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ORIGINAL

Decision

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of THE PACIFIC TELEPHONE AND)
TELEGRAPH COMPANY, a corporation,)
for authority to increase certain)
intrastate rates and charges)
applicable to telephone services)
furnished within the State of)
California due to increased)
depreciation expense.)

Application 82-11-07
(Filed November 4, 1982)

In the Matter of the Application)
of THE PACIFIC TELEPHONE AND)
TELEGRAPH COMPANY, a corporation,)
for authority to increase certain)
interstate rates and charges)
applicable to telephone services)
furnished within the State of)
California.)

Application 83-01-22
(Filed January 17, 1983)

Investigation on the Commission's)
own motion into the rates, tolls,)
rules, charges, operations, costs,)
separations, inter-company settle-)
ments, contracts, service, and)
facilities of THE PACIFIC)
TELEPHONE AND TELEGRAPH COMPANY,)
a California corporation; and of)
all the telephone corporations)
listed in Appendix A, attached)
hereto.)

OII 83-04-02
(Filed April 20, 1983)

In the Matter of the Application)
of THE PACIFIC TELEPHONE AND)
TELEGRAPH COMPANY, a corporation,)
for authority to adopt intrastate)
access charge tariffs applicable)
to telephone services furnished)
within the State of California.)

Application 83-06-65
(Filed June 30, 1983)

A.82-11-07, A.83-01-22, OII 83-04-02 et al. L/AKM:lz

TELEPHONE ANSWERING SERVICES
OF CALIFORNIA,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,

Defendant.

Case 82-10-09
(Filed October 28, 1982)

In the Matter of the Suspension and
Investigation on the Commission's
own motion of the tariff schedules
to offer interLATA telecommunica-
tions services filed under Advice
Letter 1 of AT&T Communications.

(I&S) Case 83-11-06
(Filed November 22, 1983)

In the Matter of the Suspension and
Investigation on the Commission's
own motion of tariffs to reflect
corporate divestiture and the Tariff
Information Management System filed
under Advice Letter 14641 of The
Pacific Telephone and Telegraph
Company.

(I&S) Case 83-11-07
(Filed November 22, 1983)

ORDER MODIFYING DECISION 83-12-024
AND DENYING REHEARING

On December 7, 1983, the Commission issued Decision (D.) 83-12-024, which authorized the Pacific Telephone and Telegraph Company, now Pacific Bell (Pacific), to establish and collect, effective January 1, 1984, tariffed rates and charges for the provision of exchange access services to long-distance carriers for the origination and termination of intrastate toll calls. Applications for rehearing or petitions for modification or reconsideration were filed by the American Telephone and Telegraph

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Company (AT&T), MCI Telecommunications Corporation (MCI), Toward Utility Rate Normalization (TURN), U.S. Telephone, Inc. (U.S. Tel), and Allnet Communication Services, Inc. (Allnet). We have considered every allegation of legal error and are of the opinion that sufficient grounds for granting rehearing have not been shown. We have also reviewed the requests for modification, and find them to be lacking in merit as well. However, our further review has identified several areas of the decision requiring clarification. We also make several modifications to portions of the decision questioned by some of the petitioners; while not specifically granting their requests, we believe these changes are responsive to their concerns.

We note at the outset that, as every party to these proceedings is aware, the Federal Communications Commission (FCC) issued a decision which was released on February 15, 1984 which further postponed any federally authorized end user charges until at least June of this year. D.83-12-024 adopts intrastate charges which for the most part are intended to achieve parity with the charges which were to be in place on the interstate level by April 3, 1984. These interstate charges have not taken effect as expected. We put all parties to our consolidated proceeding on notice that one of the first items of business to be considered in Phase 2 of the access charges portion will be an examination of the impacts of the FCC's orders on the rates and charges established by D.83-12-024. The relevant issues will be explored more fully at the prehearing conference scheduled for May 8, 1984.

A. Reporting Requirements.

We return to D.83-12-024. The first matter for clarification concerns the reporting requirements adopted for the interexchange carriers (IECs). Both MCI and U.S. Tel raised

objections to these requirements.

We first note that contrary to MCI's allegation, proposed requirements quite similar to those we have adopted were introduced into the record by one of our staff witnesses, who was, of course, available for cross examination. We note also that our staff was the only party providing suggestions on how to coordinate IEC reporting and utility billing.

Secondly, our review of Pacific's filed tariff provisions addressing this subject persuades us that many of MCI's and U.S. Tel's objections are resolved by these provisions; others we believe we can ameliorate by the modifications set forth below.

