

Mailez

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Decision 91-04-065 April 24, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
Pacific Bell, a corporation, for )  
authority to establish a tariff )  
schedule for Information Calling )  
Services. )

**ORIGINAL**

Application 88-04-004  
(Filed April 1, 1988)

And Related Matters. )

Application 87-05-049  
(Filed May 26, 1987)

I.85-04-047  
(Filed April 17, 1985)

(See D.89-02-066 for appearances through January 1989.)

Additional Appearances (October 27, 1989)

Bruce Ramsey, Attorney at Law, and Chris  
Ramsussen, for Pacific Bell, applicant.  
Messrs. Cooper, White & Cooper, by Mark E.  
Schreiber, E. Garth Black, and Alvin R.  
Pelavin, Attorneys at Law, for Roseville  
Telephone Company, Calaveras Telephone  
Company, California-Oregon Telephone Company,  
Ducor Telephone Company, Foresthill Telephone  
Company, Happy Valley Telephone Company,  
Hornitos Telephone Company, The Ponderosa  
Telephone Company, and Winterhaven Telephone  
Company; and David A. Wilk, for Surf Line,  
Inc.; interested parties.  
Martha J. Sullivan, for the Commission Advisory  
and Compliance Division.

O P I N I O N

This decision adopts a billed minute methodology for the allocation of the costs associated with blocking of 976 and 900 calls. The rates we establish will allow for full recovery of historical blocking costs, as well as ongoing blocking costs,

within ten years by Pacific Bell (Pacific) and within seven years by GTE California Inc. (GTEC). Annual compliance filings by Pacific and GTEC will allow the Commission to monitor recovery of these costs.

Background

When we first ordered telephone companies to offer residential customers the option of blocking 976 calls, we stated that the total cost of providing blocking is unknown and that further hearings to determine the amount and allocation of costs would be necessary. (Decision (D.) 87-12-038, p. 33.) We directed both Pacific and GTEC to set up appropriate accounts to record the revenues and expenses. We ordered that further hearings be held to determine the proper allocation of costs for blocking of 976 calls. But in D.88-03-042, we suspended these hearings pending further order of the Commission.

At a prehearing conference on July 15, 1988, the issue of the allocation of 976 blocking costs was consolidated with Pacific's 900 application (Application (A.) 88-04-004). On September 1, Pacific, GTEC, and the Information Providers Association filed a settlement in the consolidated proceeding, relating to the allocation of blocking costs. Under the terms of this settlement, all costs for providing residential blocking, including the costs of notifying residential customers of blocking, will be recovered from the 976 and 900 information providers (IPs), except that costs relating to Pacific's six-week radio/telephone notification during the first quarter of 1988 will be excluded from recovery from IPs. Pacific and GTEC will recover residential blocking costs by assessing a charge for each billed minute of information access service or information calling services calls made to a given provider from Pacific's or GTEC's territory. The rates as set forth in the 976 settlement were \$.020 for Pacific and \$.035 for GTEC. GTEC later decreased the proposed per minute surcharge to \$.026. These rates were projected to recover

residential blocking costs over approximately 5 to 7 years. The charges would be lowered by respective advice letter filings to recover only on-going blocking costs when tracking shows that Pacific and GTEC are current in recovering their historical costs.

In D.89-02-066, we found the proposed rates and method of allocation proposed in the 976 settlement to be reasonable on an interim basis.

However, we also concluded

"that the settlement did not adequately address the issue of whether certain types of programs are more likely to cause the need for blocking than are others. While we are hesitant to attempt such an attribution on the basis of content, we believe that many consumers order blocking because of program content. Alternatively, consumers are also concerned about the possibility of high bills for 976; this suggests that a relationship may exist between program price and a stimulus to the demand for residential blocking.

