

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division
Market Structure Branch

RESOLUTION T-16186
September 3, 1998

R E S O L U T I O N

RESOLUTION T-16186. PACIFIC BELL (U-1001). REQUEST FOR APPROVAL OF INTERCONNECTION AGREEMENTS BETWEEN PACIFIC BELL AND FOCAL COMMUNICATIONS CORPORATION OF CALIFORNIA (U-5922), BETWEEN PACIFIC BELL AND ALLEGIANCE TELECOM OF CALIFORNIA, INC. (U-5934), AND BETWEEN PACIFIC BELL AND LEVEL 3 COMMUNICATIONS, LLC (U-5941), AS WELL AS, A RESALE AGREEMENT BETWEEN PACIFIC BELL AND FRONTIER TELEMAGEMENT, INC. (U-5655), PURSUANT TO SECTION 252 OF THE TELECOMMUNICATIONS ACT OF 1996.

BY ADVICE LETTER NO. 19496 FILED ON JUNE 19, 1998, ADVICE LETTER NO. 19503 FILED ON JUNE 22, 1998, ADVICE LETTER NO. 19557 FILED ON JULY 15, 1998, AND ADVICE LETTER NO. 19539 FILED ON JULY 7, 1998, RESPECTIVELY.

SUMMARY

This Resolution approves three separate Interconnection Agreements and one Resale Agreement submitted under provisions of Resolution ALJ-174 and GO 96-A. The Agreements become effective today. Each agreement involves Pacific Bell (Pacific) and one of the following competitive local exchange carriers (CLECs): Focal Communications Corporation of California, Allegiance Telecom of California, Inc. (Allegiance Telecom), LEVEL 3 Communications, LLC, and Frontier Telemagement, Inc. These Agreements will remain in effect for two years, two years, one year, and until terminated, respectively.

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 June 25, 1997, we approved ALJ-174 which modified ALJ-168, but did not change the rules for reviewing agreements achieved through voluntary negotiation.

Pacific has filed Advice Letter Nos. 19496, 19503, 19557 and 19539. Each of the 4 Advice Letters requests Commission approval of a negotiated Interconnection or Resale Agreement between Pacific and a CLEC under Section 252. Pacific filed Supplement Advice Letter No. 19503A on August 13, 1998 to correct and augment the list of central offices that apply to the Agreement with Allegiance Telecom.

In ALJ-174 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 Rule 4.3.3, 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 or Resale Agreement pertaining to these 4 Advice Letters sets the terms and charges for interconnection between Pacific and one of the CLECs (the "parties"). The agreements contain virtually identical terms, and provide for the following:

- Exchange of Local traffic between parties without explicit compensation ("Bill and Keep") with a provision for reciprocal compensation payments when local traffic is more than 10% out of balance for Advice Letter Nos. 19496, 19503 and 19557. Reciprocal compensation payments for local and toll traffic exchanged between the parties for Advice Letter No. 19539;
- Access to unbundled network elements for Advice Letter Nos. 19496, 19503, and 19557;
- Access to poles, conduit and other rights of ways;
- Access to emergency services, directory assistance and call completion;
- Access to White Pages directory listings and customer guide pages;

- Access to number resources;
- Interim number portability (INP) via directory number call forwarding and procedures for providing it until a permanent solution is feasible;
- Resale of services;
- Physical, shared space, microwave and physical collocation for Advice Letter Nos. 19496, 19503, and 19557.

NOTICE/PROTESTS

Pacific states that copies of the Advice Letters, the Interconnection Agreements, and the Resale Agreement 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 the Advice Letters was published in the Commission Daily Calendar. Pursuant to Rule 4.3.2 of ALJ-174, protests shall be limited to the standards for rejection provided in Rule 4.1.4.² 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 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 and resale 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."

² See below for conditions of Rule 4.1.4.

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-174 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 or Resale Agreement which, by its content, demonstrates that it meets the standards in Rule 2.18.
3. The Interconnection or Resale Agreement itemizes the charges for interconnection and each service or network element included in the Interconnection Agreement.

Rule 4.3.3. of ALJ-174 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.

We make no determination as to whether the rates in these agreements 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-174.

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 these Agreements 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 previously concluded that competition in local exchange and exchange access markets is desirable. We find 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.

We also recognize that no party protested any of these Advice Letters alleging that they were 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.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 or resell 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. Pacific Bell's requests for approval of 4 separate Interconnection or Resale 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-174.

³A.96-07-035 and A.96-07-045.

2. The Interconnection and Resale Agreements requested in Pacific Bell's Advice Letter Nos. 19496, 19503, 19557, and 19539 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.

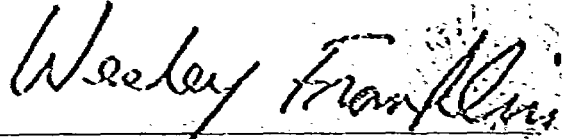
THEREFORE, IT IS ORDERED that:

1. Pursuant to the Federal Telecommunications Act of 1996, we approve each of the three separate Interconnection Agreements and one Resale Agreement between Pacific Bell and Focal Communications Corporation of California, Pacific Bell and Allegiance Telecom of California, Inc., Pacific Bell and LEVEL 3 Communications, LLC, and Pacific Bell and Frontier Telemanagement, Inc. requested by Advice Letter Nos. 19496, 19503, 19557 and 19539, respectively.
2. This Resolution is limited to approval of the above-mentioned Interconnection or Resale 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 Letter Nos. 19496, 19503 and supplement, 19557 and 19539, which request approval of Interconnection or Resale Agreements between Pacific Bell and one of the CLECs, shall be marked to show that they were approved by Resolution T-16186.

September 3, 1998

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on September 3, 1998. The following Commissioners approved it:



WESLEY M. FRANKLIN
Executive Director

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