Pacific's tariffs (see Schedule 175-T, Sections 2.3.14 and 2.3.15), provide for the IECs to designate how and when their records are maintained. Our intent is that if Pacific finds these records inadequate for purposes of assessing the appropriate access charges, it demonstrate to the IEC in question just what its problems are. If the two cannot work out a satisfactory solution, the IEC may seek Commission resolution of the matter.

Furthermore, both D.83-12-024 and Pacific's tariffs provide for Pacific to audit the IECs' books, if the need should arise. The Commission's intent is that this should occur only in extreme circumstances, not as a matter of course, and only after Pacific has given good reason to the IEC why such action is necessary. Here, too, if the matter remains in controversy, the IEC may seek Commission resolution.

MCI and U.S. Tel express concerns over anticompetitive impacts of allowing audits by Pacific. Section 2.3.14(A)(1)(b) of Pacific's tariff states that an IEC shall agree in writing to provide Pacific with all necessary materials to conduct an audit and to assess appropriate billing, under appropriate proprietary agreements, if necessary. We understand this language to mean these proprietary agreements will safeguard any information in the

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nature of an IEC's trade secrets, marketing or business planning information, or other proprietary data, such that it will not be disseminated to any competitors, nor to any personnel of Pacific not directly concerned at the operating level with the administration of access services. We expect Pacific to provide such assurances in writing, whether through its own auditors or through its contracts with any non-utility auditor.

Concerning the percentages of intra- and interstate usages, Pacific's tariffs leave these determinations to the IECs. See Sections 2.3.14(A)(2) and (3). Finally, as Pacific notes, it will bill all usage as intrastate only in the event an IEC fails to provide adequate records. We reiterate our intent that unresolvable controversies over what constitutes adequate records may be brought by an IEC before the Commission for resolution.

Pacific notes that an IEC may, like any other customer, bring any billing disputes before the Commission. As our above discussion indicates, matters in controversy long before they reach the actual billing stage may also be brought before the Commission. We believe such is necessary to ensure that Pacific does not usurp proper management prerogatives of the IECs, and to further ensure that Pacific does not treat any IEC in an arbitrary manner. It should go without saying that we expect both parties to deal in good faith on all matters of controversy.

Finally, although we believe Pacific's tariff provisions and our clarifications address the petitioners' main objections, we will require Pacific to submit a status report in Phase 2 of the access charges proceeding addressing the matter of how these requirements are working in practice. The IECs will be able to cross examine on and rebut Pacific's report. If problems with the requirements still remain, we will resolve them in Phase 2.

B. Billing and Collection Services.

The billing and collection services proposed by Pacific and adopted by D.83-12-024 include a provision allowing Pacific to terminate local service if a customer's IEC toll bill is in arrears. TURN has vigorously opposed this provision as being an abuse of Pacific's monopoly power and contravening state policies on the rights of consumers.

We are not ready to adopt TURN's position and eliminate this provision. However, we are of the opinion that TURN's arguments raise serious issues which warrant further examination. We will, therefore, denominate this service as interim in nature. In Phase 2 of the access charges portion of this case, we will require Pacific to provide a progress report of how the service is working with AT&T (to date the only IEC having contracted with Pacific for it), including an analysis of the risks Pacific has incurred by its purchase of AT&T's accounts receivable in view of AT&T's distribution of unsolicited credit cards. We will also require the Commission staff, Pacific, TURN, and any other interested party to brief the question of whether the Commission may lawfully authorize the termination provision. We will make a final determination in our Phase 2 decision, after evaluation of all of the above.

C. Interim Access Charge to AT&T.

AT&T raises a number of objections to the Commission's application of an interim access charge to AT&T over and above the premium charge reflecting the greater value of AT&T's access. These arguments have not persuaded us to reverse our position.

Our decision to impose this interim charge on AT&T is well supported by sound ratemaking principles. The surcharge adopted by D.83-12-025 was necessitated by the phasing of the rate portion of these proceedings to better accommodate the impacts of divestiture. At the time the first phase of the rate proceeding

was taking place, no specific cost studies existed supporting a rate design which allocated those costs among the various services provided by Pacific. However, Pacific demonstrated a need for immediate rate relief, hence the Commission adopted the uniform interim surcharge approach. No evidentiary basis existed to justify excluding interLATA toll from the surcharge. Moreover, we found in D.83-12-024 that it was not appropriate to shield either intra- or interLATA users of toll services from the uniform surcharge pending resolution of the second phase of the rate case.

We structured the surcharge as we did in order to moderate the transition from an integrated network to a divested network by maintaining existing rate relationships until the necessary cost studies could be completed and evaluated. In this interim period, before we have resolved the numerous divestiture-related issues presented to us, we consider it only equitable that all toll services, intra and interLATA, which will ultimately reap much greater benefits from divestiture than will local services, bear a somewhat greater burden of the transition. We remain firmly committed to this objective.

