PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division

RESOLUTION T-15988
January 13, 1997

R E S O L U T I O N

RESOLUTION T-15988. PACIFIC BELL (U-1001). REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO AN INTERCONNECTION AGREEMENT BETWEEN ELECTRIC LIGHTWAVE, INCORPORATED(U-5377) AND PACIFIC BELL PURSUANT TO SECTION 252 OF THE TELECOMMUNICATIONS ACT OF 1996.

BY ADVICE LETTER NO.18561, FILED ON NOVEMBER 4, 1996.

SUMMARY

This Resolution approves Amendment No. 1 to the Interconnection Agreement between Pacific Bell and Electric Lightwave, Incorporated (ELI), a facilities-based carrier, submitted under provisions of Resolution ALJ-168 and GO 96-A. Amendment No. 1 becomes effective today and will remain in effect for the remaining term of the original Interconnection Agreement.

BACKGROUND

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

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[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)).

adopted by negotiation must be submitted to the appropriate state commission for approval.

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. ALJ-167 required negotiated interconnection agreements to be filed by application. On August 30, 1996, Pacific and ELI filed a joint application for approval of a negotiated interconnection agreement pursuant to Section 252 of the 1996 Act and ALJ-167. The application was subsequently granted by Decision No.96-11-044. On September 26, 1996, we adopted Resolution ALJ-168 which modified ALJ-167 and called for using the advice letter process as the preferred mechanism for consideration of negotiated agreements. On November 4, 1996, Pacific Bell filed Advice Letter No. 18561 requesting Commission approval of Amendment No. 1 to the Interconnection Agreement between Pacific Bell and ELI pursuant to Section 252 of the 1996 Act and ALJ-168.

In ALJ-168 we noted that the Act requires the Commission to act to approve or reject 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.

Amendment No. 1 calls for additions and changes to the original Interconnection Agreement between Pacific Bell and ELI (the "parties"). Amendment No. 1 provides for the following:

- Pacific will provide copies of the Master Street Guides and Selective Router Tandem Location Maps at no charge.
- ELI shall have the oppotunity to have a maximum of two customer service pages without charge published in the White Pages section of Pacific's Directories in those areas where ELI provides Exchange Service
- The parties agree to provide each other's end users a referral announcement without charge for the first two year term of the original Agreement.[1]
- Pacific will provide for physical collocation of transport and termination equipment on modified terms from the tariff.

[1] While the Advice Letter reports a three year term, we note that the attached Amendment No. 1 states a two year term and that the original Interconnection Agreement has a two year term. Accordingly, we recognize the two year term as stated in the attached Amendment No. 1.

NOTICE/PROTESTS

Pacific states that copies of the Advice Letter and Amendment No. 1 were mailed to all parties on the Service List for ALJ-168, R.93-04-003/I.93-04-002/R.95-04-043/I.95-04-044. Notice of Advice Letter No. 18561 was published in the Commission Daily Calendar of November 5, 1996. Pursuant to Rule 4.3.2 of ALJ-168 protests shall be limited to the standards for rejection provided in Rule 4.1.4. 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 Rule 4.3 in Resolution ALJ-168 for approval of agreements reached by negotiation. Rule 4.3.1 provides rules for the content of requests for approval. Consistent with Rule 4.3.1, the request has met the following conditions: 1) Pacific has filed an Advice Letter as provided in General Order 96-A and stated that Amendment No. 1 is an agreement being filed for approval under Section 252 of the Act. 2) The request contains a copy of Amendment No. 1 which, by its content, demonstrates that it meets the standards in Rule 2.1.8. 3) Amendment No. 1 itemizes the charges for interconection and each service or network element included in Amendment No. 1.

Rule 4.3.3. states that the Commission shall reject or approve the agreement based on the standards in Rule 4.1.4. Rule 4.1.4 states that the Commission shall reject an interconnection agreement (or portion thereof) if it finds that:

a. the agreement discriminates against a telecommunications carrier not a party to the agreement; or

b. the implementation of such agreement is not consistent with the public interest, convenience, and necessity; or

c. the agreement violates other requirements of the Commission, including, but not limited to, quality of service standards adopted by the Commission.

Amendment No. 1 as submitted in Advice Letter No. 18561 appears to be consistent with the goal of avoiding discrimination against other telecommunications carriers. We see nothing in the terms of the proposed Amendment No. 1 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 Amendment No. 1 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, Amendment No. 1, which does not appear to be discriminatory, is likely to be non-discriminatory as implemented.

There is also no reason to conclude that Amendment No. 1 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 Amendment No. 1 helps a 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 Amendment No. 1 which appear, on the surface, to undermine this goal or to be inconsistent with any other identified public interests. Amendment No. 1 does not appear to be inconsistent with the Commission's service quality standards.

Furthermore, we recognize that no party protested the Advice Letter alleging that it was discriminatory, inconsistent with the public interest, convenience, and necesity or in violation of Commission requirements.

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 proceedings[3]. We wish to reiterate such assurances as clearly as possible. This Resolution stands solely for the proposition that ELI and Pacific Bell may interconnect under the additional and modified terms set forward in their Amendment No. 1. We do not adopt any findings in this Resolution that should be carried forward to influence the determination of issues to be resolved elsewhere.

If the parties to Amendment No. 1 enter into any subsequent agreements affecting interconnection, those agreements must also be submitted for our approval. In addition, the approval of Amendment No. 1 is not intended to affect otherwise applicable deadlines. Amendment No. 1 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, Amendment No. 1 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 Amendment No. 1. In order to facilitate rapid introduction of competitive services, we will make this order effective immediately.

FINDINGS

1. Pacific Bell's request for approval of an agreement pursuant to the Federal Telecommunications Act of 1996 meets the content requirements of Rule 4.3.1 of ALJ-168.

2. The negotiated Amendment No. 1 submitted in Pacific Bell's Advice Letter No. 18561 appears to be consistent with the goal of avoiding discrimination against other telecommunications carriers.

[3] A.96-07-035 and A.96-07-045.

3. There is no reason to conclude that Amendment No. 1 is in any manner inconsistent with the public interest.

4. Amendment No. 1 does not appear to be inconsistent with the Commission's service quality standards.

THEREFORE, IT IS ORDERED that:

1. Pursuant to the Federal Telecommunications Act of 1996, we approve Amendment No. 1 to the Interconnection Agreement between Pacific Bell and Electric Lightwave, Incorporated as submitted by Advice Letter No. 18561.

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

3. Pacific Bell Advice Letter No. 18561 and Amendment No. 1 to the Interconnection Agreement between Pacific Bell and Electric Lightwave, Incorporated, shall be marked to show that they were approved by Resolution T-15988.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on January 13, 1997. The following Commissioners approved it:

Wesley Franklin

WESLEY M. FRANKLIN
Executive Director

P. GREGORY CONLON
President
JESSIE J. KNIGHT, Jr.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners