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Decision 90-12-103 Dec 19 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Pacific Bell)
(U 1001 C) Advice Letter No. 15719 to))
Revise Schedule Cal.P.U.C. Nos. A5.))
Exchange Services, 5.11.1 Basic))
Service Elements and A9. Central))
Office Services, 9.1.1 Centrex and))
9.4 Call Management Systems to be))
Consistent with California Public))
Utilities Code Section 2893))

ORIGINAL

Application 90-10-035
(Filed October 12, 1990)

ORDER DENYING REHEARING OF RESOLUTION T-14094
AND MODIFYING AND CLARIFYING THE RESOLUTION

PACIFIC BELL (Pacific) has filed an application for rehearing of Resolution T-14094, which resolved Pacific's Advice Letter No. 15719 as entitled above.

Pacific alleges that we erred in applying Public Utilities Code § 2893[2] to forwarded call information (FCI) in Resolution T-14094. We determined in D.90-11-076, in Application 89-12-010, that § 2893 does apply to FCI non-Centrex service. Advice Letter No. 15719 raises the same issue with respect to Centrex FCI.

However, the record on which we determined that § 2893 applies to this service was incomplete in a number of respects. Section 2893 refers to the availability of free blocking with the provision of a "telephone call identification service." To date, we have interpreted this section as applicable whenever the calling party's telephone number is forwarded in some manner at the same time the call is completed. However, we are without the benefit of a substantial record on the customer premises equipment (CPE) that may be compatible with or generally used in

2 Unless otherwise stated, all statutory references herein are to the California Public Utilities Code.

conjunction with that capability. We have also not explored the potential usefulness of utility tariff restrictions that might limit the use of FCI so that the resulting package is not a caller identification service. Nor have we examined whether such restrictions are sufficiently enforceable to rely upon under these circumstances.

While Pacific's application contends that our interpretation of the applicability of § 2893 is inconsistent with the bill's legislative history, it provides us no documentation to support that assertion. We do note a recent letter to the Commission dated November 21, 1990, in which Assemblyman Eaves stated that it was his clear intent that § 2893 not apply to call number forwarding capability, but to a caller identification service. While this letter is not included in the legislative history of § 2893, it nonetheless represents a further reason for developing a fuller evidentiary record to address this question. A call number forwarding capability may need to be intended or expected to be combined with the use of particular CPE in order to constitute a caller identification service.

In the interest of making this important legal interpretation with the fullest possible record, we will request that parties supply evidence on these factual issues as well as any relevant legal argument in this rehearing.

Pacific has also alleged that we erred in requiring calling number information (CNI) to be blocked for some directly dialed calls; Pacific alleges that such blocking is not technologically possible. However, this allegation does not comport with the information submitted by Pacific in support of Advice Letter 15719. Our intent in Resolution T-14094 was to exempt only those switches for which blocking of CNI is technologically impossible. According to the information Pacific originally submitted, this exemption applied only to the 1AESS switch, which we exempted specifically in Ordering Paragraph 2 of Resolution T-14094. Pacific has not submitted any evidence at

all in this application to support its position or negate the statements regarding blocking capability which it submitted in the advice letter proceeding. We require a better record to decide this issue.

At the same time, we remind Pacific that our finding No. 14, in which we stated that Pacific's customers should have available to them the same privacy safeguards available to GTEC customers, remains in effect. We will expect Pacific to take every reasonable step and with all due diligence to comply with § 2893. In view of the stay we grant today, it is even more important that Pacific notify its customers of the circumstances under which their phone numbers may be disclosed when placing call as we ordered in Ordering Paragraph 3 of Resolution T-14094.

Therefore,

IT IS ORDERED that:

1. Limited rehearing of Resolution T-14094 is hereby granted for the purpose of developing an evidentiary record on the following issues:

a. Which switches used in FCI service are technologically capable of blocking caller identification information from directly-dialed telephone calls to voice mail machines;

b. What CPE is needed to provide caller identification service and how that equipment is different from the CPE required for FCI service;

c. Whether customers can obtain caller identification information from the data channel of FCI service, and what equipment is required for them to do so;

d. Whether tariff restrictions prohibiting customer access to caller identification information on the FCI data channel can provide reasonable protection against disclosure of the caller's telephone number when placing a call;

e. Whether § 2893 should be interpreted so as to require the use of particular CPE before a caller

identification service is created, and whether such an interpretation is consistent with our jurisdiction.

2. Ordering Paragraphs 1 and 2 of Resolution T-14094 are hereby stayed pending the outcome of the limited rehearing.

3. Rehearing will be held at a time and place to be noticed by the assigned Administrative Law Judge as soon as possible.

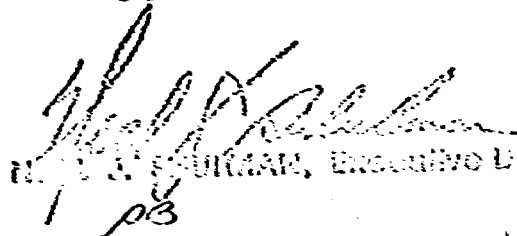
4. The Executive Director shall provide notice of such rehearing to all parties to A.89-12-010 as well as to all protestants to Advice Letter 15719, in the manner prescribed by Rule 52 of the commission's Rules of Practice and Procedure.

This order is effective today.

Dated December 19, 1990, at San Francisco, California.

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

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


H. J. FURMAN, Executive Director
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