal Communications Commission (FCC) ordered local exchange carriers (LECs) to transport the CPN to interconnecting carriers. The result of passing on the CPN is for possible disclosure on a calling party identification (Caller ID) display. In D.92-06-065 and D.92-11-062, we adopted certain conditions that GTEC and other applicant utilities² needed to meet prior to making Custom Local Access Signaling Services (CLASS), including Caller ID, features available to customers. The development, approval and implementation of a CNEP was amongst these conditions.

While no party disputes the CNEP amount requested by GTEC in its 1997 Price Cap filing, AT&T and MCI jointly protest the application of the CNEP amount to toll, local exchange and access revenue. AT&T and MCI argue that CNEP is an expense that is directly attributable to local exchange customers and is scaled by the number of such customers. AT&T and MCI further

2 The other applicant utilities addressed in D.92-06-065 and D.92-11-062 were Pacific Bell and Contel of California, Inc.

state that since interLATA and intraLATA toll customers are also basic exchange service customers, such application inappropriately burdens interLATA and intraLATA toll customers with more than their fair share for these costs as compared to basic exchange customers. AT&T and MCI request that the CNEP expenses be reallocated to local exchange revenues only.

GTEC takes issue with AT&T and MCI's protest contending that it is without merit and should be denied. GTEC's response to AT&T and MCI's protest cites Resolution T-15820 (dated December 20, 1995) in which the Commission approved Pacific's 1996 Price Cap filing, including CNEP expenses, as applied to the total billing base specifically including intraLATA toll services and intraLATA access service. GTEC further cites discussion in the body of the resolution stating that the FCC ordered LEC's to transport CPN to interconnecting carriers and that the FCC order affects customers' privacy on an interstate basis. GTEC argues that that resolution text confirms that CNEP expenses are appropriate for recovery from access services.

We agree with GTEC that Caller ID service and, therefore, related CNEP costs are attributable to all services and not just local exchange services. Therefore, similar to our order in Resolution T-15820, we conclude that the CNEP costs in GTEC's 1997 Price Cap filing shall be applied to local exchange, toll and access services.

III. Post Retirement Benefits Other Than Pensions (PBOPs)

GTEC submitted its 1997 Price Cap filing with a \$5.704 million downward adjustment to its PBOPs revenue requirement.

On October 24, 1996, ORA filed a protest to GTEC's 1997 Price Cap filing. In that protest ORA recommends that GTEC's adjustment be credited an additional \$11.045 million, changing it from (\$5.704) million to \$(16.749) million to effect a refund for PBOPs over-collections in 1995. Further, ORA recommends the additional \$11.045 credit be one-time in nature. ORA alleges that it has identified \$11.045 million in Commission authorized PBOPs assets that GTEC has not contributed to its PBOPs trusts and which, therefore, must be returned to ratepayers pursuant to O.P. 3 and 8 of D.92-12-15. ORA concludes that these over collected dollars which have not been placed in a PBOPs trust are PBOPs assets that have been used for another purpose.

In addition, ORA states in its protest that it is placing GTEC on notice that it has exceeded its expected ratemaking limits for PBOPs for 1997. ORA recommends that GTEC's 1996 and 1997 PBOPs activity be re-examined in its 1998 Price Cap filing once actual year-end data is available. Similarly, ORA requests that Pacific be put on notice for PBOPs over-collections for 1996 and 1997 in its protest of AL Nos. 18508 and 18508A, Pacific's 1997 Price Cap filing.

On November 4, 1996, GTEC responded to ORA's protest stating that ORA has misinterpreted D.92-12-015 and ignores precedent set by the Commission. GTEC contends that ORA's protest fails

to recognize the distinction between "accruing" an obligation and "funding". GTEC states that SFAS 106 requires the accrual of future PBOPs obligations through the establishment of a reserve on the books of account of the company, which results in an increase in expenses over and above the cash pay out for any given year. GTEC cites O.P.3 of D.92-12-015 as allowing recovery for increased PBOPs expenses to the extent that they exceed pay-as-you-go costs (paygo costs), i.e. it allows recovery for net accrual. GTEC alleges that it has fully accrued its PBOPs reserve on its books of account and that it has fully funded the net accrual to its PBOPs trust fund. Moreover, GTEC argues that D.92-12-015 allows recovery for the total accrual less paygo costs if funded, not the amount placed in the PBOPs trust less paygo costs as ORA's protest implies.

