

Decision 88 05 065 MAY 25 1988

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
own Motion to Determine the)
Feasibility of Implementing New)
Funding Sources and Program Reductions) (Filed November 25, 1987)
in the Deaf and Disabled Program)
Pursuant to Section 2881 of the)
Public Utilities Code.)

I.87-11-031

(See Appendix A for List of Appearances.)

INTERIM OPINION

On November 25, 1987, the Commission approved Resolution T-12056 which directed that this proceeding be opened to address expense reductions and expanded revenue sources recommended by the Commission Advisory and Compliance Division (CACD) in its "Report on the Funding Problems Involving Deaf and Disabled Telecommunications Services", dated November 13, 1987. In the Order Instituting Investigation (OII), we invited the telecommunications respondents to address a number of questions contained in the OII in order to enable the Commission to determine the most effective methods to maintain a viable telecommunications program for the deaf and disabled community.

Because the Commission has been advised that there will not be sufficient revenues to fund the program at current levels through June 1988, parties were asked to present testimony on the following two issues which would be considered initially in hearings scheduled for January 5-7, 1988, to be followed by an interim decision shortly thereafter:

1. Should the policy that a PBX trunk constitutes 10 Centrex subscriber lines be continued and should a PBX trunk be surcharged at ten times the prevailing Centrex surcharge rate?
2. How should a telephone line be defined for purposes of Public Utilities (PU) Code Section 2881(d)?¹

Additional hearings to consider the remainder of issues posed in the OII will continue.

Following notice, a public hearing on the two issues was heard before Administrative Law Judge William A. Turkish on January 5-6, 1988 in San Francisco. Witnesses testified on behalf of respondents Tele-Communications Association (TCA), California Telephone Association (CTA), Continental Telephone Company of California (ConTel), Pacific Bell (PacBell), AT&T Communications of California, Inc. (AT&T), GTE California, Incorporated (GTE) (formerly General Telephone Company of California), and the Commission's Division of Ratepayer Advocates (DRA).

Because issue No. 1 is largely dependent upon how a telephone line is defined, we will initially address issue No. 2.

Section 2881(d), among other things, provides for "a rate recovery mechanism which shall not exceed ten cents (\$0.10) per month for each line of a subscriber, to allow telephone corporations to recover costs as they are incurred under this section" (emphasis added). However, Section 2881(d) does not define the term "line of a subscriber" and the tariffs of the various telephone companies are not helpful in defining the term. Definitions offered in testimony by respondents' witnesses follow.

¹ All code sections referred to in this decision are in the PU Code.

Testimony of TCA

TCA believes that the term "subscriber line" is generally used in the context of switched telecommunication services and refers to the physical facilities that connect an end user's premises to a telephone company central office switch. Historically this consisted of a pair of twisted copper wires, generally referred to as a "local loop" with a connecting facility at each end of the loop. With advances in technology, other mediums, such as fiber-optic cable, can now be used to provide local loops. Thus, TCA defines a subscriber line as "the physical transmissions facilities that are capable of carrying a single voice-grade channel between the customer's premises and the local telephone company's central office."

Testimony of CTA

CTA defines a telephone line as "any communications service that can access the telephone local intrastate networks to communicate with another, via voice/data or other."

Testimony of GTE

Rather than offering a generic definition of a telephone line, GTE recommends that for the purpose of Section 2881(d), the term should be defined by the types of service available to access the public switched network. Thus, GTE defines a telephone line as "individual residential and single business lines, party lines, PBX trunks at ten lines per trunk, Centrex stations, customer owned pay telephone (COPT) lines, Foreign Exchange (FX) lines, WATS/800 lines, radio telephone lines such as Improved Mobile Telephone Service (IMTS) and Cellular, semipublic coin lines, and all private line services".

Testimony of ConTel

ConTel defines an access line (telephone line) as "any dial-tone line, special access, private line, WATS, FEX, Centrex, PBX trunk, or any other connection between the customer premises and the telephone company central office, whether or not the

connection is through the central office or switched in the central office". ConTel excludes public pay phones from this definition for purposes of Section 2881(d).

Testimony of PacBell

PacBell defines a telephone line as "each communications path made possible by facilities provided by the local exchange telephone company, which is capable of connecting the subscriber's telephone set, or other similar equipment, to the public switched network or to a dedicated private line circuit".

Testimony of AT&T

AT&T defines a telephone line or a "line of a subscriber" as "a connection between the premises of an end user and the local exchange company's serving central office, whether the connection be called a VBX trunk, a Centrax primary station line, a WATS line, a LMB line (business line), or a residence subscriber line." Although the physical connection may vary widely and could be anything from a residence line to a multi-functional complex business circuit to a radio telephone communications path; the common factor is that each connection is the local loop that allows the customer to access the telephone network.

Testimony of DRA

DRA defines a telephone line as "a communication path provided by a local exchange telephone utility, radio telephone utility, cellular radiotelephone carrier, or reseller from its serving central office or equivalent facilities to the subscriber's premises. Such communication path may be 1-way or 2-way transmission for voice, signal or data services and may be provided with or without the use of transmission wires".

Discussion

Senate Bill (SB) 597 enacted in 1979 (now Section 2881 (a)) mandated that the Commission design and implement a program to provide Telecommunications Devices for the Deaf (TDDs) without charge to qualified deaf or severely hearing-impaired telephone

subscribers. This program was initially funded by a 15-cent per telephone line per month surcharge and then reduced to a 3-cent per line surcharge. This program permitted communication by the deaf only with other members of the deaf community or with those few members of the hearing population who owned a TDD. Because of this limited communications system population, the Deaf Equipment Acquisition Fund (DEAF) Trust soon accumulated a surplus of funds.