"We know that statistics are available regarding the percentages of calls that are charged back to IPs in the refund process. We believe that the demand for refunds is closely related to the demand for blocking. By reviewing that data, we might determine a more fair allocation of blocking costs. However, this data is not now on the record. Furthermore, a review of the existing 976 tariff reveals that the settlement's method for recovering blocking costs would cost a greater percentage of a provider's net revenue for a low-priced call as compared to a higher-priced call. Again, this may not be fair if there is some systematic relationship between the price of a call and the need for blocking.

"We will order a further hearing on the allocation of blocking costs. We put the parties on notice that the settlement's allocation method, which we will put in place for an interim period, may be changed after this hearing." (D.89-02-066, pp. 78-79.)

A prehearing conference was held on October 27, 1989. Pacific and GTEC submitted prefiled testimony on January 10, 1990. Other parties submitted prefiled testimony on January 29, 1990. Hearings were held February 8, 9, 13, and 14, 1990. The case was submitted on April 2, 1990.

Discussion

Allocation Methodology

Our first task is to determine the amount of costs incurred by Pacific and GTEC which are to be allocated among the IPs. Both Pacific and GTEC prepared cost studies. These studies were received into evidence. No party raised objections to these studies during the hearings. No party offered evidence to contradict any aspect of these studies. However, Telesphere Network, Inc.'s (Telesphere) brief asserts, without specific reference to the record, that

"[m]uch of the record details questions regarding Pacific's method of calculating the costs and the accuracy of Pacific's calculation. Telesphere believes that the large discrepancies between GTEC's and Pacific's calculations indicates that there should be greater scrutiny of Pacific's cost estimates before the Commission adopts any of the proposed new figures." (Telesphere Brief, p. 10.)

Because Telesphere's allegation that "much of the record details questions" is not supported by even a single reference to the record, we find the allegation to be unpersuasive. Therefore, we will adopt these studies as submitted.

Our second task is to determine the appropriate method for allocation of blocking costs among IPs. Two methodologies were presented for our consideration: (1) the billed minute methodology, and (2) the net remittable revenue methodology.

The billed minute methodology is currently employed on an interim basis. Pacific currently assesses IPs a flat rate of \$.02 per minute per call. GTEC's rate is \$.026 per minute. American

Telephone & Telegraph Company (AT&T), MCI Telecommunications Corporation (MCI), Telesphere, and GTEC support the current rate recovery mechanism. "The per billed minute method," GTEC contends, "is simple, is used universally in telecommunications billing, and there is an historical basis for predicting minutes billed." AT&T similarly urges that the billed minute methodology is equitable, has proven to be workable, and would require no additional costs to implement.

The net remittable revenue methodology was proposed by Pacific. Rather than assigning a fixed rate to each billed minute, Pacific would define net remittable revenue and then recover a specified percentage of those revenues. This methodology is supported by the Division of Ratepayer Advocates (DRA). It is opposed by AT&T, MCI, Telesphere, and GTEC.

We initiated this further review of the allocation of the blocking costs largely at the urging of several IPs which offer relatively low-priced programs. They urged that the billed minute approach is inherently unfair to low-priced programs. As David Wilk (Surf Line) argued in a statement presented during the hearings:

"A flat rate per minute discriminates against information services that charge their customers less. Surf Line charges around a dollar for a two-minute phone call... Companies charging a higher price to callers presently pay the same two cents per minute that we pay. It is a much lower percentage of their profit or income per call than is ours."  
(Tr. Vol. 11, p. 1538.)

Pacific and DRA believe that the net remittable revenue methodology will be fairer to IPs. Pacific's witness testified that the IPs with which Pacific talked found the net remittable revenue methodology to be fairer.

Telesphere notes that Pacific supports 263 IPs on its 976 service and 43 IPs on its 900 service. IPs using the 976 service

are limited by a \$2.00 rate cap. According to Telesphere, the record does not indicate if IPs offering programs in the \$10.00 to \$25.00 range would find the net remittable revenue method to be fairer, "but the logical conclusion would be that IEC-served IPs would more than likely prefer the existing per billed minute method rather than a percentage of net revenue as suggested by Pacific." (Telesphere Brief, p. 8.)