In addition, GTEC opposes ORA's assertion that GTEC has failed to place Commission authorized PBOPs dollars in its PBOPs trust. GTEC states that it has demonstrated in this and previous Price Cap filings that it has fully funded the amount of its requested Z-factor into its dedicated PBOPs trust, as reflected on its official inflows and outflows statement prepared by its PBOPs trustees. Moreover, GTEC asserts that ORA's recommendation of \$11.045 million is mathematically incorrect since it inappropriately mixes both total company and intrastate amounts. GTEC notes that it has been consistent in its treatment of PBOPs accruals, funding levels and Z-factor requests with its compliance filing response in to D.92-12-015 and its 1993 Price Cap, which was approved by Resolution T-15161.

Furthermore, GTEC's November 4, 1996 response alleges that ORA's protest requests the Commission to order an audit in conjunction with the 1998 Price Cap filing. GTEC states that such an audit request is both premature and redundant. It is premature since the review ORA proposes does not pertain to this price cap filing but a future one. An audit is redundant because ORA already analyzes and reviews PBOPs adjustments filed in price cap filings and because D.94-10-037 has reopened for review the issue of whether telecommunications utilities subject to NRF regulation should be allowed to recover PBOPs costs through Z-factor adjustments in price cap filings.

On November 8, 1996, ORA issued a rebuttal to GTEC's November 4, 1996 response. ORA opposes GTEC's claim that because a total company net accrual of \$29.729 million was contributed to its Collectively Bargained (i.e. union) VEBA Trust, it is in compliance with D.92-12-015. ORA states that GTEC's argument fails to point out that total company accrual includes both non-union and union PBOPs amounts and that the total net accrual of \$29.729 million was contributed only to the union trust and nothing was contributed to the non-union employees PBOPs. Therefore, ORA opposes this over-collection because it takes from non-unionized employees' PBOPs rate recovery and contributes it towards unionized employees' PBOPs recovery. ORA also revises the amount it recommends for recovery to credit an additional \$17.007 million in addition to the \$5.704 million credit GTEC has identified in its 1997 Price Cap filing.

ORA also denies GTEC's claim that it misinterprets O.P. 3 of D.92-12-015. ORA argues that GTEC's contention that the monies it has deposited in the PBOPs trust have solely been used to fund its PBOPs obligations and cannot be used by GTEC for other purposes is premised on a misrepresentation of its union-only funding. ORA states that GTEC's argument can be interpreted to imply that unfair and unreasonable contributions (i.e. the non-unionized contributions to the unionized PBOPs) are authorized if placed in a PBOPs trust established for a nonregulated entity. ORA further states that Commission precedent dictates that unauthorized expenditures or prohibited transactions be refunded to ratepayers. ORA notes that GTEC does not claim that it was authorized to contribute its non-union PBOPs monies into its union PBOPs trust. ORA is concerned that GTEC's proposal would create a precedent that would permit utilities to evade compliance with Commission orders.

On November 15, 1996, GTEC also issued additional comments in response to ORA's opposition to the PBOPs adjustment included in GTEC's 1997 Price Cap filing. First, GTEC contends that ORA's November 8, 1996 rebuttal is procedurally out of order since General Order (G.O.) 96A does not provide for subsequent rounds of comment to advice letter filings beyond one round of protests and one round of responses to any protests. Therefore, it recommends that ORA's rebuttal be dismissed. GTEC, however, responds to ORA's rebuttal to "ensure that the Commission has a clear and complete view of the issue".

