

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division  
Market Structure Branch

RESOLUTION T-16051  
July 16, 1997

R E S O L U T I O N

RESOLUTION T-16051. GTE CALIFORNIA, INC. (U-1002).  
REQUEST FOR APPROVAL OF INTERCONNECTION AGREEMENTS  
BETWEEN GTE CALIFORNIA, INC. AND NEXTLINK  
COMMUNICATIONS, INCORPORATED (U-5553) (NEXTLINK) AND  
GTE CALIFORNIA, INC. AND MGC COMMUNICATIONS, INC. (MGC)  
PURSUANT TO SECTION 252 OF THE TELECOMMUNICATIONS ACT  
OF 1996.

BY ADVICE LETTER NO.8485 FILED ON MAY 8, 1997 AND  
ADVICE LETTER 8501 FILED ON JUNE 2, 1997.

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SUMMARY

This Resolution approves 2 separate interconnection agreements submitted under provisions of Resolution ALJ-168 and GO 96-A. Each agreement becomes effective today and will remain in effect for the term identified in the agreement. Each agreement involves GTE California and one of the following carriers (hereinafter referred to as the "CLECs"): NextLink and MGC. Each agreement adopts the identical terms and conditions of a previously approved interconnection agreement between GTE California, Inc. and AT&T Communications of California (AT&T).

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.<sup>1</sup> The 1996 Act established an obligation for the ILECs

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<sup>1</sup> An incumbent local exchange carrier is defined in Section 5251(h) of the 1996 Act.

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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 those interim rules.

On May 8, 1997, GTEC filed Advice Letter No. 8485. On June 2, 1997, GTEC filed Advice Letter No. 8501. Each of the 2 Advice Letters requests Commission approval of an interconnection agreement between GTE California and one of the CLECs under Section 252. In each advice letter, GTEC states that the agreement is neither voluntary nor negotiated, but rather a statutory adoption of an arbitrated agreement.

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 adopts the terms and charges for interconnection between GTE California and AT&T established in D.97-01-022. Additionally, each CLEC agrees that it would be subject to any stay, injunction, modification, or ruling regarding lawfulness, in whole or in part, issued by a commission or court of competent jurisdiction with respect to the GTEC/AT&T arbitrated agreement; and that any such ruling would have the same effect on the agreement with the CLEC as it would have on the GTEC/AT&T arbitrated agreement.

#### NOTICE/PROTESTS

GTEC states that copies of the Advice Letters were mailed to all LECs, CLCs and other interested parties. Notice of Advice Letter No. 8485 was published in the Commission Daily Calendar of May 9, 1997. Notice of Advice Letter 8501 was published in the Commission Daily Calendar of June 3, 1997. Pursuant to Rule 4.3.2 of ALJ-168, protests shall be limited to the standards for

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rejection provided in Rule 4.1.4.<sup>2</sup> 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.

GTEC states in each advice letter that its agreement with the CLEC is neither voluntary nor negotiated. While we understand GTEC's position on this issue, we still maintain that the agreement should be processed as an agreement arrived at through voluntary negotiation.

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<sup>2</sup> See below for conditions of Rule 4.1.4.

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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. Rule 4.3.1 requires that:

1. GTEC file an Advice Letter as provided in General Order 96-A and state that the Interconnection Agreement is a voluntary agreement filed for approval under Section 252 of the 1996 Act;
2. the request contain a copy of the Interconnection Agreement showing that it meets the standards in Rule 2.1.8.
3. the Interconnection Agreement itemize the charges for interconnection and for each service or network element included in the Interconnection Agreement.

GTEC has not met the content requirements of Rule 4.3.1. because each GTEC advice letter states that the agreement is neither voluntary nor negotiated. Also, each advice letter does not actually contain a copy of the interconnection agreement but rather references the GTEC/AT&T agreement. Regardless of these shortcomings, we will still review the agreements based on the standards of rule 4.3.3. which focus on the content of the agreements.

Rule 4.3.3. of ALJ-168 states that the Commission shall reject or approve an 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 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.

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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."

Indeed, these agreements are a result of the parties recognition of Section 252 (I).

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.

Each agreement meets the Commission's service quality standards for telecommunications services.

These agreements adopt the same terms, conditions and rates of a previously approved interconnection agreement. We have not changed our findings that that original agreement met the requirements listed in Rule 2.1.8. Furthermore, we recognize that no party protested any of these Advice Letters alleging that it was discriminatory, inconsistent with the public interest, convenience, and necessity 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.<sup>3</sup> We wish to reiterate such assurances as clearly as possible. This Resolution stands solely for the proposition that the CLECs and GTE California may proceed to interconnect under the terms set forward in their Agreements. We do not adopt any findings in this Resolution that should be

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<sup>3</sup>A.96-07-035 and A.96-07-045.

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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. Irrespective of this Resolution, no CLEC may offer local service to the public until its tariffs are approved. 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. GTEC's requests for approval of 2 separate interconnection agreements, each between GTEC and one of the CLECs, pursuant to the Federal Telecommunications Act of 1996 do not meet the content requirements of Rule 4.3.1 of ALJ-168 because GTEC states that the agreements were not entered into via voluntary negotiation.
2. The Commission should process each advice letter as a request for approval of a negotiated agreement under Rule 4.3. of ALJ-168 and review the underlying interconnection agreements based on the standards of Rule 4.1.4 of ALJ-168.
3. The Interconnection Agreements referenced in GTE California's Advice Letters 8485 and 8501 are consistent with the goal of avoiding discrimination against other telecommunications carriers.
4. We conclude that the Agreements are consistent with the public interest.
5. The Agreements are consistent with the Commission's service quality standards.

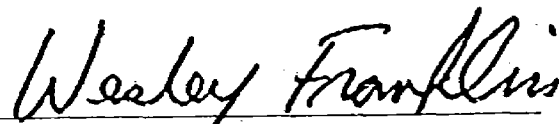
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THEREFORE, IT IS ORDERED that:

1. Pursuant to the Federal Telecommunications Act of 1996, we approve each of the 2 separate Interconnection Agreements between GTE California and NextLink Communications, Incorporated and GTE California and MGC Communications, Incorporated submitted by Advice Letters 8485 and 8501 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. Irrespective of this Resolution, no competitive local exchange company may offer local service to the public until its tariffs are approved.
3. GTE California Advice Letters 8485 and 8501 and their respective Interconnection Agreements between GTE California and one of the CLECs shall be marked to show that they were approved by Resolution T-16051.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on July 16, 1997 The following Commissioners approved it:



WESLEY M. FRANKLIN  
Executive Director

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