PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division
Market Structure Branch

RESOLUTION T-16037
May 21, 1997

R E S O L U T I O N

RESOLUTION T-16037. PACIFIC BELL (U-1001). REQUEST FOR APPROVAL OF INTERCONNECTION AGREEMENTS BETWEEN PACIFIC BELL AND BAKERSFIELD CELLULAR TELEPHONE COMPANY (U-3017-C) (BAKERSFIELD), PACIFIC BELL AND SLO CELLULAR, INC. (U-3044-C) (SLO), PACIFIC BELL AND SANTA CRUZ CELLULAR TELEPHONE, INC. (U-3019-C) (SANTA CRUZ), AND PACIFIC BELL AND CELLULAR 2000 (U-3037-C) PURSUANT TO SECTION 252 OF THE TELECOMMUNICATIONS ACT OF 1996.

BY ADVICE LETTERS NO.18768, 18769, AND 18770 FILED ON MARCH 31, 1997 AND ADVICE LETTER 18781 FILED ON APRIL 4, 1997.

SUMMARY

This Resolution approves four separate interconnection agreements submitted under provisions of Resolution ALJ-168 and GO 96-A. The Agreements become effective today and will remain in effect for 2 years. Each agreement involves Pacific Bell and one of the following cellular carriers (hereinafter referred to as the "Cellular Companies"): Bakersfield, SLO, Santa Cruz, and Cellular 2000.

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 ILECs

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

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 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 March 31, 1997, Pacific Bell filed Advice Letters No. 18768, 18769, and 18770. On April 4, 1997, Pacific Bell filed Advice Letter No. 18781. Each of the four Advice Letters requests Commission approval of a negotiated interconnection agreement between Pacific Bell and one of the Cellular Companies 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.

Each Interconnection Agreement pertaining to these four Advice Letters sets the terms and charges for interconnection between

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

Pacific Bell and one of the Cellular Companies (the "parties"). Each agreement contains virtually identical terms. Each Agreement provides for the following:

- The parties define local CMRS calls, for the purpose of reciprocal compensation only, as calls that originate on either party's network that are exchanged directly between the parties and that at the beginning of the call, originate and terminate within the same Major Trading Area, as provided in 47 CFR §51.701(b)(2).
- The parties will separately negotiate and agree upon the terms and conditions for the exchange of traffic generated by services that are not "Authorized Services"[3]. Section 1.6 defines Authorized Services as "those cellular mobile radio communications services which Carrier may lawfully provide on an interconnected basis pursuant to Sections 154, 303, and 332 of the Communications Act of 1934, as amended."
- Transport and termination of local exchange traffic with explicit compensation.[4] The party that terminates the call receives compensation from the party that originates the call. The rates vary according to the type of trunk termination. The rates for land to mobile calls are lower than those for mobile to land. The parties agree to re-negotiate the compensation provisions if the Cellular Company provides Pacific with call detail records that together with Pacific's records, establish that the Cellular Company originates less than 55% of the Local CMRS calls originated by the parties;
- Provision of emergency services, directory assistance and call completion services;
- Access to number resources;
- A price schedule for several CMRS interconnection service elements including an analog interface for Type 1 trunk side message trunk (TSMT), interoffice mileage, Type 1 direct inward dial (DID) and TSMT circuit termination, class of call screening, billed number screening, and pre-conditioning of DID numbers.
- A price schedule for type 1, type 2A and type 2B CMRS trunk terminations.

[3] Section 2.3.4 of the Agreement
[4] See Section 3.1 of the Agreement

- An interim, negotiated procedure for measuring and billing traffic flows from Pacific to the Cellular Company while parties develop the capability to exchange traffic recordings in Exchange Message Record (EMR) or Exchange Message Interface (EMI) format.[5]
- The parties have established a dispute resolution procedure which includes reference to the procedure outlined in pages 36-39 in the Commission's interconnection decision (D.95-12-056).
- As of January 1, 1999, the Wide Area Calling option[6] will be discontinued unless Pacific provides the option to a competing wireless service provider (WSP) after December 31, 1998, and the competing WSP provides wireless service in the same area. The rates Pacific bills for this service also increase in 1998.