Thereafter, the Legislature enacted SB 227 (now Section 2881.1(a)), which authorized TDD distribution to any agency of the state government which was determined to have significant public contact; AB 3369 which amended Section 2881(a) by authorizing TDD distribution to organizations representing the deaf or severely hearing-impaired; SB 60 (Section 2881(c)), which provided for specialized or supplemental telephone communication equipment at no charge to subscribers who are certified to be disabled; and SB 244 (now Section 2881(b)), which mandated the establishment of the California relay system (CRS).

The CRS was established to enable the deaf and severely hearing-impaired 24-hour contact with any other subscriber line in the State. This relay service enables the speaking population to call the deaf or hearing-impaired and vice versa. The addition of these three new programs strained the funding capabilities of the 3-cent surcharge rate and depleted the DEAF Trust surplus. Although the surcharge was increased to the maximum of \$0.10 per subscriber line, expenses of the programs continue to exceed revenues thereby creating the current funding crisis.

The customer access line base presently used to fund the program grows approximately 3% a year while expenses for the program grew approximately 230% in the first six months of 1987. In order to keep the program viable, it is therefore necessary to expand the surchargable customer base in order to adequately fund the program. We added private line and WATS/800 lines to be surcharged effective January 1, 1988. Additionally, we increased the Centrex line charge from \$0.01 to \$0.10.

Because Section 2881 et seq. does not exempt any telephone service from having the surcharge applied, it is our intention that the term "subscriber line" indicated in Section 2881(d) be defined in the broadest possible manner to achieve our goal of expanding the surcharged customer base.

We believe a definition of the term "subscriber line" should include both a generic description as well as every type of communications service offered by respondent telephone companies falling within such definition to achieve uniformity among the surcharged services of the various companies. As a minimum, such definition should include every service which provides a communications path from the premises of one telephone subscriber to the premises of another telephone subscriber, regardless of the medium over which such communication travels and regardless of the form in which such communication is achieved. The definition should also include communications paths between a customer's premises and the local exchange's public switched network, dedicated private telephone line circuits, each channel of a high capacity wide band carrier, and customer-owned pay telephone lines. At our direction, CACD has prepared a definition of the term "subscriber line" (attached as Appendix B) following these guidelines; this definition is designed to achieve our goal of expanding the customer base to be surcharged. We will not include cellular and radiotelephone utilities in the definition at this time since the issue was not included as part of this interim opinion. We will take this subject up as a later part of our investigation.

We next move on to a discussion of the evidence presented on issue No. 1, which is stated as "whether the policy that a PBX trunk constitutes 10 Centrex subscriber lines be continued and should a PBX trunk be surcharged at 10 times the prevailing Centrex surcharge rate?"

Resolution T-12056 dated November 25, 1987 increased the surcharge of Centrex lines from \$0.01 to \$0.10 to provide more revenues to support the DEAF Trust. Previous to this, Centrex lines had been surcharged one-tenth of the PBX trunk line surcharge of \$0.10 per trunk. This 1:10 Centrex-to-PBX trunk line ratio was first used by the Commission in Case 10191 (OII into Centrex pricing structures for all public utility telephone corporations (1 CPUC 2d 344-345 (1979)) by taking one-tenth of the then current PBX trunk rate to derive the Centrex station rate. It was also utilized in D.92108 dated August 19, 1980 in Application 58918 (implementing charges for directory assistance calls).

It is important to keep in mind that the 1:10 Centrex-PBX trunk equivalency ratio has generally been used to derive a Centrex rate item and that the 1:10 ratio has not been used to develop a PBX rate item.

Position of PacBell

The position taken by PacBell is that the Commission should maintain a Centrex line surcharge which is one-tenth of the surcharge on a PBX trunk. PacBell's trunking portion (NRX) of its Centrex line rate equals approximately one-tenth the current PBX trunk rate. PacBell points out that the decision to adopt only two free directory assistance calls per Centrex line as opposed to 20 free directory calls per subscriber line was derived by dividing 10 into 20, using the 1:10 ratio, in D.92108. PacBell also points out that, for the purposes of the surcharge in Section 2881(d), the Commission adopted the proposal of the its staff witness, Mr. Popenoe, to apply one-tenth of the PBX surcharge for each Centrex station line (D.92603). Since the one-tenth Centrex line surcharge is a derivative based on the 1:10 ratio, PacBell contends that it is more appropriate to state the issue in question No. 1 not as whether PBX should be charged 10 times the Centrex rate, but whether Centrex should be surcharged one-tenth the PBX rate.

According to PacBell, the 1:10 (referred to by PacBell as the 10:1 ratio) PBX trunk equivalency ratio reflects the fact that, on average, a PBX customer will need one trunk for every 10 stations. This particular ratio is based on a 1977 study of the usage needs of a few hundred PBX customers. PacBell contends that there is no indication that the 1:10 relationship had ever been challenged prior to the release of Resolution T-12056 either by PBX users, Centrex users, or telephone companies and that no party has presented a reasonable or supportable basis for the Commission to abandon the PBX trunk equivalency ratio at this time. According to PacBell, the consequence of surcharging a PBX trunk at 10 times a Centrex line (surcharged now at \$0.10 pursuant to Resolution T-12056) is that a PBX trunk is surcharged at 10 times all other subscriber lines as well. PacBell feels this result is not required, or intended, by the 1:10 ratio principle. PacBell does not believe the 1:10 Centrex-to-PBX ratio should be abandoned. It believes, however, that the solution is not to apply the ratio to surcharge PBX 10 times more than all other lines, but rather to surcharge Centrex lines at one-tenth of PBX trunks and, coincidentally, of all other lines. Because of the \$0.10 maximum surcharge set forth in Section 2881(d), PacBell contends that Centrex should be surcharged at \$0.01, and all other subscriber lines, including PBX trunks, should be surcharged at \$0.10.