Ideally, as we stated in D.89-02-063, the fairest method would be to assess the costs of blocking to those IPs which generate the requests for blocking.

Pacific has attempted to demonstrate that higher priced programs cause more requests for blocking. We have carefully reviewed Pacific's offer of evidence. We do not find it to be persuasive. The correlation between requests for adjustments and requests for blocking is intuitively, not statistically, derived. As Pacific's witness testified:

"Statistically there's no indication that a specific program resulted in -- a specific price program resulted in adjustments which resulted in blocking, but we did have a correlation, a high degree of correlation between a request for blocking and a request to adjust, but I don't have any statistical correlation." (Tr. Vol. 13, p. 1831.)

We find that Pacific's attempt to find a correlation between the price of the program and motivation to block is based on an unsubstantiated premise - that adjustments are synonymous with blocking.

DRA also argues that there is a positive correlation between the program price and the adjustment rate. However, DRA similarly failed to show a correlation between the adjustment rate and the demand for blocking.

In summary, the testimony offered by DRA and Pacific has failed to demonstrate a clear correlation between the per minute price of a program and requests for blocking. In the absence of a

clear correlation, we are not persuaded that the net remittable methodology will more accurately attribute the costs of blocking to the programs which may cause the need for blocking.

In the absence of a proven correlation between the price of programs and the demand for blocking, which allocation approach is fairer? Some parties argue that the blocking allocation surcharge would be fairest if it were structured like a sales tax or an income tax, based on a percentage of total revenue or income. Other parties argue that the surcharge is fairest if it is structured like a gasoline tax, based on a fixed rate per gallon of fuel, regardless of the cost of the fuel. While good arguments have been made in support of both methodologies, the evidence in this record supports retention of the billed minute methodology. Neither system of assessment is inherently unfair. It is true that the billed minute methodology may impose a greater burden on lower price programs when measured on a percentage basis. On the other hand, the impact of the billed minute methodology in actual terms is slight.<sup>1</sup> Therefore, we will adopt the billed minute methodology for recovery of blocking costs by Pacific and GTEC.

#### Recovery period

Pacific recommends that the cost recovery period should be set to allow full recovery of the historical blocking costs within ten years from the Commission decision in this matter. Under the billed minute methodology, Pacific recommends a rate of \$.012 per minute. This proposed rate is based on the assumption

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1 For example, Pacific's rate per minute under the billed minute methodology (assuming IEC contribution) is \$.012 per minute, compared to a rate of 1.8% under the net remittable revenue methodology. At these rates, the total cost to an IP for a three-minute \$2.00 976 call is equal under either methodology. The total cost to an IP for a three-minute \$1.00 976 call is \$.036 under the billed minute methodology, and \$.018 under the net remittable revenue methodology.

that all IPs on an interexchange carrier's (IEC) intrastate 900 service will contribute and that the total usage of all IPs on the IECs' intrastate services will be approximately the same as the total usage of all IP's using Pacific's 900/976 service. Without IEC contribution, Pacific estimates that a rate of \$.024 per minute would be required to ensure full recovery of historical blocking costs within ten years.

Pacific's proposal for a ten-year recovery period and a rate of \$.012 per minute (assuming IEC contribution) is consistent with the position of the other parties to this proceeding.

The extent of IEC contribution is not known at this time. Therefore, we will continue the current rate of \$.02 per minute for calendar year 1991. Should two or more IECs initiate intrastate 900 service, Pacific shall file an advice letter to lower the rate to \$.012 per minute. The revised rate shall not be effective prior to January 1, 1992.

GTEC proposes that we authorize it to continue the current charge of \$.026 per minute. This will allow GTEC to recover its historical blocking costs over four years. The estimated four-year recovery period assumes no contribution from the IECs. Unlike Pacific, GTEC did not provide to the record an estimate of the rate per minute assuming contribution from the IECs.

