

Decision 91-04-072 April 24, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Expedited Application of Pacific Bell (U 1001 C), a corporation, for approval of Store and Forward Service for Facsimiles.

ORIGINAL
(EAD)

Application 90-04-052
(Filed April 27, 1990)

ORDER MODIFYING DECISION 90-07-052
AND DENYING APPLICATION FOR REHEARING

Pacific Bell (Pacific) has filed an application for rehearing of Decision (D.) 90-07-052, in which the Commission granted Pacific authority to offer Fax Store and Forward Service. Pacific's application for rehearing challenges the requirement that Pacific tariff the service and the limitation of the authority granted to a period of one year.

We have carefully considered all of the issues and arguments raised in the application for rehearing and are of the opinion that sufficient grounds for granting rehearing have not been shown, but that the decision should be modified in certain limited respects. Upon reconsideration, we have decided that we should grant Pacific provisional authority to offer its Fax Store and Forward Service for a period of 18 months after its first tariff for that service becomes effective. Pacific will have to apply for additional authority from the Commission if it wishes to offer this service beyond the initial 18 month period.

Today's decision reaffirms our prior conclusion that Pacific's Fax Store and Forward Service must be tarified. However, our holding today is a narrow one. We simply conclude that when a company already recognized as a public utility telephone corporation itself offers an enhanced service that includes use of its public utility telephone lines, then that enhanced service must be tarified. We do not today address any of the broader issues raised by enhanced services. These will be

the subject of an Order Instituting Rulemaking that we plan to issue shortly.

Therefore good cause appearing,

IT IS ORDERED that D.90-07-052 is modified as follows:

1. In the first line of the first paragraph on page 2, the words "two years" are changed to "eighteen months".

2. In the last full sentence on page 10 the words "one-year" are changed to "eighteen months" and the reference "discussed in IV.C. below" is changed to "discussed in IV.B. below".

3. In the last, partial paragraph on page 11, the following material is inserted after the first sentence:

PU Code §489(a) requires public utilities including telephone corporations to tariff their services. There is no question but that Pacific is a public utility and a telephone corporation. (See PU Code §§ 216(a), 234.) PU Code §234 defines a "telephone corporation" as "every corporation . . . owning, controlling, operating, or managing any telephone line . . ." Here, Pacific, a public utility telephone corporation, is proposing to offer a Fax S/F service that will include use of Pacific's public utility telephone lines. Accordingly, §489's requirement that public utilities tariff their services applies to Pacific's Fax S/F service.

4. In the first full sentence on page 16 the words "one-year" are changed to "eighteen months".

5. In Finding of Fact No. 3 on page 18, the word "clarify" is changed to "tariff".

6. In Finding of Fact No. 16 on page 19 the words "one-year" are changed to "eighteen months".

7. A new Conclusion of Law, numbered 1a, is inserted on page 20, immediately following Conclusion of Law No. 1:

1a. Pacific is a public utility telephone corporation and its Fax S/F service will include use of Pacific's public utility telephone lines; accordingly, Public

Utilities Code §489's requirement that public utilities tariff their services applies to Pacific's Fax S/F service.

8. In Conclusion of Law No. 2 on page 20 the words "one-year" are changed to "eighteen months".

9. Ordering Paragraph No. 2 on page 21 is modified to read:

2. This authority shall expire eighteen months after Pacific's first tariff for Fax Store and Forward Service becomes effective.

10. In ordering paragraph No. 8 on page 22 the reference to "the directives of Ordering Paragraph 8" is changed to "the directives of Ordering Paragraph 9".

IT IS FURTHER ORDERED that:

11. Rehearing of D.90-07-525 as modified herein is denied. This order is effective 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.

Neal J. Spulman
NEAL J. SPULMAN, Executive Director

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