PacBell also believes its proposed definition of a subscriber line, stated above, is broad enough to allow for a one-tenth Centrex line surcharge because the words to focus on in its definition are "communications path made possible...to the public switched network." PacBell asserts that a PBX trunk and a Centrex line allow only one call at a time and since a PBX trunk is used only for calls outside the system to and from the public switched network, a PBX trunk makes possible a path to the public switched network 100% of the time. On the other hand, a Centrex line which is being used approximately 90% of the time for intracomunications

makes possible calls to the public switched network only 10% or one-tenth of the time. Thus PacBell's proposed definition supports a one-tenth Centrex line surcharge.

Position of GTE

GTE contends that the only extensive study regarding the relationship between PBX trunks and Centrex station lines found a 1:10 ratio which was adopted by the Commission in D.90309 issued in May 1979 and that the results of that PacBell study have provided the standard for engineering Centrex service since its adoption. While acknowledging that the study is several years old and that no recent study has confirmed it, GTE states it is also true that no pending study has contradicted its results. General urges the policy that a PBX trunk constitutes 10 Centrex lines be continued on the basis that, historically, one PBX trunk has been equivalent to 10 Centrex subscriber lines. While the actual number of trunks ordered by a PBX customer may vary depending on the actual call volume generated by the business, the main relationship between end users and lines/trunks to achieve a .01 grade of service is 10 to 1.² For example, 100 end users behind a PBX would require no more than 10 trunks on which to out-dial in order to achieve a .01 grade of service. Thus, GTE supports an increase in the surcharge for PBX trunks to \$1.00 versus the \$0.10 surcharge for Centrex lines because of the 10-to-1 equivalency relationship.

Position of ConTel

ConTel is not opposed to the concept of a 10-to-1 ratio of Centrex primary lines to PBX trunks, but does have a concern that by adopting this ratio in light of the recent increase of the Centrex surcharge to \$0.10, the PBX surcharge will be increased to \$1.00 per trunk. ConTel believes that, although this may be a

² A .01 grade of service is a call loss of not more than 1 in 100 calls.

reasonable ratio between Centrex and PBX, it also results in a 10-to-1 ratio between PBX trunks and business lines. ConTel's PBX trunks are currently priced higher than business lines. Thus, since ConTel no longer has control over what a customer puts at the end of an access line, a customer wishing to avoid the higher charge of a PBX trunk could order business lines instead of PBX trunks, if those lines were to be used as 2-way lines. ConTel urges the Commission to consider the price disparity between PBX trunks and business lines in any determination to increase the PBX surcharge. ConTel is of the opinion that a 1:10 PBX to Centrex ratio is appropriate.

Position of TCA

TCA is of the opinion that the planned increase in the PBX trunk surcharge to \$1.00 would violate Section 2881(d) by increasing the surcharge above the allowed maximum rate of \$0.10 per subscriber line. TCA contends that a PBX trunk line is a single "subscriber line" as that term is used in Section 2881(d) and that the surcharge applicable to both Centrex lines and PBX trunk lines can be set no higher than \$0.10 per month as stated in the PU Code. Therefore, TCA urges the Commission set the surcharge for residence lines, business lines, and PBX trunk lines at the \$0.10 per month maximum allowed by Section 2881(d) and to establish the Centrex line surcharge at either \$0.01 or \$0.10 per month, depending upon our conclusion as to the importance and value of maintaining the historic rate relationship of the Centrex exchange access line rate element and PBX trunk rate.

TCA believes that the relationship of the "exchange access element" of the Centrex rate and the PBX trunk line rate is a function of the overall rate structure of many telecommunications services and should only be brought into play to determine the appropriate level of the surcharge on Centrex lines after the surcharge on PBX trunk lines has been established.

Position of AT&T

AT&T is of the opinion that the Commission should not attempt to apply the PBX/Centrex rate design relationship to the DEAF surcharge because the 1:10 ratio referred to in this proceeding relates to complex rate design issues involving the complete Centrex service and PBX service as well as the relationship of these services to a local exchange company's other business services. ✓

AT&T contends that a PBX trunk is physically the same as other exchange access lines and can carry only one telephone conversation at a time. A PBX trunk is indistinguishable from an individual business line, a Centrex station line, a WATS line, or a residence line. Under a definition of "a line of a subscriber" that describes the physical connection between a central office and a customer's premises, there would be no basis for concluding that a PBX trunk constitutes more than one "line of a subscriber". AT&T argues that the Commission cannot isolate PBX service and Centrex service for unique treatment under Section 2881(d) and that if the term "line of a subscriber" is to include a counting of customer stations, or intrastate usage or any other criteria other than the access line itself, this criteria would have to be applied equally to all lines. As an example, if the average business customer or WATS customer had two or three stations connected to an exchange access line, that customer must be charged a different rate from a customer with one station.

AT&T further points out that there never has been a Commission finding that a PBX trunk is equivalent to 10 Centrex lines. Rather, in several specific instances, the Commission did determine that a Centrex station line should be priced at one-tenth the rate of a PBX trunk and other subscriber lines. AT&T contends that the 1-to-10 relationship is established not for the purposes of defining PBX trunk rate treatment but for the purpose of

deriving Centrex service rate treatment. In 1981, when the Commission adopted the first surcharge to fund the DEAF Trust, prior to passage of Section 2881(d), it surcharged residence lines, business lines, FEX, PBX trunks, and semi-public service lines \$.15 and Centrex lines \$.015. Then, in establishing a rate design in D.90309, the Commission established the PBX trunk rates and individual business line rate at \$8.50 and established the Centrex station line rate at \$0.85. AT&T contends that the 1-to-10 rate design relationship cannot be stated in reverse; that is to say, it does not follow that, because 10 Centrex lines are required for 10 customer stations while a PBX with 10 stations utilizes one PBX trunk, a PBX trunk can be considered the equivalent of 10 Centrex lines. From a physical standpoint, it is factually incorrect and it also violates the Commission's rate design structure in which PBX trunks are treated the same as other exchange access lines and Centrex lines are rated at 1/10th the price of exchange access lines. AT&T also points out that in Resolution T-12056 the Commission approved the surcharge increase to 10 cents on all exchange access lines and stated:

"In the past, Centrex has been charged 1/10th of a deaf surcharge based on the 10-to-1 equivalent ratio of Centrex lines to one PBX trunk. Section 2881(d) does not exempt any service from paying the full surcharge amount, and in other specially funded programs, the Centrex subscriber is not exempt from the total amount being charged other subscribers. There does not appear to be any compelling reason that this service's surcharge is any different. Therefore, the surcharge per Centrex line shall be 10 cents."

