

Decision 89 03 054 MAR 2 2 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA.

Investigation instituted on the Commission's own motion into the operations, practices and regulation of coin and coinless customer-owned pay telephone service.

I.88-04-029
(Filed April 13, 1988) **Mailed**

MAR 23 1989

In the Matter of Investigation and Suspension on the Commission's own motion of tariffs authorizing the network connection of customer-owned instrument-implemented coin telephones, and the sale by Pacific Bell of such telephones and of booths and associated equipment, under Advice Letter No. 14876.

(I&S)
Case 85-02-051
(Filed February 21, 1985)

National Pay Telephone Corp.,

Complainant,

v.

Pacific Bell (U 1001 C),

Defendant.

Case 85-07-048
(Filed July 17, 1985)

**OPINION ON PETITION FOR
MODIFICATION BY GTE CALIFORNIA
INCORPORATED OF DECISION 88-11-051**

On November 23, 1988, the Commission issued Decision (D.) 88-11-051 in this proceeding. That decision required Pacific Bell (Pacific), GTE California Incorporated (GTEC), and Contel of California (Contel) to institute a compensation program for customer-owned pay telephone (COPT) operators of 6 cents per non-sent-paid completed call made over COPT instruments. This compensation plan is interim and nonprecedential, pending final

resolution of this and other issues in I.88-04-029, the Commission's investigation into COPT operations.

On December 23, 1988, GTEC filed a "Petition of GTE California Incorporated for Modification of Decision 88-11-051 and for Rehearing if the Modification is Denied." Since our rules do not allow filing for both modification and rehearing in the same pleading, it was accepted as only a petition for modification and so appeared in the Daily Calendar of December 29, 1988.

In its petition for modification, GTEC requests that the Commission provide explicit authority for GTEC to recover the revenues ordered to be paid to COPT operators. In addition, GTEC asserts that D.88-11-051 did not provide express authority for GTEC, Pacific, and Contel to recover their costs associated with the compensation program through other rates and charges. GTEC recommends that the decision be modified to provide for a temporary surcharge on operator service to be implemented concurrently with the initiation of compensation. GTEC proposes that the additional surcharge should last only so long as the interim compensation plan is in effect.

Both Pacific and Division of Ratepayer Advocates (DRA) filed responses to GTEC's petition for modification.

Pacific agrees with GTEC's position that the regulated local exchange companies are legally entitled to recover increases in revenue requirement arising from the Commission-mandated compensation to COPT providers, together with any costs incurred in establishing and administering such a compensation program. Pacific believes GTEC's proposal to institute a surcharge on operator services to offset the losses the compensation plan will cause is reasonable. However, Pacific also suggests as an alternative that the Commission establish a balancing account to record all costs associated with the compensation plan and in future rate proceedings eliminate the balancing account.

DRA recommends that this cost recovery issue should not be decided at this time, deferring it to the hearings scheduled for May 1989 in I.88-04-029. DRA believes options other than the surcharge proposed by GTEC should be considered before the Commission makes a final determination. DRA argues the appropriate place to consider those other options is during the May hearings.

GTEC filed a reply to the responses of Pacific and DRA on February 14, 1989. GTEC disagrees with DRA's position that the issue can be completely deferred until the May hearings. GTEC argues that some action must be taken now because the Commission could not later authorize recovery of the costs without raising the specter of retroactive ratemaking.

GTEC agrees with Pacific that a reasonable approach could be establishment of a balancing account to record the costs, with an unspecified future proceeding used to determine actual rate recovery.

We agree with GTEC that explicit guidance regarding cost recovery of the interim compensation plan is appropriate. However, DRA's argument that this issue should be dealt with in the context of the ongoing investigation, where all parties may address the issues, is persuasive.

Therefore we will adopt Pacific's suggestion and establish a memorandum account to record all costs incurred by the affected utilities associated with the interim compensation plan. These costs include the actual 6 cents per non-sent-paid completed call paid to COPT operators and the costs associated with administering this program. Even though only GTEC petitioned to modify D.88-11-051, we grant Pacific and Contel the option of establishing such memorandum accounts. These memorandum accounts shall remain in effect until the cost recovery issues are disposed of in I.88-04-029.

Parties shall address mechanisms for cost recovery of the amounts in these memorandum accounts as part of their testimony in

upcoming hearings scheduled for May 8-26, 1989. By authorizing these memorandum accounts, we do not find that the costs placed in these accounts are reasonably incurred. GTEC provided no breakdown or justification for administrative costs, and accordingly we caution the utilities to record only the costs specifically associated with the interim compensation plan.