NOTICE/PROTESTS

Pacific states that copies of the Advice Letters and the Interconnection Agreements 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 Letters No. 18768, 18769, and 18770 were published in the Commission Daily Calendar of April 1, 1997. A supplement correcting a typographical error to Advice Letter No. 18769 was filed on April 8, 1997 and published in the Commission's Daily Calendar on April 10, 1997. Notice of Advice Letter 18781 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 these Advice Letters have 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

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[5] See Section 3.2.3 of the Agreement

[6] This is an optional reverse billing arrangement in which Pacific does not charge its land-line customers the toll charges they incur in calling The Cellular Company's customers, but instead, charges the Cellular Company contracted usage rates. This billing arrangement allows a Pacific customer to only be charged a local rate for land-to-mobile calls in a LATA, regardless of whether the call would otherwise be rated as toll. Attachment IV to the Agreement describes the arrangement. Section 14.1 discusses the term of the arrangement.

[7] See below for conditions of Rule 4.1.4.

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.

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, each of the requests have met the following conditions:

1. Pacific 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 1996 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 Agreements provide 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 Agreements are consistent with the goal of avoiding discrimination against other telecommunications carriers. We see nothing in the terms of the proposed Agreements that would tend to restrict the access of a third-party carrier to the resources and services of Pacific Bell. Significantly, the 1996 Act suggests that the beneficial provisions in these Agreements 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."

Furthermore, in Section 28 of the Agreements, both parties recognize Section 252 (I) of the Act which would allow the Cellular Companies to receive the same terms and conditions

received by any other carrier who enters into an agreement with Pacific.

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

The Agreements also meet other requirements of the Commission. The Agreements promote public safety by including provisions for termination of emergency calls. Also, these Agreements are consistent with the Commission's service quality standards and may exceed those standards in at least one respect. Pacific Bell and the Cellular Companies 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 any of these Advice Letters alleging that it was discriminatory, inconsistent with the public interest, convenience, and necesity or in violation of Commission requirements.

Several who commented on 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 the Cellular Companies and Pacific Bell may proceed to interconnect under the terms set forward in their Agreements. We do not adopt any findings in this Resolution that should be carried forth to influence the determination of issues to be resolved elsewhere.

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

If the parties to these Agreements enter into any subsequent agreements affecting interconnection, those agreements must also be submitted to the Commission for approval. In addition, the approval of these Agreements is not intended to affect otherwise applicable deadlines. These Agreements and their 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, these Agreements do not become a standard against which any or all other agreements will be measured.

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

FINDINGS

1. Pacific Bell's requests for approval of four separate interconnection agreements, each between Pacific and one of the Cellular Companies, pursuant to the Federal Telecommunications Act of 1996 meet the content requirements of Rule 4.3.1 of ALJ-168.

2. The Interconnection Agreements submitted in Pacific Bell's Advice Letters 18768, 18769, 18770 , and 18781 are consistent with the goal of avoiding discrimination against other telecommunications carriers.

3. We conclude that the Agreements are consistent with the public interest.

4. The Agreements are 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 each of the four separate Interconnection Agreements between Pacific Bell and Bakersfield Cellular Telephone Company, Pacific Bell and SLO Cellular, Inc., Pacific Bell and Santa Cruz Cellular Telephone, Inc., and Pacific Bell and Cellular 2000

submitted by Advice Letters 18768, 18769, 18770 , and 18781 respectively.

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

3. Pacific Bell Advice Letters 18768, 18769, 18770 , and 18781 and each Interconnection Agreements between Pacific Bell and one of the Cellular Companies shall be marked to show that they were approved by Resolution T-16037.

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 Franklin

WESLEY M. FRANKLIN
Executive Director

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