Position of DRA

DRA takes the position that while it is true that a PBX is a customer premises switch which can be connected to more than one telephone station and a Centrex service uses the central office switch for every call, whether directed to outside parties, or back

to stations located on the same premises, they both can only carry a single call at a time. The copper wires used to carry the message between the central office and the subscriber are the same for PBX service and Centrex service and, for this reason, the Commission should order a \$0.10 surcharge for each Centrex line and for each PBX trunk. DRA points out that Section 2881(d) does not authorize the Commission to set a DEAF surcharge by line usage but rather by a flat rate per subscriber line. DRA argues that a \$1.00 PBX to \$0.10 Centrex line surcharge would discriminate heavily against customer-owned equipment in favor of utility-owned equipment. DRA argues that such a charge would be discriminatory in yet another way since it would apply a higher surcharge to PBX trunks because of different usage from Centrex lines while other types of lines would be charged the same amount even though their usage differed.

DRA also points out that the Federal Communications Commission (FCC) has recently rejected the usage distinction between Centrex lines and PBX trunks which PacBell and others now expect this Commission to adopt. In the FCC's Second Computer Inquiry Ruling (FCC Docket 20828), the FCC ordered Centrex lines and PBX trunks to be treated equivalently as subscriber lines for purposes of setting access charges. The equipment and services at issue before the FCC are the same ones at issue before the Commission, according to DRA.

One of DRA's witnesses presented an alternative short-term or interim solution to that stated above. The witness advocates maintaining the 1:10 PBX/Centrex ratio until the surcharge mechanism is changed. His interest is primarily to maximize program revenues as well as to study possible expense reductions. The witness believes that the 1:10 ratio is valid because "a trunk is essentially different from a line" in terms of line usage. Therefore, he recommends a \$1.00 surcharge per PBX

trunk, despite the fact that he recognizes the law prohibits the Commission from setting a surcharge in excess of \$0.10 per line.

Discussion

It is clear from a plain reading of Section 2881(d) that the Legislature intended that a flat rate surcharge be established by the Commission for each line of a subscriber. With the exception of PacBell and GTE, all other active parties in this proceeding submitting definitions of the term "line of a subscriber" generally agreed, despite some difference in wording, that it described the physical connection between a local exchange company's (LEC) central office and an end-user's premises. The definition we are adopting includes this basic physical connection but goes even further, in keeping with our goal of broadening the Trust Fund's customer base.

PacBell and GTE, which are Centrex providers, would have us include within the definition terms relating to type and function of the customer equipment to retain the 1:10 PBX/Centrex ratio between PBX trunk pricing and Centrex station line pricing.

Section 2881(d) makes no reference to anything other than to "each line of a subscriber". Thus, in the context of Section 2881(d), a line of a subscriber is unrelated to the level of revenues per customer, to the usage per customer or to the type or function of customer-owned or leased telephone equipment connected to that line.

Since deregulation of telephone equipment and inside wiring, there is no way for LECs to determine the nature or number of customer premises equipment connected on the customer's side of the LEC's demarcation point.

The 1:10 PBX-to-Centrex ratio came into existence in 1979, in D.90309, when the Commission established a rate design relationship that keeps Centrex station line rates at 1/10th the rate of PBX trunks and measured business lines. The basis for this ratio was a study by Pacific which determined that a PBX trunk

could support an average of 10 stations whereas in Centrex service, one line supports only one station. One hundred percent of calls over a PBX trunk enter the public switched network whereas only approximately 10% of Centrex calls enter the public switched network. We maintained this same 1:10 Centrex/PBX ratio in D.92108 where we authorized Pacific Telephone and Telegraph Co. to implement charges for directory assistance calls and determined the number of free directory assistance calls for PBX and Centrex customers.

This rate design relationship derives from two factors. First, each Centrex station line serves a public network access function and a customer intercommunications function. From a study conducted by PacBell, it was assumed that 90% of the traffic over each Centrex station line is intercom traffic and 10% is public exchange access traffic. Because the Centrex service uses the public switched network to transmit intercom traffic, each customer station is required to be connected to the LEC central office with a subscriber line. By contrast, PBX equipment carries intercom traffic over the customer-owned inside wiring without the necessity of accessing the public switched network at the LEC central office. Thus, a Centrex customer requires 10 times the number of subscriber lines used by a PBX customer. The 1-to-10 PBX/Centrex relationship was established, not for the purpose of defining PBX trunk rate treatment, but for the purpose of defining Centrex service rate treatment. It does not follow that because 10 Centrex station lines are required for 10 customer stations while a PBX uses one trunk for 10 stations, that a PBX trunk can be considered the equivalent of 10 Centrex lines. Likewise, it does not follow that because the surcharge rate for Centrex lines was increased to \$0.10 that the appropriate surcharge for PBX trunks should be \$1.00.

Raising the PBX surcharge to \$1.00 or 10 times the Centrex station surcharge rate raises an issue of discriminatory pricing, but we need not discuss this aspect since we can dispose

of the issue by finding that we would be in violation of Section 2881(d), which limits the surcharge to a maximum of \$0.10 per subscriber line, if we were to raise the PBX surcharge to \$1.00. We are not discarding the 1:10 PBX/Centrex rate design ratio by this action. We are only concluding that use of the ratio is not applicable to the DEAF Trust fund surcharge provision of Section 2881(d). For the purpose of the DEAF Trust fund surcharge, and pursuant to our adopted definition of a "subscriber line", one Centrex station line is a single subscriber line and one PBX trunk is a "single subscriber line".

