

Decision 00-03-040 March 16, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Citizens
Telecommunications Company of California, Inc.
(U-1024-C) to review its New Regulatory
Framework.

Application 99-03-027
(Filed March 8, 1999)

O P I N I O N

I. Summary

This decision approves a settlement agreement (settlement) between Citizens Telecommunications Company of California, Inc. (CTC) and the Commission's Office of Ratepayer Advocates (ORA) regarding revisions to CTC's New Regulatory Framework (NRF). Under the settlement, reporting requirements are modified, the Service Quality Assurance Mechanism (SQAM) and depreciation filings are eliminated, three on-going Z-Factors are kept while all others are eliminated, and suspension of the inflation-minus-productivity ("I-X") based price indexing formula is continued.

II. Background

CTC began implementing its NRF in January, 1996 pursuant to Decision (D.) 95-11-024. Following the directives in ordering paragraph (O.P.) 6 of D.95-11-024, CTC filed an application for a triennial review on October 1, 1997 (Application (A.) 97-10-021). However, before the Commission began review of the application, on February 2, 1998, Pacific Bell (Pacific) filed an application for its triennial review. The Commission subsequently consolidated review for Pacific and GTE California Incorporated (GTEC). Because resolution of the

issues raised by Pacific and GTEC could have an impact on the regulatory structure for CTC, on March 25, 1998, CTC filed a motion to defer its NRF review until after a decision in Phase I of the Pacific/GTEC proceeding. The only issues CTC requested to keep under consideration were the issues raised relating to its SQAM. CTC's motion was granted in D.98-08-011.

Ordering Paragraph 3 of D.98-08-011 directs CTC to file an application addressing each of the eight issues raised by CTC in A.97-10-021 except for Issue 2, which is being addressed in A.97-10-021. Therefore, this application addresses each of the remaining seven issues as well as other issues raised by the Commission's Order in the Pacific and GTEC NRF reviews (D.98-10-026), which CTC requested the Commission review in this proceeding.

The only issue relating to SQAM addressed in this application is CTC's request that the SQAM be eliminated.

On April 19, 1999, a protest was filed by ORA. Michael Monasky, a customer, filed a late-filed protest on April 26, 1999.

On May 6, 1999, CTC filed a response to the protests.

On June 4, 1999, a prehearing conference was held. As a result, on June 15, 1999, a scoping ruling was issued by Commissioner Josiah L. Neeper, the assigned Commissioner. The ruling indicated, among other things, the issues to be addressed and the schedule.

On September 2, 1999, CTC filed a Motion for Leave to Amend the Application. The motion was granted by an Administrative Law Judge's ruling dated September 8, 1999.

On September 14, 1999, CTC filed the amendment to its application. The amendment sought with minor changes, to maintain the current NRF.

On October 20, 1999, CTC noticed a settlement conference for October 28, 1999.

On October 21, 1999, ORA filed a response to the amended application indicating that it anticipated a settlement with CTC.

On October 26, 1999, Monasky sent a letter to the assigned administrative law judge (ALJ) indicating his objection to CTC's application and requesting hearings.

On October 28, 1999, a second prehearing conference was held. Immediately following the prehearing conference, a settlement conference was held by CTC and ORA. Monasky did not attend the prehearing conference or the settlement conference.

On October 29, 1999, an ALJ's ruling was issued. It advised parties that CTC and ORA anticipated a settlement. It gave CTC and ORA until December 3, 1999 to file a settlement. It also set a tentative schedule to be used if timely comments were filed opposing the settlement. Attached to the ruling was a copy of Article 13.5 of our Rules of Practice and Procedure. Article 13.5 addresses stipulations and settlements and sets forth the Commission's requirements regarding comments on settlements.

On December 3, 1999, CTC and ORA filed a joint motion for adoption of a settlement.

No comments were filed on the settlement.

III. Comments on Draft Decision

The draft decision of ALJ O'Donnell in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g) and Rule 77.1 of the Rules of Practice and Procedure. Comments were filed in support of the draft decision on February 24, 2000, by ORA and on March 1, 2000, by CTC. No reply comments were filed.

IV. Overview of Application

On March 8, 1999 CTC filed A.99-03-027 for review of its NRF and certain other matters. CTC's proposals were as follows:

NRF

- Change the monitoring requirements.
- Change the approval process for new Category II services.
- Eliminate depreciation reviews.
- Suspend sharing.
- Continue suspension of price indexing.
- Change the Z-Factor criteria.

SQAM

- Eliminate SQAM.

On September 14, 1999 CTC filed an amendment to its application. The amendment eliminated the following three proposals.

- Change the approval process for new Category II sources.
- Suspend sharing.
- Change the Z-Factor criteria.

V. Proposed Settlement

On December 3, 1999, ORA and CTC filed a joint motion for adoption of a settlement. The settlement, included as Attachment A, may be summarized as follows:

- ORA and CTC agree that the testimony CTC filed with its initial application on the issue of the Commission's general regulatory goals is sufficient to meet the Commission's order in Ordering Paragraph 6 of D.95-11-024 that CTC report on how its NRF meets these general goals.
- ORA and CTC agree that the Commission has already reviewed and decided in D.99-04-003 that CTC has made the improvements in service quality standards as required in D.95-11-024.

- The settlement resolves the outstanding issue relating to the revision of monitoring reports which CTC must regularly file with the Commission. Exhibit A to the settlement lists the reports, the format, and the frequency of filing which ORA and CTC have agreed to. Exhibit B lists the reports which could be reasonably eliminated.
- ORA and CTC disagreed on whether the SQAM should be continued or terminated. To resolve the issue, ORA agreed to the elimination of the SQAM in return for CTC's agreement to provide ORA with certain service measurement reports. ORA and CTC have agreed on the content, format, and frequency of filing of three service measurement reports. Exhibit C to the settlement reflects the report CTC will provide to ORA regarding service order commitments. Exhibit D to the settlement reflects the format that CTC will use to report the number, category, and resolution of informal complaints which are received by CTC. Exhibit E to the settlement describes the report CTC will provide regarding meeting repair commitments.
- CTC and ORA filed a settlement agreement in A.99-04-017, CTC's annual depreciation filing. In that agreement, CTC agreed to move toward economic lives for technology accounts, and ORA reviewed and supported CTC's subsequent study on economic lives for technology accounts. As a result of that agreement, ORA has agreed with CTC that it is appropriate to eliminate the annual depreciation filing.
- ORA and CTC have agreed that, since continuing the suspension of the "I-X" formula would not constitute any change in the existing NRF structure, the Commission should continue the suspension.
- ORA and CTC have agreed to continue three on-going Z-Factors: (1) the Universal Service Fund, (2) Other Billing and Collection, and (3) payphone deregulation. CTC agreed to eliminate all new Z-Factors and after review of CTC's 1998 and 1999 Price Cap Filings, ORA has agreed that CTC did not include post-retirement benefits other than pensions (PBOPs) in those filings. As part of the settlement, CTC has agreed to eliminate PBOPs on a going-forward basis and has filed an amendment to its most recent Price Cap filing to eliminate PBOPs.

ORA and CTC agree that the appropriate filing date for the next Triennial Review for CTC should be three years from the current filing, or March 2002. However, the ORA and CTC also agreed that if CTC desires to file for review earlier, it should be allowed to file in two years, but not before March, 2001.

CTC's amendment to the application eliminated a number of issues which were initially raised and/or opposed:

- CTC no longer seeks a change in the rate of return established by D.95-11-024;
- CTC no longer seeks any changes in the sharing mechanisms adopted in D.95-11-024;
- CTC no longer seeks any changes or modifications to the Pricing Flexibility Rules adopted in D.95-11-024;
- CTC no longer seeks any changes in the Category II rules; and
- CTC no longer seeks suspension of the sharing of earnings above a benchmark rate of return, earnings floors, earnings caps, benchmarks and market-based rates of return, or trigger mechanisms.

ORA and CTC agree, therefore, that none of these issues raised any questions or controversy to be resolved.

A. Positions of Parties

1. ORA and CTC

ORA and CTC assert that they have complied with all of the procedural requirements set forth in Article 13.5 of the Commission's Rules of Practice and Procedure as follows:

- A formal settlement meeting was duly noticed to all parties in this proceeding and held on October 28, 1999.
- A second settlement meeting was informally noticed for December 2, 1999 at which time the settlement was signed by ORA and CTC.
- The motion for adoption of the settlement was timely under Rule 51.2 and in accordance with the schedule for this proceeding.

ORA and CTC believe that the settlement is reasonable and in the public interest. They recommend that it be adopted.

2. Monasky

Monasky's protest to the initial application raises issues primarily related to rates. Monasky's protest, to the extent it addresses the issues in this proceeding, expressed general opposition to CTC's requests. Monasky's protest did not state specific relevant facts that he would present at hearings.

Monasky's letter to the ALJ dated October 26, 1999, addressed rates. It did not address the issues in this proceeding.

Monasky did not file comments on the settlement. Therefore, pursuant to Rule 51.5, Monasky has waived all objections to the settlement including the right to a hearing.

B. Discussion

The Commission will not approve a settlement unless it is reasonable in light of the whole record, consistent with law and in the public interest.

The settlement makes some revisions to CTC's NRF. The revisions are generally consistent with, if less comprehensive than, those adopted for Pacific and GTEC in D.98-10-026. No party has demonstrated why the changes are inappropriate for CTC.

ORA and CTC followed the procedural requirements for proposing a settlement. No party has demonstrated that that is not the case. Likewise, no party has demonstrated that the settlement is contrary to any statute or decision of this Commission.

The sponsoring parties, ORA and CTC, represent CTC's ratepayers and CTC. Therefore, they reflect the interests of the affected parties.

The settlement is specific as to what it entails. It provides the Commission with sufficient information to carry out its future regulatory obligations with respect to the parties and their interests.

C. Conclusion

The settlement is reasonable in light of the whole record, consistent with law, and in the public interest. We will adopt it.

Findings of Fact

1. A.99-03-027 was filed on March 8, 1999.
2. Notice of this application appeared on the Commission's Daily Calendar on March 18, 1999.
3. On April 19 and 26, 1999, protests were filed by ORA and Monasky, respectively.
4. On September 2, 1999, CTC filed a motion to amend its application. The motion was granted by an ALJ's ruling dated September 8, 1999.
5. ORA and CTC filed a motion for adoption of the settlement on December 3, 1999.
6. No comments were filed on the settlement.
7. The revisions to CTC's NRF proposed in the settlement are generally consistent with those adopted for Pacific and GTEC in D.98-10-026.
8. ORA and CTC followed all procedural requirements in proposing the settlement.
9. ORA and CTC, together, reflect the interests of the affected parties.
10. The settlement provides the Commission with sufficient information to carry out its future regulatory obligations with respect to the parties and their interests.

Conclusions of Law

1. The settlement is reasonable in light of the whole record, consistent with law, and in the public interest.
2. The settlement should be adopted.

3. In order that the changes to CTC's NRF be implemented as soon as possible, this order should be effective on issuance.

O R D E R

IT IS ORDERED that:

1. The joint motion of the Office of Ratepayers Advocates and Citizens Telecommunications Company of California, Inc. to adopt the settlement agreement, included as Attachment A, is granted.

2. This proceeding is closed.

This order is effective today.

Dated March 16, 2000, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
CARL W. WOOD
LORETTA M. LYNCH
Commissioners

A.99-03-027 ALJ/JPO/hkr

ATTACHMENT A