However, our application of the surcharge in this way meant AT&T would experience a windfall in earnings considerably above the rate of return we had found reasonable for it in this interim period. We thus required AT&T to pay this windfall to Pacific as an interim access charge, to terminate upon issuance of our decision in Phase 2 of the rate case, expected this May. The interim access charge is not and was not intended to be a premium charge in the sense used by AT&T; it does not reflect relative cost and value of the access provided to AT&T. But it is an access charge in the sense that it is a condition placed on AT&T for being provided with access.

IT IS ORDERED that D.83-12-024 is modified as follows:

1. The above discussion is incorporated by reference into and supersedes any inconsistencies in D. 83-12-024.

2. The following paragraphs are added to page 146:

"Further consideration of whether the jurisdictional reporting requirements are achieving their stated goals, and any problems which have arisen with these requirements, for either Pacific or the IECs.

"Further consideration of the interim billing and collection services for IECs adopted for Pacific, including an assessment of the risks incurred by Pacific by its purchase of AT&T's accounts receivable, in view of AT&T's distribution of unsolicited credit cards; the revenues its contract with AT&T has produced for Pacific, and the lawfulness of the termination of service provision."

3. Conclusion of Law 5 is modified to read:

"If an IEC fails to provide adequate usage reports for its operations requiring access services from Pacific, Pacific may bill all such usage as intrastate usage. Before such billing occurs, Pacific should apprise the IEC of the inadequacy of its reports and both parties should attempt in good faith to resolve the problem. An IEC may seek Commission resolution of an irreconcilable conflict with Pacific over adequacy of reports or billing."

4. Conclusion of Law 6 is modified to read:

"Pacific should be permitted to audit IEC toll billing records under extreme circumstances, and to require the IECs to maintain such records in a conveniently auditable form. Before undertaking an audit, Pacific shall specify to the IEC why an audit is required. In cases of irreconcilable conflict between an IEC and Pacific concerning the necessity of an audit, the IEC may seek Commission resolution."

5. New Conclusion of Law 6A is added to read:

"Pacific should be required to assure an IEC in writing that proprietary information will be kept confidential in the course of the auditing process and thereafter."

6. Conclusion of Law 21 is modified to read:

"Pacific's billing and collection services should be reexamined in the further access charge phase of this proceeding; in the interim, Pacific should be permitted to deny local service for nonpayment of IEC charges, but not in connection with the extension of its billing services to new types of services."

7. New Ordering Paragraph 5A is added to read:

"Pacific should be prepared to submit as evidence in the further access charge phase of this proceeding a status report detailing how the reporting requirements listed at page 56 of D.83-12-024 are working, with special attention to problems identified by either Pacific or the IECs."

8. New Ordering Paragraph 5B is added to read:

"Pacific should provide assurances to all IECs in writing, whether using its own auditors or contracting with a non-utility auditor, that information received from an IEC in the course of conducting an audit or assessing appropriate billing, which is proprietary in nature as defined by the IEC, will not be disseminated to any competitors of the IEC, nor to any of Pacific's personnel not directly concerned at the operating level with the administration of access services."

9. New Ordering Paragraph 10A is added to read:

"Pacific should be prepared to submit as evidence in the further phase of our access charge proceeding a progress report concerning its billing and collection services which are available to the IECs through contract."

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Pacific shall present figures on how much revenue it has received through the contracts it has made to date; as well as an analysis of the risks it has incurred by purchasing AT&T's accounts receivable, in view of AT&T's unsolicited distribution of credit cards. The Commission staff, Pacific, and TURN should be prepared to submit written legal arguments on the lawfulness of the Commission's authorization of the termination of service provision. Any other interested party may brief this issue as well."

IT IS FURTHER ORDERED that rehearing, reconsideration, and modification of D.83-12-024, except as provided herein, are hereby denied.

This order is effective today.

Dated APR 18 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO

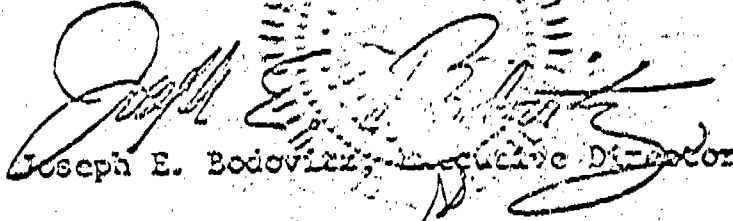
PRISCILLA C. GREW

DONALD VIAL

WILLIAM T. BAGLEY

Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director

TELEPHONE ANSWERING SERVICES
OF CALIFORNIA,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,

Defendant.