Comments to the proposed ALJ decision were received from DRA and from PacBell.

DRA offered several suggestions which would more accurately reflect the legislative history of PU Code Section 2881 as well as the history of the surcharge. We have incorporated those suggestions in this decision.

PacBell believes there is an error in Appendix B, Attachment 1, page 2 of the proposed decision, under the heading "175-T Tariffs (Access Services)." PacBell alleges that the error is in the inclusion of "End User Access Service--each End User Common Line used by end users" as a separate element to which the Section 2881 (d) surcharge would apply.

PacBell points out that its schedule Cal. P.U.C. No. 175-T, Section 4.1 provides that "the utility will provide an end user common line to end users who obtain local exchange service from the utility," and that these common lines for exchange service, or EUCLs, are the lines providing the exchange services which are described in PacBell's A Series Tariff and which we have set forth in Appendix B of the proposed decision for Section 2881(d) surcharge purposes. PacBell contends that EUCLs are not communication paths (as set forth in the subscriber line definition of the proposed decision) which are distinct from the exchange service lines set forth in PacBell's A Series Tariff and that the

reference to EUCL in PacBell's 175-T Tariff is there merely to distinguish exchange services from the common carrier access services which are the subject of the remainder of the 175-T Tariff.

PacBell points out that if a surcharge is imposed on a EUCL as well as on each exchange access line, each end user would be charged twice for each exchange access line and that PacBell does not believe that was our intention. We concur with PacBell's comments and will therefore delete the reference to End User Common Line in Appendix B, page 2 of this decision.

Findings of Fact

1. In order to achieve and maintain a viable program of telecommunications access for the deaf, severely hearing impaired, and disabled community, it is necessary to increase the customer base upon which a surcharge may be levied.
2. The term "line of a subscriber", contained in Section 2881(d), is defined in Appendix B of this decision.
3. The 1:10 PBX/Centrex rate design ratio has no applicability to the DEAF Trust fund surcharge provision of Section 2881(d).
4. For the purpose of the DEAF Trust fund surcharge, one Centrex station line is a single subscriber line and one PBX trunk is a single subscriber line.
5. Section 2881(d) imposes a maximum surcharge of \$0.10 per subscriber line.
6. For the purposes of Section 2881(d), 1 PBX trunk is not equivalent to 10 Centrex station lines.

Conclusion of Law

The Commission would be in violation of the plain meaning of Section 2881(d) if any subscriber line, as defined in Appendix B, was surcharged more than \$0.10 per line. Accordingly, PBX trunk lines will continue to be surcharged \$0.10 per trunk.

INTERIM ORDER

IT IS ORDERED that within 30 days of the effective date of this order, all local exchange carriers listed in Appendices B and D of I.87-11-031 shall prepare and file advice letters, indicating those services offered by them which are to be surcharged under the definition set forth in Appendix B. In addition, they shall define each type of service to be surcharged. This order is effective today.

Dated MAY 25 1988, at San Francisco, California.

STANLEY W. HULETT
President

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

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


Victor Weisser, Executive Director

APPENDIX A

List of Appearances

Respondents: Pelavin, Norberg, Harlick & Beck, by Alvin H. Pelavin, Jeffrey F. Beck, and Lizbeth Morris, Attorneys at Law, for California Telephone Association; Kenneth K. Okel, Kathleen S. Blunt, and James A. Garriss, Attorneys at Law, for GTE California, Incorporated; Randolph Deutsch, Attorney at Law, for AT&T Communications of California, Inc.; Orrick, Herrington & Sutcliffe, by Robert Gloistein, Attorney at Law, for Continental Telephone Company of California; and Bonnie Packer, Attorney at Law, for Pacific Bell.

Interested Parties: Jackson, Tufts, Cole & Black, by William H. Booth, Attorney at Law, for Tele-Communications Association; William G. Irving, for County of Los Angeles; J. Kendrick Kresse, Attorney at Law, for California Association of the Deaf; Peter A. Casciato, Attorney at Law, for Paging Network of San Francisco, Inc. and Paging Network of Los Angeles, Inc.; Warren A. Palmer, Attorney at Law, for Metromedia Company and Affiliates; Messrs. Dinkelspiel, Donovan & Reder, by David M. Wilson, Attorney at Law, for Allied Radiotelephone Utilities of California; Michael F. Willoughby, Attorney at Law, for Krown Research, Inc.; and Graham & James, by David J. Marchant, Martin A. Mattes, and Michael P. Hurst, Attorneys at Law, for Bay Area Cellular Telephone Company.

Division of Ratepayer Advocates: Robert Cagen and Ira Kalinsky, Attorneys at Law, and Karen Miller.

(END OF APPENDIX A)

APPENDIX B

Generic Description of a "subscriber line" to which the Public Utilities Code Section 2881 (d) surcharge applies.

"A communications path provided by any telephone corporation from its serving central office or other facilities to the subscriber's premises."

Every communications service offered by respondent telephone companies falling within this definition are listed as follows:

Pacific Bell - see attachment 1

GTE-California - see attachment 2

Continental Telephone - see attachment 3

All others (below) - see attachment 4

Calaveras Telephone Co., California Oregon Telephone Co., Capay Valley Telephone System, Inc., Citizens Utilities Co., CP National, Ducor Telephone Co., Evans Telephone Co., Foresthill Telephone Co., Happy Valley Telephone Co., Hornitos Telephone Co., Kerman Telephone Co., Pinnacles Telephone Co., The Ponderosa Telephone Co., Roseville Telephone Co., Sierra Telephone Co., The Siskiyou Telephone Co., The Volcano Telephone Co., West Coast Telephone Co. of Calif.

