

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division
Market Structure Branch

RESOLUTION T-16048
June 11, 1997

R E S O L U T I O N

RESOLUTION T-16048. PACIFIC BELL (U-1001). REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO AN INTERCONNECTION AGREEMENT BETWEEN ICG TELCOMM INCORPORATED (U-5406) AND PACIFIC BELL PURSUANT TO SECTION 252 OF THE TELECOMMUNICATIONS ACT OF 1996.

BY ADVICE LETTER NO.18792, FILED ON APRIL 17, 1997.

SUMMARY

This Resolution approves Amendment No. 2 to the Interconnection Agreement between Pacific Bell and ICG Telcomm Incorporated (ICG) (U-5406), a facilities-based carrier, submitted under provisions of Resolution ALJ-168 and GO 96-A. Amendment No. 2 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 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 ALJ-167 and called for using the advice letter process as the preferred mechanism for consideration of negotiated agreements. On October 3, 1996, Pacific filed Advice Letter No. 18524 requesting approval of a negotiated interconnection agreement between Pacific Bell and ICG Telecom Group, Inc. pursuant to Section 252 of the 1996 Act and ALJ-168. The Commission approved the advice letter and interconnection agreement on December 20, 1996 by Resolution T-15980. On April 17, 1997, Pacific Bell filed Advice Letter No. 18792 requesting Commission approval of Amendment No. 2 to the Interconnection Agreement between Pacific Bell and ICG pursuant to the expedited review procedure authorized in D.95-12-056. On May 1, 1997, Pacific filed a supplement requesting Commission approval of Advice Letter No. 18792 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. 2 calls for additions and changes to the original Interconnection Agreement between Pacific Bell and ICG (the "parties"). Amendment No. 2 provides for the following:

- 47 additional routing points at 5 points of interconnections between the parties at Pacific's Oakland, Sacramento, Irvine, Los Angeles and San Diego central offices.

NOTICE/PROTESTS

Pacific states that copies of the Advice Letter and Amendment No. 2 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. 18792 was published in the Commission Daily Calendar of April 18, 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. 2 is an agreement being filed for approval under Section 252 of the Act.
2. The request contains a copy of Amendment No. 2 which, by its content, demonstrates that it meets the standards in Rule 2.1.8.
3. Amendment No. 2 itemizes the charges for interconnection and each service or network element included in Amendment No. 2.

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.

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Amendment No. 2 as submitted in Advice Letter No. 18792 is consistent with the goal of avoiding discrimination against other telecommunications carriers. We see nothing in the terms of the proposed Amendment No. 2 that would tend to restrict the access of a third-party carrier to the resources and services of Pacific Bell.

Section 252(I) of the 1996 Act ensures that the provisions of the parties' original agreement as amended here 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."

Amendment No. 2 is consistent with the public interest. We have previously concluded that competition in local exchange and exchange access markets is desirable. Because Amendment No. 2 allows ICG to interconnect with Pacific at additional points of interconnection, it is consistent with our goal of promoting competition. We have found no provisions of Amendment No. 2 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. 2 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 ICG and Pacific Bell may interconnect under the additional and modified terms set forward in their Amendment No. 2. We do not adopt any findings in this Resolution that should be carried forward to influence the determination of issues to be resolved elsewhere.

¹A.96-07-035 and A.96-07-045.

If the parties to Amendment No. 2 enter into any subsequent agreements affecting interconnection, those agreements must also be filed for approval. In addition, the approval of Amendment No. 2 is not intended to affect otherwise applicable deadlines. Amendment No. 2 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. 2 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. 2. 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. 2 submitted in Pacific Bell's Advice Letter No. 18792 is consistent with the goal of avoiding discrimination against other telecommunications carriers.
3. Amendment No. 2 is consistent with the public interest.
4. Amendment No. 2 is not contrary to the Commission's service quality standards.

THEREFORE, IT IS ORDERED that:

1. Pursuant to the Federal Telecommunications Act of 1996, we approve Amendment No. 2 to the Interconnection Agreement between Pacific Bell and ICG Telcomm Incorporated as submitted by Advice Letter No. 18792.
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. 18792 and the Interconnection Agreement between Pacific Bell and ICG Telcomm Incorporated shall be marked to show that they were approved by Resolution T-16048.

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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 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