PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division
Market Structure Branch

RESOLUTION T-16049
June 25, 1997

R E S O L U T I O N

RESOLUTION T-16049. GTE CALIFORNIA INCORPORATED (U-1002). REQUEST FOR APPROVAL OF INTERCONNECTION AGREEMENTS BETWEEN GTE CALIFORNIA INCORPORATED AND CROWN CELLULAR AND PAGING (CC&P) AND GTE CALIFORNIA INCORPORATED AND KITCHEN PRODUCTIONS, INC., D.B.A. TORTOISE COMMUNICATIONS & PAGING (TORTOISE) PURSUANT TO SECTION 252 OF THE TELECOMMUNICATIONS ACT OF 1996.

BY ADVICE LETTERS NO.8472 AND 8473 FILED ON APRIL 15.

SUMMARY

This Resolution approves 2 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 1 year. Each agreement involves GTE California Incorporated and one of the following carriers (hereinafter referred to as the "Paging Companies"): CC&P and Tortoise.

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 to enter into good faith negotiations with each competing carrier to set the terms of interconnection. Any interconnection

---

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

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 April 15, 1997, GTE California Incorporated filed Advice Letters No. 8472 and 8473. Each of the 2 Advice Letters requests Commission approval of a negotiated interconnection agreement between GTE California Incorporated and one of the Paging 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 2 Advice Letters sets the terms and charges for interconnection between GTE California Incorporated and one of the Paging Companies (the "parties"). Each agreement contains virtually identical terms. Each Agreement provides for the following:

---

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

- 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 terminating to the Paging Company's end-use customers to which the Paging Company provides paging or narrowband service.[4]
- GTEC shall compensate the Paging Company for the termination of local traffic. The parties have agreed to a flat rate assessed per DS0 or DS0 equivalent trunk. GTEC will charge the applicable access rate if the call is non-local.
- GTEC will charge the Paging Company for transiting calls originated by a non-GTEC end-use customer to the Paging Company.
- Interconnection trunks will terminate at a GTEC Access tandem or a GTEC end-office. GTEC will charge the Paging company for the facility at its tariffed special access rates. Trunks carrying interLATA traffic will be delivered over separate trunks.
- Meet-point billing arrangements on a multiple bill/multiple tariff basis initially.
- Access to number resources.
- A dispute resolution procedure which may lead to commercial arbitration.[5]

NOTICE/PROTESTS

GTEC 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. 8472 and 8473 were published in the Commission Daily Calendar of April 17, 1997. On June 6, 1997, GTEC supplemented Advice Letters No. 8472 and 8473 to clarify that it was requesting approval of the attached interconnection agreements pursuant to ALJ-168 and the Federal Telecommunications Act. The supplement also noted that the stamp, "GTE Confidential", on the pages of the agreements was an error. Despite the stamp, GTEC did send unaltered versions of the advice

[3] Article II, Paragraph 1.18 of the Agreement.
[4] Article IV, Paragraph 3.1 of the Agreement.
[5] Article III, Paragraph 12 of the agreement.

letters to each party on the service list. Pursuant to Rule 4.3.2 of ALJ-168, protests shall be limited to the standards for rejection provided in Rule 4.1.4.[6] No protest to these Advice Letters 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.

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

[6] See below for conditions of Rule 4.1.4.

requests for approval. Consistent with Rule 4.3.1, each of the requests as supplemented have 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 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 GTE California Incorporated.

Section 252(I) of the 1996 Act also 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 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. These Agreements are consistent with the Commission's service quality standards and may exceed those standards in at least one respect. GTE California Incorporated and the Paging 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.[7] We wish to reiterate such assurances as clearly as possible. This Resolution stands solely for the proposition that the Paging Companies and GTE California

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

Incorporated 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.

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. GTE California Incorporated's requests for approval of 2 separate interconnection agreements as supplemented, each between GTEC and one of the Paging 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 GTE California Incorporated's Advice Letters 8472 and 8473 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 2 separate Interconnection Agreements between GTE California Incorporated and Crown Cellular and Paging and GTE California Incorporated and Kitchen Productions, Inc., d.b.a. Tortoise Communications & Paging submitted by Advice Letters 8472 and 8473 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. GTE California Incorporated Advice Letters 8472 and 8473 and each Interconnection Agreement between GTE California Incorporated and one of the Paging Companies shall be marked to show that they were approved by Resolution T-16049.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on June 25, 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