This Appendix is current as of the date of this order. All companies will advise the Director of the Commission Advisory and Compliance Division when "subscriber lines" are added or deleted from their tariffs. This Appendix will be revised accordingly.

I.87-11-031

Appendix B

Attachment 1, Page 1

Pacific Bell (U-1001-C)

Specific services to which the Public Utilities Code Section 2881
(d) surcharge applies.

A Series Tariff

Network and Exchange Services

- Individual line residence or business service, complex
- Individual, party line, suburban or Farmer line business service, simple
- Individual, party line, suburban or Farmer line flat rate residence service, simple
- Individual, party line or measured rate residence service, simple
- Individual line, AIS (Airport Intercommunicating Service)
- Individual line measured rate business service - data, all services
- Trunk line service, residence, business, or TAS
- Concentrator/Identifier trunk - C.O.
- Tie Line Service
 - Between PBX and Centrex Systems
 - Between Centrex Systems
 - Between all other
- Centrex primary access lines, same or different central office
- Centrex Dormitory Service
- WATS, 800 Service and 2-way WATS/800 Service complex and simple service
- Foreign exchange (FXS) or Foreign District Area Service (FDA of the same exchange only) Contiguous
 - Business
 - Residence
- FXS or FDA Non-contiguous
 - Business
 - Residence
- Extension Line services
 - Off premises
- Semipublic Service
 - each access line with utility provided set and premise wiring
 - each COPT access line, with customer provided set

B Series Tariff

Private Line Circuits

Series 1000 channels, type 1001, 1002, 1005, 1006, 1009
Series 2000 channels, type 2001, 2021, 2025, 2001A, 2002
Series 3000 channels, type 3001, 3002, 3002C, 3007, 3009
Series 6000 channels, type 6005, 6004, 6003, 6002
Series 7000 channels, type 7001
Series 8000 channels, type 8800, 8801 (A1), 8001 (A2), 8801
(A4), 8802
Series 10000 channels, type 10001
Other channels:

Digital Data Service

- each channel between digital cities
- each local distribution channel
- each interoffice channel in digital city serving area
- each multi-station arrangement
- each secondary channel

High Capacity Digital Service

- each interoffice channel
- each local distribution channel

Public Packet Switching

- each permanent virtual circuit

175-T Tariffs (Access Services)

Special Access Services

- each transmission path (analog or digital) used to connect a customer designated premises either directly or through a Utility HUB where bridging or multiplexing functions are performed

Special Federal Government Access Services

- each voice grade special access service
- each Wideband Digital special access service

I.87-11-031

Appendix B

Attachment 2, Page 1

GTE-California (U-1002-C)

Specific services to which the Public Utilities Code Section 2881
(d) surcharge applies.

Tariffs

A-1. Individual Line, Party Line and Private Branch Exchange Trunk Line Service

Each local and extended, flat rate, and measured rate, business
and residence individual line, party line, suburban and private
branch exchange trunk line and business semi-public individual
line service.

A-3. Electronic Business System Service

Each primary station line.

A-12. Farmer Line Service

Each Local Service (Business/Residence).
Each Extended Service (Business/Residence).

A-19. Foreign Exchange Service

Each primary service

- Residence
- Business

A-20. Foreign Exchange Service - Farmer Line (Business/Residence)

-each service

B-3. Wide Area Telecommunications Service (WATS)

-Each WATS, 800 Service, and 2-Way WATS/800 Service.

C-1. Facilities for Intrastate Access (FTA)

-Each Special Access transmission path to connect customer
designated locations within a Market Area for

telecommunications purposes.

-Each subscriber line used for Special Federal Government FIA (each FIA that are provided for use only by agencies or branches of the Federal Government and other users authorized by the Federal Government).

E-1. Special Service Arrangements

Each communications path provided under:

- A. Service Interconnected to Exchange Services
- B. Deleted
- C. Services for the United States Government Interconnected to either Exchange or Private Line Services.
- D. Deleted
- E. Deleted
- F. Deleted
- G. Services for Governmental Agencies and/or to Authorized Firms or Agencies Actively Participating in Government Projects.
- H. Connecting arrangements for Customer Provided Facilities.
- I. Arrangements & Services Previously Established under Contract for Specific Customers. Services Interconnected to either Exchange or Private Line Service or Arrangements not Connected.

G-1. Private Line Telephone Service

-each channel, Type 1001, 1002, 1005, 2001, 3001, 3002, 5302, 8302

G-2. Speaker-Microphone Service

-each local channel
-each interexchange channel

G-3. Private Line Teletypewriter Service

-each channel, local or interexchange private line teletypewriter, types 1002, 1003, 1005, 1006
-each channel used for remote metering, supervisory control & miscellaneous signaling purposes types 1002 & 1005
-each extension service types 1002 & 1005 single service

G-4. Channels for Data Transmission

-each local or interexchange private line channels types 1001, 1002, 1005, 1006, and 3002
-each extension service - type 3002

G-5. Channels for Program Transmission in Connection with

Loudspeakers, Sound Transmission or Sound Recording
-each local channel

-each interexchange channel

G-6. Channels for One-way Speech Network in Connection with Loudspeakers.

-each local channel
-each interexchange channel

G-7. Wideband Services

-each intraexchange service

G-9. Channels for Remote Metering, Supervisory Control & Miscellaneous Signaling Purposes.

-each channel, series 1000, series 3000

G-11. Alarm Transport Service

-each alarm transport service

G-14. Optinet High Capacity Digital Service

-each optinet 1.5 Special Access Line

G-15. Optinet Switched 56 Service

-each OS56 line

G-18. Deleted

G-20. Channels for the Transmission of Closed Circuit Television Signals

-each channel

G-25. Deleted

G-26. Channels for the Remote Operation of Private Mobile Radiotelephone Systems

-each local or interexchange private line channel, type 2002, 2062

I.87-11-031

Appendix B

Attachment 3, Page 1

Continental Telephone Company of California (U-1003-C)

Specific services to which the Public Utilities Code Section 2881
(d) surcharge applies.

