

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division

RESOLUTION T-15980
December 20, 1996

R E S O L U T I O N

RESOLUTION T-15980. PACIFIC BELL (U-1001). REQUEST FOR APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN ICG TELECOM GROUP, INC (U-5406) AND PACIFIC BELL PURSUANT TO SECTION 252 OF THE TELECOMMUNICATIONS ACT OF 1996.

BY ADVICE LETTER NO. 18542, FILED ON OCTOBER 11, 1996.

SUMMARY

This Resolution approves the Interconnection Agreement between Pacific Bell and ICG Telecom Group, Inc. (ICG), a facilities-based carrier submitted under provisions of Resolution ALJ-168 and GO 96-A. The Agreement becomes effective today and will remain in effect for three years.

BACKGROUND

Earlier this year, the United States Congress passed and the President signed into law the Telecommunications Act of 1996 (Pub. L. No.104-104, 110 Stat. 56 (1996)) (1996 Act). Among other things, the new law declared that each incumbent local exchange telecommunications carrier has a duty to provide interconnection with the local network for competing local carriers and set forth the general nature and quality of the interconnection that the local exchange carrier must agree to provide.¹ The 1996 Act established an obligation for the incumbent local exchange carriers to enter into good faith negotiations with each competing carrier to set the terms of interconnection. Any interconnection agreement adopted by negotiation must be submitted to the appropriate state commission for approval.

¹ An incumbent local exchange carrier is defined (in critical part) as one which provided telephone exchange service in a specified area on February 8, 1996, the date of enactment of the 1996 Act. (See §251(h)(1)(A)).

Section 252 of the 1996 Act sets forth our responsibility to review and approve interconnection agreements. On July 17, 1996, we adopted Resolution ALJ-167 which provides interim rules for the implementation of §252. On September 26, 1996, we adopted Resolution ALJ-168 which modified those interim rules. On October 11, 1996, Pacific Bell filed Advice Letter No. 18524 requesting Commission approval of a negotiated interconnection agreement between Pacific Bell and ICG.

In ALJ-168 we noted that the Act requires the Commission to act to approve or reject agreements. We established an approach which uses the advice letter process as the preferred mechanism for consideration of negotiated agreements. Under §252(e), if we fail to approve or reject the agreements within 90 days after the advice letter is filed, then the agreements will be deemed approved.

The Interconnection Agreement sets the terms and charges for interconnection between Pacific Bell and ICG (the "parties"). The Agreement provides for the following:

- Transport and termination of local exchange traffic without explicit compensation until one year after permanent number portability is implemented at the end of 1998;
- Provisions to share switched-access revenues;
- Access to network elements, including unbundled local loops;
- Access to poles, conduit and other rights-of-way;
- Provision of emergency services, directory assistance and call completion services;
- Access to White Pages directory listings and customer guide pages;
- Access to number resources;
- Interim number portability until a permanent solution is feasible;
- Dialing parity;
- Resale of Pacific Bell retail services;
- Physical, shared space and virtual collocation; and
- Joint provision of wireless service provider access.

NOTICE/PROTESTS

Pacific states that copies of the Advice Letter and the Interconnection Agreement were mailed to all parties on the Service List R.93-04-003/I.93-04-002/R.95-04-043/I.95-04-044. Notice of Advice Letter No. 18542 was published in the Commission

Daily Calendar of October 15, 1996. No protest to this Advice Letter has been received.

DISCUSSION

In November 1993, this Commission adopted a report entitled "Enhancing California's Competitive Strength: A Strategy for Telecommunications Infrastructure" (Infrastructure Report). In that report, the Commission stated its intention to open all telecommunications markets to competition by January 1, 1997. Subsequently, the California Legislature adopted Assembly Bill 3606 (Ch. 1260, Stats. 1994), similarly expressing legislative intent to open telecommunications markets to competition by January 1, 1997. In the Infrastructure Report, the Commission states that "[i]n order to foster a fully competitive local telephone market, the Commission must work with federal officials to provide consumers equal access to alternative providers of service." The 1996 Act provides us with a framework for undertaking such state-federal cooperation.

Based on the 1996 Act, we have instituted Interim Rule 4.1.4 in Resolution ALJ-168 which states that the Commission shall reject an interconnection agreement if it finds that:

- a. the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
- b. the implementation of such agreement (or portion thereof) is not consistent with the public interest, convenience, and necessity; or
- c. the agreement (or portion thereof) violates other requirements of the Commission, including, but not limited to, quality of service standards adopted by the Commission.

