

Decision 91-02-018 February 6, 1991

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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 to telephone service furnished within the State of California.

ORIGINAL
Application 85-01-034
(Filed January 15, 1985)

And Related Matters.

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

OII 84
(Filed December 2, 1980)

INTERIM OPINION

On December 20, 1990, Pacific Bell (Pacific) filed an Emergency Petition for Modification of Decision (D.) 90-10-064. The petition seeks an extension of approximately six months for filing tariffs pursuant to D.90-10-064. This decision denies Pacific's petition but addresses an inconsistency in D.90-10-064 which is to be resolved in hearings.

I. Demarcation Points

A. Background

D.90-10-064 established broad policy for setting "demarcation points." A demarcation point is the place in or about a customer's premise where the utility's inside wire stops and the customer's inside wire begins. The demarcation point therefore defines the relative responsibilities of customers and utilities for repair and maintenance of certain telecommunications equipment, specifically inside wiring.

The decisions set forth the following guidelines for the utilities:

The minimum point of presence for all new and fully renovated buildings, whether residential or commercial, shall be at the distribution terminal on each floor or any such multi-floor, single and multi-tenant building for all services provided by local exchange companies, except as provided in other rules;

The utilities shall install and maintain riser cable or wire in new and fully renovated buildings except where customers or building owners provide their own cable or wire. Customers and building owners who install their own cable will be responsible for its repair and maintenance;

For purposes of establishing demarcation points, Centrex customers and PBX customers shall be treated alike;

The utilities may negotiate demarcation points with building owners and customers where unusual circumstances exist;

The utilities shall be responsible for inside wire maintenance (IWM) in cases where the utilities provide customer premises equipment, such as 911 services, coin telephone services, and non-modular services for the disabled.

The decision ordered the local exchange companies to file tariffs implementing these provisions by December 24, 1990.

On November 29, 1990, Pacific sought, in a letter to the Executive Director, an extension of time to July 1, 1991. The Executive Director granted a 30-day extension. On January 14, 1991 the Executive Director sent another letter to Pacific, in response to its subject emergency petition, filed December 20, 1990 stating Pacific should file its advice letter and proposed tariffs setting forth demarcation points for inside wire on January 25, 1991 pending the Commission's response to its petition.

B. Pacific's Emergency Petition

Pacific seeks an eight-month extension of time for filing tariffs because it believes D.90-10-064 requires substantial overhaul of dozens of tariffs. The main reason for the many tariff changes Pacific believes it must make is that Pacific intends to "unbundle" riser cable (one type of inside wire) which would require changes, some substantial, to dozens of existing tariffs. "Unbundling" riser cable means that Pacific would charge separately for the installation and maintenance of riser cable and for each product and service associated with riser cable. Currently, Pacific includes those services as part of other services and without separate charges.

Pacific believes it needs to unbundle riser cable in order to comply with D.90-10-064 and an order issued by the Federal Communications Commission (FCC) on June 14, 1990. Pacific states that in order to unbundle riser cable, it must undertake cost studies, educate thousands of employees, and notify its customers in advance of the changes to its tariffs.

C. Response by DRA

DRA filed a response to Pacific's petition. It believes Pacific is "conceptually on the right path" in that Pacific's proposal would permit the local exchange companies to fulfill the requirement of D.90-10-064 that PBX and Centrex customers be treated alike. DRA comments, however, that the advice letter procedure is an improper way to address Pacific's proposed unbundling of riser cable. It recommends that the Commission require all local exchange companies to file applications to propose proper tariff changes relating to the new demarcation point policies, to evaluate associated revenue requirement effects and to address recovery methods for costs incurred from implementing the new policies. More specifically, DRA suggests the Commission order the utilities to file applications on or before July 1, 1991

setting forth necessary tariff provisions to effectuate the policies adopted in D.90-10-064.

D. Discussion

Pacific seeks an eight-month extension to file tariffs in this proceeding, citing several reasons for the requested delay, such as the need to notify customers and undertake cost studies. All of Pacific's arguments are premised on an assumption that it will unbundle riser cable. While we agree that Pacific may need additional time to notify customers and undertake cost studies if it unbundles riser cable, we do not agree with Pacific's assumption that it may, without specific authority from the Commission, unbundle riser cable.

D.90-10-064 did not authorize Pacific to unbundle riser cable. To the contrary, it directed the utilities to install and maintain riser cable for multi-unit buildings except where customers or building owners provide their own cable or wire. One of the reasons the decision took this position was to avoid confusion by tenants regarding responsibility for repairs to jointly used equipment. Pacific's petition points out, in fact, that it did not seek authority in this proceeding to begin charging individual customers for riser cable.

The FCC's order on this subject does not, as Pacific argues, require Pacific to unbundle riser cable. The FCC Report and Order and Further Notice of Proposed Rulemaking (CC Docket No.88-57, Released June 14, 1990) provides only that if the building owner requests a demarcation point on each floor, the riser cable would be placed by the utility. The order does not make any determinations about whether riser cable costs would be rolled into the utility's total revenue requirement (and recovered in rates generally) or charged to individual customers who incur those costs.

Unbundling riser cable, as Pacific points out, would be a substantial change to the status quo. Building owners and builders

would incur costs not previously charged by the utilities. The changes Pacific proposes may require substantial tariff changes and the submittal of cost and pricing information consistent with the costing principles set forth in D.89-10-031. Additionally, a review of the revenue requirement effects of charging for installation and maintenance of riser cable is warranted.

Like DRA, we believe Pacific's proposal is consistent with our objective of promoting more efficient and competitive markets for inside wire installation and maintenance, an objective which appears especially germane for new and renovated multi-unit buildings. However, as DRA points out, the advice letter process is not an appropriate avenue for making such substantial changes to utility practices.

In considering Pacific's petition, we now recognize that D.90-10-064 appears to present the utilities with a paradox. It requires them to treat Centrex and PBX customers alike while requiring them to install and maintain inside wire up to the distribution terminal of each floor in multi-unit buildings. It appears the utilities cannot accomplish both requirements. If the utilities take responsibility for riser cable to the distribution terminals of each floor for both Centrex and PBX customers, they will be providing a regulated, "bundled" product on the customer's side of premises equipment in the case of PBX customers. This arrangement may be both complex from the standpoint of property rights and inconsistent with FCC policy. The other option would be for the utilities to install and maintain riser cable on a fee-for-service, unbundled basis, as Pacific suggests. As discussed above, this is inconsistent with our order.

The inconsistent directives in D.90-10-064 require us to reconsider our decision setting demarcation points. At first impression, we favor Pacific's proposal to unbundle riser cable. No party has objected to Pacific's proposal as set forth in its petition. However, because the issue has not been heretofore

considered, we would like to provide parties with an opportunity to air their views on the matter. In any case, a forum is required to consider implementation of Pacific's proposal because of the effects it may have on revenue requirement and on prices of related products.

As DRA points out, other utilities which have filed tariffs pursuant to D.90-10-064 do not appear to have resolved how they will treat Centrex and PBX customers alike and still set the demarcation point at the distribution terminal at each floor of multi-unit buildings. They should therefore be respondents to any further action we take in regard to this issue.

We comment that D.90-10-064 does not present any inconsistency with regard to residential buildings which generally are not equipped with complex wiring or telecommunications capabilities. Moreover, we are still concerned that the law is unsettled regarding the responsibilities of landlords and tenants for inside wire repairs. Therefore, we will not reconsider our order requiring the utilities to set the demarcation point at the distribution terminal of each floor in new and renovated multi-unit residential buildings. As we stated in D.90-10-064, we may reconsider this view if and when the law is clarified by statute.

To conclude, we will deny Pacific's petition seeking an extension to file its tariffs pursuant to D.90-10-064. We will, however, reconsider certain elements of that decision. Specifically, the utilities will be required to submit testimony responding to the following issues:

Can the local exchange companies treat PBX and Centrex customers "alike," as required by D.90-10-064, and otherwise comply with D.90-10-064?

Should the local exchange companies be directed to "unbundle" riser cable for new and renovated multi-unit commercial buildings such that building owners would pay for installation and maintenance of riser cable?

If riser cable is unbundled, where should the demarcation point be located on new and renovated multi-unit commercial buildings? How should prices for installation and maintenance of riser cable be set? How should other tariffs be adjusted to account for the new charges for riser cable installation and maintenance?

Should the local exchange companies' revenue requirements be adjusted to account for the new source of revenue associated with unbundling riser cable? If so, how?

We will direct the local exchange companies to serve on all parties to OII 84 testimony responding to these questions. The due date for respondent utility testimony shall be April 1, 1991. Intervenors may respond to utility submittals by May 15, 1991. These dates may be changed by the assigned administrative law judge.

Findings of Fact

1. Pacific seeks an extension to July 1, 1991 to file tariffs pursuant to D.90-10-064 so that it may unbundle riser cable.
2. Unbundling riser cable from existing tariffs is likely to require several months more than the time allotted by D.90-10-064 for filing tariffs setting forth new demarcation points for new and remodeled multi-unit buildings.
3. Unbundling riser cable appears to be consistent with the Commission's objectives regarding promoting competition in the area of inside wire installation and maintenance.
4. Unbundling riser cable in multi-unit residential buildings may cause unreasonable customer confusion and result in individual liability for jointly-used inside wire.
5. D.90-10-064 requires local exchange companies to treat Centrex and PBX customers alike and also requires the demarcation point for new and renovated multi-unit buildings to be placed at

the distribution terminal of each floor. It appears the utilities cannot fulfill both of these requirements for commercial buildings.

Conclusions of Law

1. D.90-10-064 does not authorize any utility to charge for installation or maintenance of riser cable.

2. The Commission should reopen this proceeding for the purpose of determining whether the demarcation point for new and renovated multi-unit commercial buildings should be changed and whether riser cable should be unbundled.

3. The Commission should deny Pacific's Emergency Petitions for Modification of D.90-10-064.

INTERIM ORDER

IT IS ORDERED that:

1. All local exchange companies shall submit to all parties to OII 84, by April 1, 1991, testimony which addresses the following:

Can the local exchange companies treat PBX and Centrex customers "alike," as required by D.90-10-064, and otherwise comply with D.90-10-064?

Should the local exchange companies be directed to "unbundle" riser cable for new and renovated multi-unit commercial buildings such that building owners would pay for installation and maintenance of riser cable?

If riser cable is unbundled, where should the demarcation point be located on new and renovated multi-unit commercial buildings? How should prices for installation and maintenance of riser cable be set? How should other tariffs be adjusted to account for the new charges for riser cable installation and maintenance?

Should the local exchange companies' revenue requirements be adjusted to account for the new source of revenue associated with unbundling riser cable? If so, how?

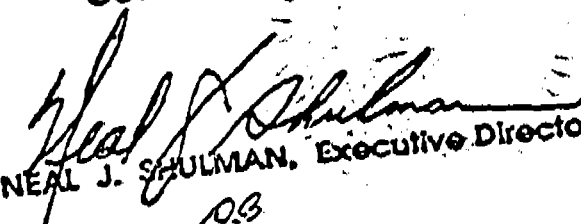
2. The Emergency Petition for Modification of Decision 90-10-064 filed by Pacific Bell is denied.

This order becomes effective 30 days from today.

Dated February 6, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

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


NEAL J. SHULMAN, Executive Director
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