PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division
Market Structure Branch

RESOLUTION T-16036
June 11, 1997

RESOLUTION

RESOLUTION T-16036. GTE CALIFORNIA (U-1002). REQUEST FOR APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN LOS ANGELES CELLULAR TELEPHONE COMPANY (U-3009-C) AND GTE CALIFORNIA PURSUANT TO SECTION 252 OF THE TELECOMMUNICATIONS ACT OF 1996.

BY ADVICE LETTER NO.8463, FILED ON APRIL 4, 1997.

SUMMARY

This Resolution approves an Interconnection Agreement between GTE California (GTEC) and Los Angeles Cellular Telephone Company (LAC), a facilities-based cellular carrier, submitted under provisions of Resolution ALJ-168 and GO 96-A. The Agreement becomes effective today and will remain in effect for 2 years.

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 any requesting telecommunications carrier and set forth the general nature and quality of the interconnection that the incumbent local exchange carrier (ILEC) 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.

Section 252 of the 1996 Act sets forth our responsibility to review and approve interconnection agreements. On July 17, 1996,

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[1] An incumbent local exchange carrier is defined in Section §251(h) of the 1996 Act.

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 August 8, 1996, the FCC issued its First Report and Order On Interconnection, CC Docket No. 96-98 (the Order). The Order included several regulations regarding the rights and obligations of Commercial Mobile Radio Service (CMRS) providers and ILECs in providing local interconnection. For example, Section 51.717 allowed for CMRS providers to re-negotiate arrangements with ILECs with no termination liability or other contract penalties. On October 15, 1996, the First Report and Order was stayed by the United States Court of Appeals for the 8th circuit. However, on November 1, 1996, the stay was lifted for sections that related to the scope of the transport and termination pricing rules, reciprocal compensation of LECs, and the re-negotiation of non-reciprocal arrangements typically associated with CMRS providers.[2]

On February 3, 1997, LAC petitioned the Commission for arbitration to establish an interconnection agreement with GTEC (A.97-02-002). In the application LAC requested

1. The same local transport and termination rates as established in the GTEC/AT&T agreement.
2. A retroactive "true-up" for symmetrical compensation of local transport and termination of GTEC calls at rates that GTEC had charged LAC from the effective date of the agreement back to August 28, 1996, when LAC presented GTEC with its written request for renegotiation.
3. Symmetrical compensation on a going forward basis without the need for LAC to provide proof of its own costs on a TSLRIC basis; and
4. Compensation for tandem switching and transport functions that LAC provides in terminating GTEC-originated calls.

On March 3, 1997 at the Initial Arbitration Meeting, both parties indicated that they would reach settlement and not require arbitration. The parties indicated that if they were to reach settlement, they would prefer to file the agreement for approval via an advice letter.

[2] The stay was lifted on Sections 51.701, 51.703, and 51.717 of Appendix B.

On April 4, 1997, GTE California filed Advice Letter No. 8463 requesting Commission approval of a negotiated interconnection agreement between GTE California and LAC under section 252.

In ALJ-168 we noted that the 1996 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 GTE California and LAC (the "parties"). The Agreement provides for the following:

- The parties agree that the major trading area (MTA) constitutes the local calling area for the purpose of compensation for the transport and termination of commercial mobile radio service (CMRS) traffic.[3]
- The agreement is specifically limited to traffic of LAC to which LAC provides service on its cellular spectrum. GTEC agrees to include one-way paging traffic that LAC carries on its cellular spectrum, but only as long as such traffic is ancillary and incidental to LAC's primary operation as a telephone exchange service providing two-way wireless mobile telecommunications.[4]
- Transport and termination of local exchange traffic with explicit compensation. The party that terminates the call receives compensation from the party that originates the call. Rates for tandem switching, transport and end-office switching are symmetrical. The end-office rate matches the rate established in the GTEC-AT&T arbitration. If the final rate in that agreement changes, the end-office rate in this agreement will change accordingly.[5]
- Pursuant to 47 C.F.R. section 51.717(b), the parties agree that from November 1, 1996 until such time as the terms of this new agreement are effective, GTEC shall pay to LAC the same rate for terminating land-to-mobile calls