Case 82-10-09
(Filed October 28, 1982)

ORDER MODIFYING DECISION 83-12-024
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On December 7, 1983, the Commission issued Decision (D.) 83-12-024, which authorized the Pacific Telephone and Telegraph Company, now Pacific Bell (Pacific), to establish and collect, effective January 1, 1984, tariffed rates and charges for the provision of exchange access services to long-distance carriers for the origination and termination of intrastate toll calls. Applications for rehearing or petitions for modification or reconsideration were filed by the American Telephone and Telegraph Company (AT&T), MCI Telecommunications Corporation (MCI), Toward Utility Rate Normalization (TURN), U.S. Telephone, Inc. (U.S. Tel), and Allnet Communication Services, Inc. (Allnet). We have considered every allegation of legal error and are of the opinion that sufficient grounds for granting rehearing have not been shown. We have also reviewed the requests for modification, and find them to be lacking in merit as well. However, our further review has identified several areas of the decision requiring clarification. We also make several modifications to portions of the decision questioned by some of the petitioners; while not specifically granting their requests, we believe these changes are responsive to their concerns.

We note at the outset that, as every party to these proceedings is aware, the Federal Communications Commission (FCC) issued a decision which was released on February 15, 1984 which further postponed any federally authorized end user charges until at least June of this year. D.83-12-024 adopts intrastate charges which for the most part are intended to achieve parity with the charges which were to be in place on the interstate level by April 3, 1984. These interstate charges have not taken effect as expected. We put all parties to our consolidated proceeding on notice that one of the first items of business to be considered in Phase 2 of the access charges portion will be an examination of the impacts of the FCC's orders on the rates and charges established by D.83-12-024. The relevant issues will be explored more fully at the prehearing conference scheduled for May 8, 1984.

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to provide adequate records. We reiterate our intent that unresolvable controversies over what constitutes adequate records may be brought by an IEC before the Commission for resolution.

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working with AT&T (to date the only IEC having contracted with Pacific for it), including an analysis of the risks Pacific has incurred by its purchase of AT&T's accounts receivable in view of AT&T's distribution of unsolicited credit cards. We will also require the Commission staff, Pacific, TURN, and any other interested party to brief the question of whether the Commission may lawfully authorize the termination provision. We will make a final determination in our Phase 2 decision, after evaluation of all of the above.

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We structured the surcharge as we did in order to moderate the transition from an integrated network to a divested

network by maintaining existing rate relationships until the necessary cost studies could be completed and evaluated. In this interim period, before we have resolved the numerous divestiture-related issues presented to us, we consider it only equitable that all toll services, intra and interLATA, which will ultimately reap much greater benefits from divestiture than will local services, bear a somewhat greater burden of the transition. We remain firmly committed to this objective.

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IT IS ORDERED that D.83-12-024 is modified as follows:

1. The above discussion is incorporated by reference into and supersedes any inconsistencies in D. 83-12-024.
2. The following paragraphs are added to page 146:

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"Further consideration of the interim billing and collection services for IECs adopted for Pacific, including an assessment of the risks incurred by Pacific by its purchase of AT&T's

accounts receivable, in view of AT&T's distribution of unsolicited credit cards; the revenues its contract with AT&T has produced for Pacific; and the lawfulness of the termination of service provision."

3. Conclusion of Law 5 is modified to read:

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"Pacific's billing and collection services should be reexamined in the further access charge phase of this proceeding; in the interim, Pacific should be permitted to deny local service for nonpayment of IEC charges, but not in connection with the extension of its billing services to new types of services."

7. New Ordering Paragraph 5A is added to read:

"Pacific should be prepared to submit as evidence in the further access charge phase of this proceeding a status report detailing how the reporting requirements listed at page 56 of D.83-12-024 are working, with special attention to problems identified by either Pacific or the IECs."

8. New Ordering Paragraph 10A is added to read:

"Pacific should be prepared to submit as evidence in the further phase of our access charge proceeding a progress report concerning its billing and collection services which are available to the IECs through contract. Pacific shall present figures on how much revenue it has received through the contracts it has made to date, as well as an analysis of the risks it has incurred by purchasing AT&T's accounts receivable, in view of AT&T's unsolicited distribution of credit cards. The Commission staff, Pacific, and TURN should be prepared to submit written legal arguments on the lawfulness of the Commission's authorization of the termination of service provision. Any other interested party may brief this issue as well."

IT IS FURTHER ORDERED that rehearing, reconsideration, and modification of D.83-12-024, except as provided herein, are hereby denied.

This order is effective today.

Dated APR 18 1984, at San Francisco, California.

LEONARD M. CRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners