

ORIGINAL ✓

Decision 89-02-048 February 24, 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Pacific Bell, a corporation,)
for authority to increase certain)
intrastate rates and charges)
applicable to telephone services)
furnished within the State of)
California.)

Application 85-01-034
(Filed January 22, 1985;
amended June 17, 1985
and May 19, 1986)

And Related Matters.)

I.85-03-078
(Filed March 20, 1985)

OII 84
(Filed December 2, 1980)

Case 86-11-028
(Filed November 17, 1986)

**OPINION ON PACIFIC BELL'S PETITION
FOR MODIFICATION OF DECISION 86-05-072**

On May 18, 1988, Pacific Bell filed a Petition for Modification of Decision (D.) 86-05-072, the cease and desist order issued by this Commission on May 28, 1986, in connection with the utility's violation of Public Utilities Code § 532, General Order 153, and Tariff Rules 6 and 12. The Commission considered many aspects of the marketing abuse problem in D.86-05-072, including the role of Pacific Bell's telemarketing activities and sales quota programs in triggering the problem. In response to the evidence presented to it, the Commission ordered Pacific Bell to refrain from further cold selling telemarketing activities and to discontinue its sales quota program until further order (D.86-05-072, Ordering Paragraph 2).

Pacific Bell's Petition was prompted by the desire to modify its compensation plan for certain marketing employees (known as Account Executives-Telecommunications or AETs) to mirror a performance-based compensation plan presently applicable to other Account Executives (AEs) within the company. Since the new plan

involved incentive-based compensation, Pacific Bell wished to ensure it did not violate the letter or spirit of the cease and desist order.

In D.88-09-062, issued September 28, 1988, we referred Pacific Bell's proposal to initiate a program of performance-based compensation for AETs to the Customer Marketing Oversight Committee (CMOC). Pursuant to several prior Commission decisions, CMOC is charged with the overall responsibility of reviewing Pacific Bell's business and residence quota plans for both salaried and nonsalaried employees, and making necessary recommendations to the Commission in connection with this review. We specifically requested CMOC's recommendation on the issue whether the ban on sales quotas should be waived in connection with Pacific Bell's AET proposal.

In compliance with D.88-09-062, on November 23, 1988, the CMOC chairperson informed the assigned administrative law judge (ALJ) by letter that:

"The Customer Marketing Oversight Committee (CMOC) has approved the 'Account Executives-Telecommunications' (AETs) compensation proposal requested by Pacific Bell.

"Pacific Bell made two presentations on the AETs compensation plan to the CMOC. The description of the plan, set forth at page 2 of Decision 88-09-062 dated September 28, 1988, is accurate.

"At the November 14, 1988, CMOC meeting, the committee approved the Pacific Bell compensation plan for AETs by an unanimous oral vote with the CWA Service Representative abstaining."

Based on CMOC's recommendation, Pacific Bell should be granted a waiver from the provisions of D.86-05-072, Ordering Paragraph 2, in order to permit it to proceed with its proposal to extend a performance-based compensation plan to AETs. To that

extent, the relief requested in Pacific Bell's Petition for Modification of D.86-05-072 should be granted.

Findings of Fact

1. Pacific Bell seeks authorization to modify its compensation program for AETs to mirror a performance-based compensation plan presently in place for its AEs.

2. Pacific Bell makes this request in view of the Commission's cease and desist order which required discontinuance of Pacific Bell's sales quota plans until further order.

3. The CMOC is charged with a variety of responsibilities including the issue of the lifting of the ban on sales quotas, as reflected in D.87-12-067 (mimeo. pp. 91-92).

4. In D.88-09-062 we referred Pacific Bell's AET proposal to CMOC for a recommendation on the issue whether the ban on sales quotas should be waived in connection with that proposal.

5. In accordance with D.88-09-062 the CMOC chairperson informed the assigned ALJ by letter that CMOC had reviewed and unanimously approved the AET compensation plan; therefore, there is good cause for granting Pacific Bell a waiver from the provisions of D.86-05-072, Ordering Paragraph 2, thus enabling it to proceed with its proposal to extend a performance-based compensation plan to AETs.

Conclusions of Law

1. Pacific Bell has been ordered to cease and desist its cold selling telemarketing activities and discontinue its sales quota program until further order of this Commission, following review of these practices by the CMOC (D.86-05-072, Ordering Paragraph 2).

2. Pacific Bell should be granted a waiver from the provisions of Ordering Paragraph 2, D.86-05-072, in order to modify its compensation program for AETs in accordance with the terms authorized in its Petition for Modification.

ORDER

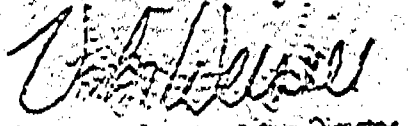
IT IS ORDERED that Pacific Bell's Petition for Modification of D.86-05-072 is granted to the extent consistent with the preceding discussion, Findings of Fact, and Conclusions of Law.

This order is effective today.

Dated FEB 24 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHEANIAN
Commissioners

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


Victor Wender, Executive Director

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