The Agreement submitted in Advice Letter No. 18524 appears to be consistent with the goal of avoiding discrimination against other telecommunications carriers. We see nothing in the terms of the proposed Agreement that would tend to restrict the access of a third-party carrier to the resources and services of Pacific Bell. Significantly, the 1996 Act ensures that any beneficial provisions in this Agreement will be made available to all other similarly-situated competitors.

Section 252(I) of the 1996 Act states:

"A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement."

Thus, this Agreement, which does not appear to be discriminatory, is likely to be non-discriminatory as implemented.

There is also no reason to conclude that this Agreement is in any manner inconsistent with the public interest. We have previously concluded that competition in local exchange and exchange access markets is desirable. Because this Agreement will allow another competitor to provide local service in several of the state's largest markets, it is consistent with our goal of promoting competition. We have found no provisions of this Agreement which appears, on the surface, to undermine this goal or to be inconsistent with any other identified public interests. This Agreement does not appear to be inconsistent with the Commission's service quality standards and may exceed those standards in at least one respect. Pacific Bell and ICG have agreed to a blocking standard of one half of one percent (.005) during the average busy hour for final trunk groups carrying jointly-provided switched access traffic between an end office and an access tandem. All other final trunk groups are to be engineered with a blocking standard of one percent (.01). This means that the parties have a goal of completing, on average, no less than 99% of all initiated calls.

We note that this call blocking provision exceeds the service quality reporting level set forth by the Commission in General Order (GO) 133-B, which requires carriers to report quarterly to the Commission as to whether or not their equipment completes 98% of customer-dialed calls on a monthly basis. Although both carriers must continue to comply with this requirement, we are encouraged that they are seeking to achieve an even higher standard of service.

Several commenters to previous interconnection agreements sought assurance that the Commission's treatment of those interconnection agreements would not impair their rights and opportunities in other proceedings². We wish to reiterate such

²A.96-07-035 and A.96-07-045.

assurances as clearly as possible. This Resolution stands solely for the proposition that ICG and Pacific Bell may proceed to interconnect under the terms set forward in their Agreement. We do not adopt any findings in this Resolution that should be carried forth to influence the determination of issues to be resolved elsewhere.

For instance, in Paragraph VI of the agreement, parties state that they "...agree that if the Commission determines that LECs [local exchange carriers] may recover their costs for changes to switch routing software necessitated by the creation, assignment or reassignment or activation of NPA or NXX codes, then the appropriate method of recovering such costs is an explicit all-end-user surcharge." While the quoted statement may reflect the belief of the parties, our approval of this Agreement does not reflect a determination one way or another as to allowing this cost recovery or adopting a particular method of recovering those costs. If the parties to this Agreement enter into any subsequent agreements affecting interconnection, those agreements must also be submitted for our approval. In addition, the approval of this Agreement is not intended to affect otherwise applicable deadlines such as those that apply to the implementation of Permanent Number Portability. This Agreement and its approval have no binding effect on any other carrier. Nor do we intend to use this Resolution as a vehicle for setting future Commission policy. As a result of being approved, this Agreement does not become a standard against which any or all other agreements will be measured.

With these clarifications in mind, we will approve the proposed Agreement. In order to facilitate rapid introduction of competitive services, we will make this order effective immediately.

FINDINGS

1. The Interconnection Agreement submitted in Pacific Bell's Advice Letter No. 18524 appears to be consistent with the goal of avoiding discrimination against other telecommunications carriers.

2. There is no reason to conclude that the Agreement is in any manner inconsistent with the public interest.

3. The Agreement does not appear to be inconsistent with the Commission's service quality standards and may exceed those standards in at least one respect.

THEREFORE, IT IS ORDERED that:

1. Pursuant to the Federal Telecommunications Act of 1996, we approve the Interconnection Agreement between Pacific Bell and ICG Telecom Group, Inc. submitted by Advice Letter No. 18524.

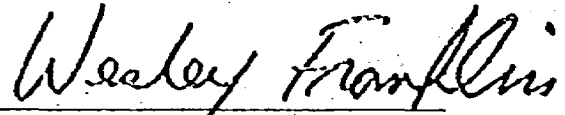
2. This Resolution is limited to approval of the above-mentioned Interconnection Agreement and does not bind other parties or serve to alter Commission policy in any of the areas discussed in the Agreement or elsewhere.

3. Pacific Bell Advice Letter No. 18524 and the Interconnection Agreement between Pacific Bell and ICG Telecom Group, Inc. shall be marked to show that they were approved by Resolution T-15980.

December 20, 1996

This Resolution is effective 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 M. FRANKLIN
Executive Director

P. GREGORY CONLON
President

DANIEL Wm. FESSLER

JESSIE J. KNIGHT, Jr.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners