

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division

RESOLUTION T-16033
May 21, 1997

R E S O L U T I O N

RESOLUTION T-16033. PACIFIC BELL (U-1001). REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO AN INTERCONNECTION AGREEMENT BETWEEN CMT PARTNERS ON BEHALF OF BAY AREA CELLULAR TELEPHONE COMPANY (U-3007-C), SALINAS CELLULAR TELEPHONE COMPANY (U-3018-C), NAPA CELLULAR TELEPHONE COMPANY (U-3016-C), AND CAGAL CELLULAR COMMUNICATIONS CORP. (U-3021-C) AND PACIFIC BELL PURSUANT TO SECTION 252 OF THE TELECOMMUNICATIONS ACT OF 1996.

BY ADVICE LETTER NO.18782, FILED ON APRIL 8, 1997.

SUMMARY

This Resolution approves Amendment No. 1 to the Interconnection Agreement between Pacific Bell and CMT Partners on behalf of Bay Area Cellular Telephone Company (U-3007-C), Salinas Cellular Telephone Company (U-3018-C), Napa Cellular Telephone Company (U-3016-C), and Cagal Cellular Communications Corp. (U-3021-C) (CMT Partners), facilities-based cellular carriers, 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

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)).

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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.

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 provided interim rules for the implementation of §252. 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 January 17, 1997, Pacific filed Advice Letter 18645 requesting approval of a negotiated interconnection agreement pursuant to Section 252 of the 1996 Act and ALJ-168. The Advice Letter was subsequently granted by Resolution No. T-16013 on March 18, 1997. On April 8, 1997, Pacific Bell filed Advice Letter No. 18782 requesting Commission approval of Amendment No. 1 to the Interconnection Agreement between Pacific Bell and CMT Partners 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 CMT Partners (the "parties"). Amendment No. 1 provides for the following:

- The rates for local transport and termination using a Type 2B CMRS Interconnection are reduced to a level consistent with the Type 2B rates in recently approved Pacific Bell CMRS interconnection agreements.
- Under the parties' interim negotiated procedure for measurement and billing of traffic flows, CMT Partners will bill Pacific for a slightly higher amount than established in the original agreement.
- The transiting arrangement is modified to include provisions for Pacific to both collect and remit termination compensation on behalf of LECs that are members of the California Toll Pool when CMT Partners uses a Pacific tandem to transit a call to a "pooling" LEC.

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. 18782 was published in the Commission Daily Calendar of April 10, 1997. 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 interconnection 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:

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- 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. 18782 is 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 the parties' interconnection agreement as amended here by 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."

Amendment No. 1 is consistent with the public interest. We have previously concluded that competition in local exchange and exchange access markets is desirable. Because Amendment No. 1 allows CMT Partners to interconnect with Pacific on the same favorable terms that its competitors have negotiated with Pacific in their cellular interconnection agreements, 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.

Furthermore, there is no reason to conclude that Amendment No. 1 is contrary to the Commission's service quality standards.

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 proceedings¹. We wish to reiterate such assurances as clearly as possible. This Resolution stands solely for the proposition that CMT Partners 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. 18782 is consistent with the goal of avoiding discrimination against other telecommunications carriers.
3. Amendment No. 1 is consistent with the public interest.
4. Amendment No. 1 is not contrary to the Commission's service quality standards.

¹A.96-07-035 and A.96-07-045.

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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 CMT Partners on behalf of Bay Area Cellular Telephone Company (U-3007-C), Salinas Cellular Telephone Company (U-3018-C), Napa Cellular Telephone Company (U-3016-C), and Cagal Cellular Communications Corp. (U-3021-C) as submitted by Advice Letter No. 18782.

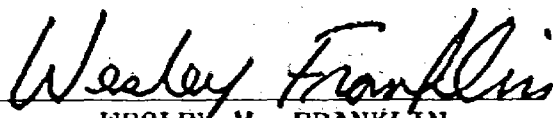
2. This Resolution is limited to approval of the above-mentioned Amendment and does not bind other parties or serve to alter Commission policy in any of the areas discussed in the Amendment or elsewhere.

3. Pacific Bell Advice Letter No. 18782 and the Interconnection Agreement between Pacific Bell and CMT Partners on behalf of Bay Area Cellular Telephone Company (U-3007-C), Salinas Cellular Telephone Company (U-3018-C), Napa Cellular Telephone Company (U-3016-C), and Cagal Cellular Communications Corp. (U-3021-C) shall be marked to show that they were approved by Resolution T-16033.

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This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on May 21, 1997. The following Commissioners approved it:


WESLEY M. FRANKLIN
Executive Director

P. GREGORY CONLON

President

JESSIE J. KNIGHT, Jr.

HENRY M. DUQUE

JOSIAH L. NERPER

RICHARD A. BILAS

Commissioners