PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division
Market Structure Branch

RESOLUTION T-16058
July 16, 1997

R E S O L U T I O N

RESOLUTION T-16058. PACIFIC BELL (U-1002). REQUEST FOR APPROVAL OF INTERCONNECTION AGREEMENTS BETWEEN PACIFIC BELL AND NEXTLINK (U-5553) AND PACIFIC BELL AND INTERPRISE AMERICA, INC. (U-5619) (INTERPRISE) PURSUANT TO SECTION 252 OF THE TELECOMMUNICATIONS ACT OF 1996.

BY ADVICE LETTER NO.18823 FILED ON MAY 9, 1997 AND ADVICE LETTER 18839 FILED ON MAY 22, 1997.

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 specified in the agreement. Each agreement involves Pacific Bell (Pacific) and one of the following competitive local exchange carriers (CLECs): NextLink and Interprise.

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 agreement adopted by negotiation must be submitted to the appropriate state commission for approval.

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

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 May 9, 1997, Pacific filed Advice Letter No. 18823. On May 22, 1997, Pacific filed Advice Letter No. 18839. Each of the 2 Advice Letters requests Commission approval of a negotiated interconnection agreement between Pacific and one of the CLECs 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 Pacific and one of the CLECs. Each agreement contains virtually identical terms. Each Agreement provides for the following:

- Transport and termination of local exchange traffic without explicit compensation until one year after permanent number portability is implemented;
- Provisions to share switched-access revenues;
- Access to poles, conduit and other rights-of-way;
- Provision of emergency services, directory assistance and call completion services;
- Access to White Pages directory listings and customer guide pages;
- Access to number resources;
- Dialing parity;
- Resale of Pacific retail services;
- Access to network elements, including links, ports, unbundled transport, calling name database, directory assistance and operator services;
- Interim number portability (INP) via directory number call forwarding and procedures for providing it until a permanent solution is feasible;

- Reciprocal provision of referral announcements when a customer changes its service provider and does not retain its original telephone number;
- Physical, shared space, microwave, and virtual collocation and for interconnection pursuant to a fiber-meet.
- An agreed set of service performance standards and measurements.

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 Letter No. 18823 was published in the Commission Daily Calendar of May 13, 1997. Notice of Advice Letter 18839 was published in the Commission Daily Calendar of May 27, 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.[2] 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:

[2] See below for conditions of Rule 4.1.4.

"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 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.

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 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. The parties have agreed to a set of service performance standards and measurements.

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.[3] We wish to reiterate such assurances as clearly as possible. This Resolution stands solely for the proposition that the CLECs and Pacific may proceed to interconnect under the terms set forward in their Agreements. We

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

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. Although we are approving the interconnection agreements today, no party can begin to offer local service to the public until its tariffs are effective. 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. Our approval of these agreements does not make them standards 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 2 separate interconnection agreements, each between Pacific and one of the CLECs, 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 18823 and 18839 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 Pacific Bell and NextLink and Pacific Bell and Interprise America, Inc. submitted by Advice Letters 18823 and 18839 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. No party can offer local service to the public until its tariffs are approved.

3. Pacific Bell Advice Letters 18823 and 18839 and respective Interconnection Agreements shall be marked to show that they were approved by Resolution T-16058.

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 Franklin

WESLEY M. FRANKLIN
Executive Director

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