Tariff Schedules

A-1. Network Access Line Service

Each local exchange network access line - business
one party and Centrex
PBX trunk
key line, Centrex, and Multi-Line Service
Semi-public
Public Access Line (COPT)

Each local exchange network access line - Residence
one party
key line and multi-line service

A-17. Foreign Exchange Service

Foreign District Area Service
-each primary service

Foreign Exchange Service
-each business network access line service
-each residence network access line service
-each farmer line service

A-40. Digital Centrex Service

-each Digital Centrex Service access line
-each Intragroup Calling Service line

B-2. Wide Area Telephone Service (WATS)
see attachment 1, Pacific Bell (ref. Schedule Cal. PUC No.
A7.)

B-5. Intrastate Access Service
see attachment 1, Pacific Bell (ref. Schedule Cal. PUC No.
175-T)

G-1. Private Line Services and Channels

Each intrastate private line channel furnished or made available by Continental Telephone Company of California between its points and between its points and points reached over facilities of connecting companies.

X-1 List of Contracts and Deviations

Each provision of access line services and channels and connections to various customer-owned facilities.

X-2 Obsolete Service

- each Farmer Line Service
- each Foreign Exchange Service
- each Party Line Service

I.87-11-031-

Appendix B

Attachment 4

All Other Independent Local Exchange Companies

Specific services to which the Public Utilities Code Section 2881
(d) surcharge applies.

Each residence access line, business access line, foreign exchange line, intrastate WATS and 800 service line, PEX trunk, Centrex line, Semi-Public access line, customer owned pay telephone line, private line circuit, special access circuit, circuit used for intrastate interLATA Access Service, or other communications path specified in the following tariff schedules:

Access Line Service

Access Service for Intrastate InterLATA Carriers

Automatic Private Branch Exchange Service

Base and Suburban Area Exchange Service

Basic Exchange Access Service

Channels for Farmer Lines

Contracts and Deviations

Direct Inward Dialing Service

Electronic Private Automatic Branch Exchange Service

Extensions and PEX Station Foreign Exchange Service

Farmer Line Service

Flat Rate Exchange Service

Foreign Exchange Service

Individual and Party Line Service

Individual Reseller Line Service

IntraLATA WATS

IntraLATA Leased Line and Private Line Telephone Service

Intercommunicating Service

Key Equipment Service

Local Leased Line and Private Line Telephone Service

Multi-Line Telephone Service

Off-Premises Extension Service

Permanent Connection of Telephone Lines

Permanently Connected Business and Residence Lines

Private Branch Exchange Service

Semi-Public Coin Box Service

Suburban Service

(END OF APPENDIX B)

1. Should the policy that a PBX trunk constitutes 10 Centrex subscriber lines be continued and should a PBX trunk be surcharged at ten times the prevailing Centrex surcharge rate?
2. How should a telephone line be defined for purposes of Public Utilities (PU) Code Section 2881(d)?¹

Additional hearings to consider the remainder of issues posed in the OII will continue.

Following notice, a public hearing on the two issues was heard before Administrative Law Judge William A. Turkish on January 5-6, 1988 in San Francisco. Witnesses testified on behalf of respondents Tele-Communications Association (TCA), California Telephone Association (CTA), Continental Telephone Company of California (ConTel), Pacific Bell (PacBell), AT&T Communications of California, Inc. (AT&T), GTE California, Inc. (GTE) (formerly General Telephone Company of California), and the Commission's Division of Ratepayer Advocates (DRA).

Because issue No. 1 is largely dependent upon how a telephone line is defined, we will initially address issue No. 2.

Section 2881(d), among other things, provides for "a rate recovery mechanism which shall not exceed ten cents (\$0.10) per month for each line of a subscriber, to allow telephone corporations to recover costs as they are incurred under this section" (emphasis added). However, Section 2881(d) does not define the term "line of a subscriber" and the tariffs of the various telephone companies are not helpful in defining the term. Definitions offered in testimony by respondents' witnesses follow.

¹ All code sections referred to in this decision are in the PU Code.

subscribers. This program was initially funded by a 3-cent per telephone line per month surcharge. This program permitted communication by the deaf only with other members of the deaf community or with those few members of the hearing population who owned a TDD. Because of this limited communications system population, the Deaf Equipment Acquisition Fund (DEAF) Trust soon accumulated a surplus of funds.

Thereafter, the Legislature enacted SB 227 (now Section 2881.1 (a)), which authorized TDD distribution to any agency of the State government which was determined to have significant public contact; SB 60 (Section 2881(c)), which provided for specialized or supplemental telephone communications equipment at no charge to subscribers who are certified to be disabled; and SB 244 (now Section 2881 (b)), which mandated the establishment of the California Relay System (CRS).

The CRS was established to enable the deaf and severely hearing-impaired 24-hour contact with any other subscriber line in the State. This relay service enables the speaking population to call the deaf or hearing-impaired and vice versa. The addition of these three new programs strain the funding capabilities of the original 3-cent surcharge rate and depleted the DEAF Trust surplus. Although the surcharge was increased to the maximum of \$0.10 per subscriber line, expenses of the programs continue to exceed revenues thereby creating the current funding crisis.

The customer access line base presently used to fund the program grows approximately 3% a year while expenses for the program grew approximately 230% in the first six months of 1987. In order to keep the program viable, it is therefore necessary to expand the customer base in order to adequately fund the program. We added private line and WATS/800 lines to be surcharged effective January 1, 1988. Additionally, we increased the Centrex line charge from \$0.01 to \$0.10.

Position of AT&T

AT&T is of the opinion that the Commission should not attempt to apply the PBX/Centrex rate design relationship to the DEAF surcharge it should we surcharge PBX trunks at 10 times the Centrex surcharge rate because the 1:10 ratio referred to in this proceeding relates to complex rate design issues involving the complete Centrex service and PBX service as well as the relationship of these services to a local exchange company's other business services.