[3] Article II, Paragraph 1.20 of the agreement.
[4] Article IV, Paragraph 3.1 of the agreement.
[5] Article III, Paragraph 33, Article IV, Paragraph 2, and Appendix C of the agreement.

as that set forth in the parties' existing agreements for the termination of mobile-to-land calls;

- Recurring and non-recurring charges for the two way interconnect facilities that link the parties' respective switching offices for purposes of exchanging traffic between the parties' customers will be shared between them in the same proportion as each originates traffic on the relevant facilities.
- Meet-point billing arrangements on a multiple bill/multiple tariff basis initially.
- Provision of emergency services, directory assistance and call completion services;
- Access to number resources;
- A dispute resolution procedure which may lead to commercial arbitration.[6]

NOTICE/PROTESTS

GTEC states that copies of the Advice Letter and the Interconnection Agreement were mailed to all parties on the Service List of ALJ 168, R.93-04-003/I.93-04-002/R.95-04-043/I.95-04-044. Notice of Advice Letter No. 8463 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[7]. 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.

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[6] Article III, Paragraph 12 of the agreement.

[7] See below for conditions of Rule 4.1.4.

Sections 252(a)(1) and 252(e)(1)of the Act distinguish interconnection agreements arrived at through voluntary negotiation and those arrived at through compulsory arbitration. Section 252(a)(1) states that:

> "an incumbent local exchange carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of section 251."

Section 252(e)(2) limits the state commission's grounds for rejection of voluntary agreements. Section 51.3 of the First Report and Order also concludes that the state commission can approve an interconnection agreement adopted by negotiation even if the terms of the agreement do not comply with the requirements of Part 51--Interconnection.

Based on Section 252 of 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. GTEC has filed an Advice Letter as provided in General Order 96-A and stated that the Interconnection Agreement is an agreement being filed for approval under Section 252 of the Act.
2. The request contains a copy of the Interconnection Agreement which, by its content, demonstrates that it meets the standards in Rule 2.1.8.
3. The Interconnection Agreement itemizes the charges for interconnection and each service or network element included in the Interconnection Agreement.

Rule 4.3.3. of ALJ-168 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.

The Agreement provides for explicit transport and termination charges assessed on the originating carrier. We make no determination as to whether these rates meet the pricing standards of Section 252(d) of the 1996 Act. Our consideration of these agreements is limited to the three issues in rule 4.1.4 of ALJ-168.

The Agreement is consistent with the goal of avoiding discrimination against other telecommunications carriers. We see nothing in the terms of the proposed Agreement that would serve to restrict the access of a third-party carrier to the resources and services of GTE California.

Section 252(I) of the 1996 Act ensures that the provisions of the agreement will be made available to all other similarly situated competitors. Specifically, the section 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."

We have previously concluded that competition in local exchange and exchange access markets is desirable. We have found no provisions in this Agreement which undermine this goal or are inconsistent with any other identified public interests. Hence, we conclude that the Agreement is consistent with the public interest.

The Agreement also meets other requirements of the Commission. The Agreement protects public safety by including provisions for termination of emergency calls. Also, this Agreement is consistent with the Commission's service quality standards and may exceed those standards in at least one respect. GTE California and LAC have agreed to engineer all final CMRS interconnection trunk groups 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.

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[1]. We wish to reiterate such assurances as clearly as possible. This Resolution stands solely for the proposition that LAC and GTE California 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.

If the parties to this Agreement enter into any subsequent agreements affecting interconnection, those agreements must also be submitted to the Commission for approval. In addition, the approval of this Agreement is not intended to affect otherwise applicable deadlines. 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] A.96-07-035 and A.96-07-045.

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

2. The Interconnection Agreement submitted in GTE California's Advice Letter No. 8463 is consistent with the goal of avoiding discrimination against other telecommunications carriers.

3. We conclude that the Agreement is consistent with the public interest.

4. The Agreement is consistent 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 GTE California and Los Angeles Cellular Telephone Company submitted by Advice Letter No. 8463.

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. GTE California Advice Letter No. 8463 and the Interconnection Agreement between GTE California and Los Angeles Cellular Telephone Company shall be marked to show that they were approved by Resolution T-16036.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on June 11, 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