While GTEC believes that a four-year recovery period is appropriate, GTEC "could support a recovery period of up to seven years as long as carrying costs over that period are taken into account in determining the per minute rate." (GTEC Brief, p. 6.) However, GTEC did not provide for the benefit of this record an estimate of the rate per minute assuming a seven-year recovery period.

In the absence of a specific estimate of the per minute rate necessary to recover GTEC's historical blocking costs over a seven-year recovery period, we are not in a position to adopt a



permanent rate for GTEC. Therefore, for 1991 we will adopt a per minute rate for GTEC of \$.02, the same as for Pacific. This rate should allow full recovery of historical costs in less than eight years. Should two or more IECs initiate intrastate 900 service, GTEC shall file by advice letter for a revised per minute rate. The revised rate shall not be effective prior to January 1, 1992. The revised per minute rate for GTEC shall assume a contribution from IECs' intrastate 900 IPs at least equal to that which is generated by IPs using Pacific's 900/976 services in GTEC's service territory, and a recovery period of no less than seven years.

As is the current practice, the recovery of blocking costs shall carry interest.

DRA, AT&T, and Telesphere recommend that there be only one rate for both Pacific and GTEC, rather than a separate rate for each. For calendar year 1991, the per minute rate will be the same. After 1991, assuming a contribution from the IECs, the rates for Pacific and GTEC may differ. None of the proponents of a uniform rate have articulately explained why a single rate is necessary. We see no reason offered in this record to require a uniform rate after 1991.

Monitoring the recovery of blocking costs

All parties agree that Pacific and GTEC should file annual reports tracking blocking costs and revenues. However, the parties differ slightly regarding the content of such reports. Based on our review of the various recommendations, we will direct the filing of annual reports as follows:

1. Pacific and GTEC shall file an annual compliance report with the Commission Advisory and Compliance Division. The report shall be served on DRA and each IEC from whom the local exchange company (LEC) collects blocking costs.
2. The report shall include (a) the total blocking costs incurred to date (both

historical costs and ongoing costs),  
(b) total blocking costs recovered through  
rates, and (c) an estimate of the remaining  
time period necessary to fully recover  
historical costs.

3. The report shall be filed no later than  
February 28, 1992, and by February 28 of  
each year thereafter. The report shall be  
complete through the end of the preceding  
calendar year.

Several parties recommend procedures for mid-course  
corrections of the blocking allocation rate. These proposals would  
authorize a change in the blocking allocation rate if the actual  
rate of recovery varied by 10% to 30% of the estimated rate of  
recovery. We will not adopt any proposal for mid-course  
corrections. The fact that the recovery period may be a little  
longer or shorter than we presently estimate is not of significant  
concern. Of course, if there are substantial changes in  
circumstances after rates are revised at the end of 1991, either  
utility may make the appropriate filing to revise its rates. Our  
standard procedures afford parties the opportunity to bring such  
changes to our attention. It is not necessary for us to determine  
the precise circumstances under which future requests may be filed.

Which IPs should contribute?

Both interstate IPs and intrastate IPs may contribute to  
the need for blocking. Surf Line suggests that interstate IPs  
should also be required to contribute to the costs of blocking.  
While the Commission agrees in principle with this proposition,  
such assessments on interstate calls are a question of interstate  
regulation and are beyond the scope of this proceeding.

Most parties agree that the adopted cost recovery  
methodology should apply equally to all intrastate calls. MCI  
suggests that the LECs should provide end-users of MCI's 900  
service the same blocking options that LECs provide end users of  
their own service. During the hearings, Pacific indicated that if

an IEC designated a harmful matter prefix or a live prefix, Pacific would include such prefix in the selective blocking options offered for Pacific's own 900 prefixes. This is a reasonable approach for both Pacific and GTEC: to provide IEC 900 services with the same blocking capabilities available for the LEC's 900/976 services.