GTEC strongly objects to ORA's characterization that GTEC has misrepresented its 1995 PBOPs funding. It reiterates that GTEC's PBOPs filings have been consistent since their inception in 1993. GTEC notes that its response to an ORA data request as well as its filed testimony, compliance filings, and protest responses clearly demonstrate that it has not misrepresented that its total company accrual includes both union and non-union PBOPs expenses. GTEC further argues that neither SFAS 106 nor D.92-12-015 distinguish between union and non-union PBOPs costs. In addition, GTEC contends that its protest response indicates that its net accrual amount is used to fund only its union trust.

Moreover GTEC notes that ORA's position is suspect since it changed its quantification of its recommendation on PBOPs between its protest and its rebuttal. Further, GTEC asserts that ORA's revised recommendation for PBOPs is mathematically incorrect because it includes interstate and non-regulated amounts which should not be considered for Z-factor treatment.

Clearly, the PBOPs adjustment included in GTEC's 1997 Price Cap filing is quite a contentious issue given that ORA filed both a protest and a rebuttal. Likewise, GTEC filed both a response to ORA's protest and additional comments. We do not agree with GTEC, however, that ORA's rebuttal comments are procedurally out of order. While G.O. 96A provides for a round of protests to advice letter filings and a round of response to any protests, it does not preclude subsequent rounds of comments. Therefore,

GTEC's request that ORA's rebuttal comments be dismissed is denied.

While we take note of ORA's concern regarding over-collection of 1995 PBOPs amounts, we believe that a debate on intention of D.92-12-015 is beyond the scope of this Resolution. Clearly, both ORA and GTEC each have vigorous and opposing interpretations of that decision. Since GTEC's treatment of the PBOPs adjustment is consistent with its previous filings, we will adopt its proposal of \$(5.704) million. However, we will order GTEC to identify and track the additional amount proposed for recovery by ORA in its November 8, 1996 rebuttal. This additional amount may be subject to refund to ratepayers, should subsequent Commission decisions order it. We encourage ORA to file formally to resolve outstanding issues it has regarding the interpretation of D.92-12-015 and alleged PBOPs over-collections. We also encourage such formal filing prior to GTEC's 1998 Price Cap filing AL.

In regard to ORA's recommendation to put GTEC on notice regarding future PBOPs over-collections, we will defer this issue to subsequent filings given our order regarding the tracking of additional PBOPs amounts described above and the potential for other proceedings to resolve outstanding PBOPs issues. We have adopted a similar position in our Resolution T-15976 regarding Pacific's 1997 Price Cap filing and ORA's protest regarding potential over-collections to be reviewed in future price cap filings.

Finally, we do not agree with GTEC that ORA's protest calls for an audit because the protest did not explicitly state such a recommendation.

IV. Other Price Cap Adjustments

No protests or comments were received on adjustments for the Price Cap Index, Interstate High Cost Fund, and the Removal of EAS Fixed Payment. These requests were reviewed and we find them to be reasonable.

V. Price Floors

No protests or comments were received on GTEC's revisions to its price floors. The revisions to the price floors were reviewed and we find them to be reasonable.

FINDINGS

1. GTEC's AL No. 8269, filed October 1, 1996, proposes to increase its annual revenue by \$27.518 million effective January 1, 1997 to implement its 1997 annual price cap index filing.
2. The GDP-PI inflation factor minus productivity factor portion of GTEC's 1997 price cap index is suspended as ordered in D.95-12-052.