We reiterate our intention stated clearly in D.88-11-051 that the 6 cents-per-non-sent-paid completed call compensation plan is interim and nonprecedential in nature. Whether any compensation is appropriate and if so, at what level, is an integral part of the Commission's investigation into COPT operations, I.88-04-029. We establish this memorandum account today only to provide utilities a vehicle for recording costs which may later be authorized for recovery. Since the issue of compensation will be revisited in the upcoming hearings, it is appropriate to postpone the determination of cost recovery of the interim plan until that time.

Findings of Fact

1. The purpose of this decision is to resolve GTEC's petition for modification of D.88-11-051 requesting a mechanism be established to allow recovery of the costs incurred by the interim 6 cents-per-non-sent-paid completed call compensation plan.

2. DRA proposes that the issue of selecting a mechanism for cost recovery be deferred until the already scheduled May hearings in I.88-04-029.

3. Pacific proposes that a memorandum account be established to record all costs associated with the compensation plan, with elimination of the memorandum account in a future rate proceeding.

4. GTEC agrees that establishment of a memorandum account with recovery in a future proceeding is a reasonable proposal.

5. I.88-04-029, with hearings scheduled for May 1989, is the appropriate proceeding for determining the appropriate cost recovery mechanism for the interim compensation plan.

6. It is reasonable to allow all three utilities (GTEC, Pacific, and Contel) ordered to institute a compensation plan in D.88-11-051 to now establish memorandum accounts recording all costs associated with those plans.

7. The Commission does not find at this time that all costs recorded in these memorandum accounts are reasonably incurred.

8. It is necessary to modify D.88-11-051 to authorize the establishment of memorandum accounts to record all costs associated with the interim compensation plan ordered in that decision.

Conclusions of Law

1. D.88-11-051 should be modified to authorize GTEC to establish memorandum accounts to record prospectively all costs associated with the interim 6 cents-per-non-sent-paid completed call compensation plan.

2. While not filing petitions for modification, Pacific and Contel should likewise be granted the option of establishing such memorandum accounts.

3. Determination of the appropriate cost recovery mechanism for these costs should be made during the upcoming May hearings in I.88-04-029.

ORDER

IT IS ORDERED that:

1. Decision 88-11-051 shall be modified as follows:
 - a. Finding 19 shall be added as follows: "19. It is reasonable to allow the establishment of memorandum accounts to record prospectively all costs associated with the interim compensation plan."
 - b. Finding 20 shall be added as follows: "20. I.88-04-029 is the appropriate proceeding to determine the mechanism for cost recovery of the amounts in memorandum accounts during the scheduled May 1989 hearings."

- c. Conclusion 11 shall be added as follows:
"11. The Commission should allow GTEC, Pacific, and Contel to establish memorandum accounts to record prospectively all costs associated with the interim compensation plan authorized in this decision."
- d. Conclusion 12 shall be added as follows:
"12. Parties should present their recommendations for a mechanism for cost recovery of the amounts in these balancing accounts during the hearings scheduled for May 1989 in I.88-04-029."
- e. Ordering Paragraph 4 shall be added as follows: "4. GTEC, Pacific, and Contel are authorized to establish memorandum accounts discussed in Conclusion of Law 11 above."

2. Except as otherwise granted in this order, GTEC's petition for modification is denied and D.88-11-051 remains in full force and effect.

This order is effective today.

Dated March 22, 1989, at San Francisco, California.

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

Commissioner Patricia Eckert
present but not participating.

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


Victor Weisser, Executive Director

- c. Conclusion 11 shall be added as follows:
"11. The Commission should allow GTEC, Pacific, and Contel to establish memorandum accounts to record prospectively all costs associated with the interim compensation plan authorized in this decision."
- d. Conclusion 12 shall be added as follows:
"12. Parties should present their recommendations for a mechanism for cost recovery of the amounts in these balancing accounts during the hearings scheduled for May 1989 in I.88-04-029."
- e. Ordering Paragraph 4 shall be added as follows: "4. GTEC, Pacific, and Contel are authorized to establish memorandum accounts discussed in Conclusion of Law 11 above."

2. Except as otherwise granted in this order, GTEC's petition for modification is denied.

This order is effective today.

Dated MAR 22 1989, at San Francisco, California.

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

Commissioner Patricia Eckert,
present but not participating