Findings of Fact

1. Pacific and GTEC submitted studies of the costs they have incurred in blocking 900 and 976 programs.

2. There is no evidence in the record to dispute the cost studies prepared by Pacific and GTEC.

3. The methodology which is currently employed on an interim basis to allocate the costs of 900/976 blocking to IPs is the billed minute methodology. Pacific and GTEC currently assess IPs a flat rate of \$.02 and \$.026, respectively, per minute per call.

4. AT&T, MCI, Telesphere, and GTEC support the current rate recovery mechanism.

5. The net remittable revenue methodology was proposed by Pacific. Rather than assigning a fixed rate to each billed minute, Pacific would define net remittable revenue and then recover a specified percentage of those revenues.

6. The net remittable revenue methodology is supported by DRA.

7. No statistical correlation between requests for adjustments and requests for blocking has been established.

8. The billed minute methodology may impose a greater burden on lower price programs when measured on a percentage basis. On the other hand, the impact of the billed minute methodology in actual terms is slight.

9. Pacific's proposal for a ten-year recovery period and a rate of \$.012 per minute (assuming IEC contribution) is consistent with the position of the other parties to this proceeding.

10. GTEC would support a recovery period of up to seven years as long as carrying costs over that period are taken into account in determining the per minute rate.

11. Pacific agrees that if an IEC designates a harmful matter prefix or a live prefix, Pacific will include such prefix in the selective blocking options as are Pacific's own 900 prefixes.

Conclusion of Law

The billed minute methodology for allocation of blocking costs should be retained.

ORDER

IT IS ORDERED that:

1. The cost studies submitted by Pacific Bell (Pacific) and GTE California Incorporated (GTEC) are adopted as submitted.

2. A recovery rate of \$.02 per billed minute is adopted for all intrastate 900 and 976 calls completed after the effective date of this decision.

3. Should two or more interexchange carriers (IECs) initiate intrastate 900 service, Pacific shall file an advice letter to lower the rate to \$.012 per minute. The revised rate shall not be effective prior to January 1, 1992.

4. Should two or more IECs initiate intrastate 900 service, GTEC shall file by advice letter for a revised per minute rate. The revised rate shall not be effective prior to January 1, 1992. The revised per minute rate shall assume a contribution from intrastate IEC 900 information providers (IPs) at least equal to that which is generated by IPs using Pacific's 900/976 services in GTEC's service territory, and a recovery period of no less than seven years.

5. a. Pacific and GTEC shall file an annual compliance report with the Commission Advisory and Compliance Division. The report shall be served on Division of Ratepayer Advocates and each IEC from whom the local exchange company collects blocking costs.

b. The report shall include (1) the total blocking costs incurred to date (both historical costs and ongoing costs), (2) total blocking costs recovered through rates, and (3) an estimate of the remaining time period necessary to fully recover historical costs.

c. The report shall be filed no later than February 28, 1992, and by February 28 of each year thereafter. The report shall be complete through the end of the preceding calendar year.

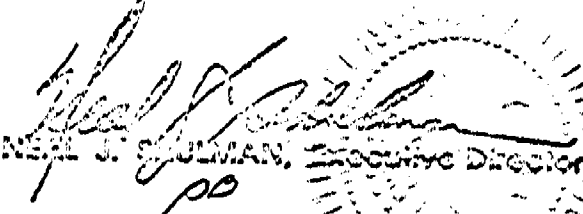
6. These proceedings are closed.

This order becomes effective 30 days from today.

Dated April 24, 1991, at San Francisco, California.

PATRICIA M. ECKERT  
President  
G. MITCHELL WILK  
JOHN B. OHANIAN  
DANIEL Wm. FESSLER  
NORMAN D. SHUMWAY  
Commissioners

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

  
NEIL J. SCHULMAN, Executive Director  