3. GTEC's proposed revenue adjustments reflect:
 - a. 1997 Price Cap Index of 0%.
 - b. Z-factor revenue adjustments to reflect exogenous effects not reflected in the GDP-PI:
 - o PBOPs Adjustment, an on-going revenue decrease of \$(5.704) million
 - o RAS Fixed Payment, an on-going revenue increase of \$19.774 million
 - o Interstate High Cost Fund, an on-going revenue increase of \$.792 million
 - o CNRP Costs, a one-time revenue increase of \$12.656 million
4. GTEC's request to exclude the USOA Turnaround adjustment from its 1997 Price Cap filing and include its 1997 USOA adjustment in an interest-bearing, memorandum account has been adopted by this Commission in D.96-11-006.
5. On November 8, 1996, the ORA filed rebuttal comments regarding the PBOPs adjustment included in Advice Letter 8269.
6. On November 15, 1996, GTEC filed additional comments regarding the PBOPs adjustment included in Advice Letter 8269.
7. GTEC's request to dismiss ORA's rebuttal, filed November 8, 1996, is denied. General Order 96A does not preclude ORA from issuing rebuttal comments.
8. GTEC's request for a negative PBOPs adjustment of (\$5.704) million in its 1997 Price Cap filing is consistent with its previous filings.
9. It is appropriate to track and identify the additional PBOPs adjustment recommended by ORA in its November 8, 1996 rebuttal. This additional PBOPs adjustment may be subject to refund to ratepayers.
10. A decision on the intention of D.92-12-015 is beyond the scope of this Resolution.
11. GTEC's request for a revenue adjustments for the Extended Area Service Fixed Payment, the Interstate High Cost Fund, and Customer Notification and Education Program Costs are reasonable.
12. GTEC's requested price floor revisions are reasonable.
13. ORA's protest is denied except to the extent set forth herein.
14. AT&T and MCI's joint protest is denied.

15. A total price cap mechanism revenue increase of \$27.518 million effective January 1, 1997 is justified. The adopted revenue adjustments are summarized in Appendix A to this Resolution.

THEREFORE, IT IS ORDERED that:

1. GTE California Incorporated shall increase its annual revenue by \$27.518 million effective January 1, 1997, as a result of its 1997 annual price cap index filing in Advice Letter (AL) Number (No.) 8269.

2. GTE California Incorporated shall make a supplemental compliance filing to AL No. 8269 on or before December 29, 1996 with the Commission's Telecommunications Division. The filing should implement billing surcharges/surcredits reflecting the revenue increase in Ordering Paragraph 1, applied to a total billing base of \$1,831,075,000 for intraLATA exchange and private line services, intraLATA toll services, and intraLATA access service. This filing will become effective on January 1, 1997, subject to review and approval by the Commission's Telecommunications Division.

3. GTE California Incorporated shall track and identify the additional PBOPs adjustment recommended by ORA in its November 8, 1996 rebuttal, for potential refund to ratepayers.

4. The revisions to GTE California Incorporated's price floors filed in AL No. 8269 are adopted and shall be effective on January 1, 1997.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the California 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

Appendix A
Resolution T-15977

GTE CALIFORNIA INCORPORATED
1997 PRICE CAP FILING
SURCREDIT/SURCHARGE ADJUSTMENT BY %

<u>Permanent Factors</u>	<u>GTEC Proposed Revenue Impacts</u>	<u>ORA Proposed Revenue Impacts</u>	<u>Adopted Impacts</u>
Indexing Mechanism	\$0	\$0	\$0
Interstate High Cost Fund	\$792	\$792	\$792
PBOP	(\$5,704)	(\$22,711)	(\$5,704)
EAS Fixed Payment	\$19,774	\$19,774	\$19,774
USOA Turnaround	\$0	(\$11,527)	\$0
Subtotal	\$14,862	(\$13,672)	\$14,862
<u>One-Time Z-Factors/ Adjustments</u>			
CNEP Costs	\$12,656	\$12,656	\$12,656
Subtotal	\$12,656	\$12,656	\$12,656
GRAND TOTAL	\$27,518	(\$1,016)	\$27,518

Appendix B
Resolution T-15977

GTE CALIFORNIA INCORPORATED
1997 PRICE CAP FILING
SURCREDIT/SURCHARGE ADJUSTMENT BY %

	<u>GTEC</u>	<u>ORA</u>	<u>Adopted</u>
Effective 1/1/97:			
Local Exchange	0.16%	-1.07%	0.16%
Toll	-1.81%	-3.04%	-1.81%
Access	-1.81%	-3.04%	-1.81%