AT&T contends that a PBX trunk is physically the same as other exchange access lines and can carry only one telephone conversation at a time. A PBX trunk is indistinguishable from an individual business line, a Centrex station line, a WATS line, or a residence line. Under a definition of "a line of a subscriber" that describes the physical connection between a central office and a customer's premises, there would be no basis for concluding that a PBX trunk constitutes more than one "line of a subscriber". AT&T argues that the Commission cannot isolate PBX service and Centrex service for unique treatment under Section 2881(d) and that if the term "line of a subscriber" is to include a counting of customer stations, or intrastate usage or any other criteria other than the access line itself, this criteria would have to be applied equally to all lines. As an example, if the average business customer or WATS customer had two or three stations connected to an exchange access line, that customer must be charged a different rate from a customer with one station.

AT&T further points out that there never has been a Commission finding that a PBX trunk is equivalent to 10 Centrex lines. Rather, in several specific instances, the Commission did determine that a Centrex station line should be priced at one-tenth the rate of a PBX trunk and other subscriber lines. AT&T contends that the 1-to-10 relationship is established not for the purposes of defining PBX trunk rate treatment but for the purpose of

to stations located on the same premises, they both can only carry a single call at a time. The copper wires used to carry the message between the central office and the subscriber are the same for PBX service and Centrex service and, for this reason, the Commission should order a \$0.10 surcharge for each Centrex line and for each PBX trunk. DRA points out that Section 2881(d) does not authorize the Commission to set a DEAF surcharge by line usage but rather by a flat rate per subscriber line. DRA argues that a \$1.00 PBX to \$0.10 Centrex line surcharge would discriminate heavily against customer-owned equipment in favor of utility-owned equipment and that such charge would be discriminatory in yet another way since it would apply a higher surcharge to PBX trunks because of different usage from Centrex lines while other types of lines would be charged the same amount even though their usage differed.

DRA also points out that the Federal Communications Commission (FCC) has recently rejected the usage distinction between Centrex lines and PBX trunks which PacBell and others now expect this Commission to adopt. In the FCC's Second Computer Inquiry Ruling (FCC Docket 20828), the FCC ordered Centrex lines and PBX trunks to be treated equivalently as subscriber lines for purposes of setting access charges. The equipment and services at issue before the FCC are the same ones at issue before the Commission, according to DRA.

One of DRA's witnesses presented an alternative short-term or interim solution to that stated above. The witness advocates maintaining the 1:10 PBX/Centrex ratio until the surcharge mechanism is changed. His interest is primarily to maximize program revenues as well as to study possible expense reductions. The witness believes that the 1:10 ratio is valid because "a trunk is essentially different from a line" in terms of line usage. Therefore, he recommends a \$1.00 surcharge per PBX

of the issue by finding that we would be in violation of Section 2881(d), which limits the surcharge to a maximum of \$0.10 per subscriber line, if we were to raise the PBX surcharge to \$1.00. We are not discarding the 1:10 PBX/Centrex rate design ratio by this action. We are only concluding that use of the ratio is not applicable to the DEAF Trust fund surcharge provision of Section 2881(d). For the purpose of the DEAF Trust fund surcharge, our adopted definition of a "subscriber line", one Centrex station line is a single subscriber line and one PBX trunk is a "single line".

Findings of Fact

1. In order to achieve and maintain a viable program of telecommunications access for the deaf, severely hearing impaired, and disabled community, it is necessary to increase the customer base upon which a surcharge may be levied.

2. The term "line of a subscriber", contained in Section 2881(d), is defined in Appendix B of this decision.

3. The 1:10 PBX/Centrex rate design ratio has no applicability to the DEAF Trust fund surcharge provision of Section 2881(d).

4. For the purpose of the DEAF Trust fund surcharge, one Centrex station line is a single subscriber line and one PBX trunk is a single subscriber line.

5. Section 2881(d) imposes a maximum surcharge of \$0.10 per subscriber line.

6. For the purposes of Section 2881(d), 1 PBX trunk is not equivalent to 10 Centrex station lines.

Conclusion of Law

The Commission would be in violation of the plain meaning of Section 2881(d) if any subscriber line, as defined in Appendix B, was surcharged more than \$0.10 per line. Accordingly, PBX trunk lines will continue to be surcharged \$0.10 per trunk.

INTERIM ORDER

IT IS ORDERED that within 30 days of the effective date of this order, all local exchange carriers listed in Appendices B and D of I.87-11-031 shall prepare and file advice letters, indicating those services offered by them which are to be surcharged under the definition set forth in Appendix B. In addition, they shall define each type of service to be surcharged. This order is effective today.

Dated _____, at San Francisco, California.

B Series Tariff

Private Line Circuits

Series 1000 channels, type 1001, 1002, 1005, 1006, 1009
Series 2000 channels, type 2001, 2021, 2025, 2001A, 2002
Series 3000 channels, type 3001, 3002, 3002C, 3007, 3009
Series 6000 channels, type 6005, 6004, 6003, 6002
Series 7000 channels, type 7001
Series 8000 channels, type 8800, 8801 (A1), 8001 (A2), 8801
(A4), 8802
Series 10000 channels, type 10001

Other channels:

Digital Data Service

- each channel between digital cities
- each local distribution channel
- each interoffice channel in digital city serving area
- each multi-station arrangement
- each secondary channel

High Capacity Digital Service

- each Interoffice channel
- each Local Distribution channel

Public Packet Switching

- each permanent virtual circuit

175-T Tariffs (Access Services)

End User Access Service

- each End User Common Line used by end users

Special Access Services

- each transmission path (analog or digital) used to connect a customer designated premises either directly or through a Utility HUB where bridging or multiplexing functions are performed

Special Federal Government Access Services

- each voice grade special access service
- each Wideband Digital special access service