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Decision 88 03 042 MAR 11 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's  
own motion into 976 Information  
Access Service.

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) I.85-04-047  
) (Filed April 17, 1985)

) Case 86-06-012  
) (Filed June 5, 1986)

) Case 86-12-014  
) (Filed December 5, 1986)

) Case 86-12-062  
) (Filed December 23, 1986)

) Case 86-12-063  
) (Filed December 23, 1986)

And related matters.

) Case 86-12-064  
) (Filed December 23, 1986)

) Case 87-01-007  
) (Filed January 7, 1987)

) Case 87-04-009  
) (Filed April 8, 1987)

) Case 87-04-031  
) (Filed April 16, 1987)

) Case 87-08-026  
) (Filed August 14, 1987)

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ORDER MODIFYING DECISION 87-12-038

Applications for rehearing of Decision (D.) 87-12-038 have been filed by Phone Programs, Inc. (PPI) and Information Providers Association (IPA). In addition, petitions for modification have been filed by Toward Utility Rate Normalization (TURN) and Pacific Bell.

We have considered the allegations raised in the above filings, and are prepared today to grant the Petition for Modification of TURN to reduce the charge for non-lifeline

residential blocking to \$.01, have all sums collected to date and collected in the future recorded in a memorandum account subject to refund and order Pacific and General to refrain from billing for blocking. The Commission may review the charge for unblocking 976 service in a separate proceeding.

The Commission has come to this decision based on many factors. The testimony of public witnesses such as Betty Defea, representing the California PTA and its one million members and Theresa Hillman, representing Parents Against Pacific Bell first raised the notion that blocking should be offered on a free of charge basis. Witness Joanne Masokowski, representing Bay Area Citizens Against Pornography, also testified that there should be a no-charge option for blocking. These witnesses took this position as the most practical way to ensure that California ratepayers were protected from the abuses that have plagued 976 IAS since its inception in 1983. The Commission agrees.

In public witness hearings and in testimony numerous parties testified as to the large number of consumer complaints about unauthorized 976 calls made on residential phone lines and the difficulty that consumers have in controlling the use of those lines. One such case was of a window washer at the State Building in San Francisco whose grandsons spent \$1500 on 976 calls to win a Walkman TV. Rather than being the exception, this witness' story was typical of the approximately 6,000 complaints that consumers have made to the Commission to date regarding 976 IAS abuses. Further evidence of these problems came in testimony concerning the high 10% to 14% adjustment rate for 976 calls that has occurred in recent months. Pursuant to D.85-11-028 and D.87-01-042, Pacific and General have implemented a one-time adjustment policy for reimbursement to customers for unauthorized 976 calls. In addition, the Commission believes that by ordering the blocking option to be provided residential customers at no cost, California consumers will be well positioned to protect themselves against 976 IAS abuses. (See Exhibit 98 regarding Pennsylvania's implementation of a no charge blocking option.)

Given the large number of consumer protection problems inherent in a service such as 976, which allows commercial ventures to link up with the market of a regulated monopoly telephone utility and attach their billing for 976 calls directly to the revenue collection of the regulated utility, it is only equitable that the cost of blocking should be borne by the 976 providers as an integral part of the cost of doing business under our 976 IAS tariff arrangements. Ratepayers who have not asked for these services should not bear these costs.

However, while the Commission takes this position as a matter of policy, the requirements of PU Code Section 2884 mandate that the Commission charge residential customers for blocking. The amount of the charge may not, by statute exceed \$5. TURN, in its Petition for Modification, notes the mandatory language of PU Code Section 2884 and requests that the Commission order a \$.01 charge which would comply with the statute. Accordingly, for the present, the Commission is constrained by Code Section 2884 to impose some charge, but we will adopt the smallest possible charge - \$0.01 and order the billing of such charges suspended pending further order of the Commission. The Commission notes that it anticipates legislative action to revise PU Code Section 2884 to allow for the institution of the no charge option for residential blocking.

Pacific's Petition for Modification is denied because it cannot be sustained in the face of the mandatory nature of PU Code Section 2884.

For the above reasons, the Commission grants the Petition for Modification of TURN and denies the Petition for Modification of Pacific. The Applications for Rehearing of Information Providers Association and Phone Programs are denied. Phone Programs request for a stay and oral argument are denied.

Hearings set to be held on the cost allocation phase of the blocking scheme shall be suspended pending further order of the Commission.

Therefore,

IT IS ORDERED that D.87-12-038 is modified as follows:

1. Line 22 on page 2 the sum of \$2 is changed to \$.01.
2. Page 5, line 3 insert after "IP's" on line 3, "Pacific in its Petition for Modification has changed this position. Pacific now advocates a no charge option."
3. On page 27 - delete paragraphs 2 & 3.
4. Line 11 on page 28, delete the entire paragraph after "976 numbers" and insert the following:

"In the interim and no later than March 14, 1988, the telephone companies shall offer each residential subscriber blocking of all intrastate 976 numbers for the sum of \$.01. Subscribers should be advised of this option by a notice enclosed with their monthly bills in a timely manner. The notice shall be developed with input from the parties and reviewed by the Office of the Public Advisor, to inform ratepayers of the availability of blocking. Consumers should be clearly advised that the decision to block will result in the inaccessibility of all intrastate 976 programs. The notice may indicate that when ordering blocking, a consumer may intend only to block certain programs, however, the result of blocking will be that all intrastate 976 programs, regardless of subject matter, type of program, or cost, will be inaccessible. We hope that this "all or nothing" situation will soon be alleviated by the introduction of an information service in a format that enables ratepayers to selectively block. Therefore, the notice shall also apprise the subscriber of the interim nature of the present blocking option and of the fact that the Commission will, at a later date, revise the blocking service.

5. Delete the 1st & 2nd paragraphs on page 29. In its place insert the following sentence:

"We find that the direct costs of blocking should be recorded in a memorandum account by Pacific and General. Pacific and General are further ordered to refrain from billing

customers for non-lifeline residential blocking authorized in D.87-12-038 pending further order of the Commission.

6. On page 34 - line 15 the word "two dollars" should be replaced with \$.01.

7. On page 35 - Finding of Fact 18 should be deleted.

8. On page 35 - Finding of Fact 19 should be renumbered to 18.

9. On page 35 - Add the following "findings of fact".

"20. All blocking charge revenues, prior to a final decision in this proceeding, should be collected subject to refund and recorded in a memorandum account.

21. All billing for residential 976 IAS blocking should cease effective immediately pending further order of the Commission."

10. On page 37 - line 22 delete the words "two dollars" and replace them with "one cent".

IT IS FURTHER ORDERED, that the further hearings on cost allocation of 976 blocking IAS ordered by D.87-12-038 are hereby suspended pending further order of the Commission.

This order is effective today.

Dated MAR 11 1988, at San Francisco, California.

STANLEY W. HULETT  
President

DONALD VIAL  
FREDERICK R. DUDA  
G. MITCHELL WILK  
JOHN B. OHANIAN  
Commissioners

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

*Victor Weisner*  
Victor Weisner, Executive Director

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**ORIGINAL**

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