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Decision 91-09-061 September 25, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of Pacific Bell, a corporation, for authority to increase certain intrastate rates and charges applicable to telephone services furnished within the State of California.	Application 85-01-034 (Filed January 22, 1985; amended June 17, 1985 and May 19, 1986)
And Related Matters.	I.85-03-078 (Filed March 20, 1985) OII 84 (Filed December 2, 1980) C.86-11-028 (Filed November 17, 1986)

ORDER MODIFYING DECISION 90-02-043

Summary

This decision grants a petition to modify Decision (D.) 90-02-043 filed by Pacific Bell (Pacific) on January 15, 1991. The petition requests changes in the designated customer subgroups established by us to monitor how well service representatives handle new service order requests from residential and small business customers. The Commission in D.90-02-043 found that this on-going external telephone survey audit with quarterly compliance reporting for five years was a significant safeguard in ensuring Pacific did not repeat the marketing abuse practices that led to a cease and desist order in D.86-05-072 and establishment of a customer marketing oversight committee (CMOC) in D.87-12-067.

Pacific has requested the sampling category design changes in order to:

a. retain internal accountability at the vice-presidential level following reorganization;

b. expand reporting categories to include telemarketing and Hispanic/Asian centers; and

c. eliminate the low income seniors category due to difficulty in obtaining a statistically significant sample size.

The independent research firm that conducts the external audit, Field Research Corporation (FRC), concurs in the changes and has prepared the specific proposal, attached to the petition as Exhibit B. The petition was served on all parties to Pacific's last general rate case, A.85-01-034, and all former CMOC members. The Petition was noticed in the daily calendar on August 20, 1991. No protests were received.

Background

On May 7, 1986, we issued an Order to Show Cause directing Pacific to appear and answer marketing abuse charges filed by the staff of our Public Staff Division following a five month investigation. Hearing was held May 16th and we issued our decision, D.86-05-072, on May 28, 1986. We ordered:

1. Pacific to cease and desist from violations of Public Utilities (PU) Code § 532, General Order 153, and Tariff Rules 6 and 12.

2. Pacific to refrain from further cold selling telemarketing activities, to discontinue its sales quota program, and to discontinue its program of renaming basic services.

3. Workshops to be convened to develop a proposal for customer notification, refunds, or other appropriate adjustments

> procedures and to develop a proposal for establishment of a customer marketing oversight committee.

The workshops ordered in the cease and desist order were held under the general guidance of the Commission Advisory and Compliance Division (CACD) staff. Workshop participants negotiated a plan for customer notification, refunds, and other adjustments and developed a proposed charter for the CMOC. The charter provided for CMOC to ensure that Pacific's marketing practices, for both business and residential sectors, were brought into conformance with the statutes, orders, and other appropriate tariffs on file with the Commission, and that necessary safeguards were put in place for the future.

We revisited the marketing abuse issue in D.87-12-067 in order to establish an education-oriented penalty, the $16.5 million Telecommunications Education Trust fund, and to finalize the CMOC charter. In addition to its marketing oversight, CMOC was delegated the responsibility of reviewing Pacific's administration of Universal Lifeline Services under our General Order 153 and making policy recommendations. Membership on the committee was composed of representatives of consumer groups, Commission staff, Pacific and the telecommunications industry. CMOC was to meet and deliberate on a scheduled basis and to issue a final report to us within 30 days following expiration of the committee's term on May 30, 1989. (D.87-12-067, Ordering Paragraph 7 and Appendix C.)

We reviewed the final recommendations of CMOC in D.90-02-043. We found CMOC's report gave sufficient detail to find Pacific was currently in compliance with the statutes, general order, and tariff provisions which were the subject of the cease and desist order, but the report lacked sufficient specificity about current and prospective internal safeguards for us to endorse them; we therefore placed greater weight on CMOC's recommendation for an external audit. (D. 90-02-043, Findings of Fact 6-12.) We

also agreed with the committee's recommendation to lift the ban on telemarketing and to separately monitor this area as part of the external audit. The company selected by CMOC as the external auditor is FRC and the approved five-year audit format consists of initially set benchmark measurements with on-going telephone surveys and quarterly compliance reports. The specific measurement objectives developed by CMOC are as follows:

"To measure the extent to which customers

a. are receiving services they never recall having ordered

b. are receiving services they never needed or wanted, but... ordered because of sales pressure

c. recall being offered Lifeline service....(if they meet the income requirement)." (FRC Service Order Monitor 1Q91 Measurement Report, p. i.)

Discussion

Pacific requested FRC to recommend a design plan for modification of the external audit in order to reflect internal organizational changes planned for January 1, 1991. FRC, in a letter to Pacific dated November 26, 1990, Exhibit B of the petition, recommended changes in four specific areas:

1. **Change to 7 VP Organizations**

The major change in the design plan has to do with the proposed change in Pacific's internal organization--from 4 VP organizations to 7 VP entities.

We recommend the residential tracking be expanded to provide quarterly tracking of each of the 7 VP organizations. This means instead of 1,200 interviews per quarter (300 in each of 4 VP organizations), we will be doing 2,100 interviews per quarter (300 in each of 7 VP organizations).

The larger overall sample for residential customers will not only provide an increased level of accountability (i.e. down to each of 7 VP organizations), but it will also yield additional interviews in various subgroups of interest: low income, ethnic minorities. These added interviews will improve the reliability of the tracking in these cells.

For small business customers, we propose to continue doing the same number of interviews each quarter that we are doing now - 1,200 systemwide. Under the new organization, 1,200 systemwide interviews will provide 175 interviews per quarter and 350 per semester for each of the 7 VP organizations.

Basically, this plan provides the same level of precision for small business customers systemwide as we have now, but the reporting by VP organization will be on a semester basis rather than each quarter.

We are not proposing to increase the small business customer cells to 300 per VP organization per quarter for two reasons: (1) We believe tracking by VP every six months is adequate for the small business customer segment as long as we are continuing to monitor this group with a high degree of precision every quarter on a systemwide basis, and (2) we understand the EMS/QSP (Pacific's internal customer satisfaction monitoring effort) has sometimes had trouble meeting its quotas. (Samples for the external audit are always drawn first.) If we were to increase the sample sizes for small business, the likelihood that the EMS/QSP could not meet its quotas would increase. The plan recommended here attempts to balance the needs of the external audit with those of the EMS/QSP.

2. <u>Addition of cell to monitor the "Centers"</u>

Customers handled by the Asian and Hispanic Centers have been included in the external audit under the "Asian" and "Hispanic" subgroups. However, FRC recommends a separate cell be added to monitor customers handled by the Centers. We recommend 300 interviews per

quarter: 150 from the Asian centers and 150 from the Hispanic centers. This will provide semi-annual measurements of 300 for Asian centers and 300 for Hispanic centers.

Quarterly measurements for the proposed Asian/Hispanic "Centers" cells will be compared with the total "non-English" benchmark.

3. Addition of a Telemarketing Cell

Another change which has already been implemented is the addition of a separate cell of 300 interviews per quarter drawn from service orders generated by Pacific's telemarketing center. This cell was added to the third quarter, 1990 survey. We propose to continue to include this cell in 1991.

4. Reduction in Low Income Seniors Cell

We are recommending this cell be dropped for several reasons. The current plan includes a special cell of "low income seniors" in addition to a "low income" cell for Blacks, Hispanics and Asians.

Since the inception of the external audit, FRC has been having difficulty meeting the quotas established for the "low income seniors" cell. We had anticipated a 10% incidence, that is, that we would need to talk to 100 persons in low income zipcode areas to find 10 who qualify as "low income seniors". In fact, we are finding a 2% incidence--that means we have to talk to 500 persons in low income zipcodes to locate just 10 who qualify. With quotas of 300 per quarter, we are simply unable, in most cases, to complete the quota with the samples provided.

The proposed changes for residential customers, Asian and Hispanic Centers, and Telemarketing Centers provide additional sampling and tracking cells to the Service Order Monitor survey. The proposed changes also allow Pacific to retain internal accountability under its new organization. We see these changes as enhancing FRC's ability to meet the broad objective of an on-going

"audit" and the specific measurement objectives developed by CMOC. Therefore, we approve these changes.

The proposed changes for small business customers and low income seniors lessen our external oversight and, therefore, need to be carefully considered. For small business customers, the reporting by VP organization will be on a semiannual rather than quarterly basis. This delays reporting at the 'internally accountable' vice-presidential level for three months and places a six-month delay on tracking two consecutive periods of statistically significant change for trend analysis measurement.

The proposed change for the Low Income Senior cell raises even greater concern as this would eliminate rather than reduce reporting for a targetted customer group. FRC suggests that "if the 'low income' (or any other minority cell) findings suggest there could be a problem with low income seniors, a separate effort could always be mounted and that could be compared with the 'benchmark' established for this group" (Petition, Exhibit B, p. 3). FRC also notes "the increase from 1,200 interviews systemwide to 2,100 (300 in each VP organization) will increase the number of interviews in the 'low income' cell and thus improve the reliability of the low income tracking" (Petition, p. 3).

FRC finds that the recommended changes, which include the reductions in small business and low income senior reporting "do not jeopardize the overall objectives of the external audit" (Petition, Exhibit B, p. 1). We place a great deal of reliance on the professional judgment of the company we selected to perform the ongoing survey and in the fact that no member of CMOC opposes these proposed changes. We also take note that no other interested party has protested this petition.

We also recognize that Pacific will continue to have internally generated information available and that FRC can resume or increase the frequency of tracking for a targetted customer group if warranted. We would, therefore, like to ensure that

Pacific maintains a timely dialog with us, former CMOC members, and other interested parties on any actions it is taking as a result of survey information. For example, if an area vice president is taking corrective steps, pursuing further investigation of customer representatives' marketing practices, or instituting new procedures. This information can be included in the cover letter that Pacific prepares each quarter to transmit the FRC study. The addition of this narrative dialog is in keeping with Pacific's expressed objective to "reflect accountability under the new organization" (Petition, p. 3) and should compensate for the reduction in small business and low income senior marketing area cell reporting.

With the addition of a quarterly status report by Pacific, as discussed above, we approve Pacific's petition to modify the external audit survey requirements established in D.90-02-043. The new reporting format we adopt, as reflected in Exhibit A of the petition, is displayed on the following page.

EXHIBIT A

1. Current Reporting Format

Residential Customers

Systemwide

- Bay VP Organization
- North VP Organization
- Los Angeles VP Organization
- South VP Organization

Subgroups

- White
- Non-White
  - Hispanic
  - Black
  - Asian
- Non-English
  - Hispanic
  - Asian
- Low Income
- Low Income Seniors
- Telemarketing

Small Business Customers

Systemwide

- Bay VP Organization
- North VP Organization
- Los Angeles VP Organization
- South VP Organization

2. Proposed Reporting Format

Residential

Systemwide

- San Diego/Imperial
- Orange/Riverside
- Los Angeles
- Valley/Central Coast
- Bay
- Sacramento/North
- North Coast

Subgroups

- White
- Non-White
  - Hispanic
  - Black
  - Asian
- Non-English
  - Hispanic
  - Asian
- Low Income
- Telemarketing
- Hispanic/Asian Centers

Business

Systemwide

- San Diego/Imperial
- Orange/Riverside
- Los Angeles
- Valley/Central Coast
- Bay
- Sacramento/North
- North Coast

Findings of Fact

1. Pacific was found to have engaged in marketing abuse practices in D.86-05-072.

2. In D.87-12-067 we established a Customer Marketing Oversight Committee (CMOC) to review Pacific's marketing practices and recommend future safeguards.

3. In D.90-02-043 we approved CMOC's recommended five-year external safeguards audit to be conducted in a specified manner by Field Research Corporation (FRC).

4. Pacific in its petition has requested to modify the study in four key areas:

a. change from 4 to 7 vice-president reporting in order to reflect new internal organization. This will expand residential customer tracking from 1,200 interviews per quarter to 2,100 per quarter (300 in each of 7 VP organizations). Small business customer tracking will remain at 1,200 interviews per quarter, thus retaining quarterly systemwide reporting but reducing VP level reporting to semiannual;

b. add reporting cells for Asian and Hispanic centers;

c. add reporting cell for telemarketing center; and

d. eliminate reporting cell for low income seniors.

5. The proposed changes for residential customers, Asian and Hispanic Centers, and Telemarketing Centers provide additional sampling and tracking cells to the FRC survey and allows Pacific to retain internal accountability under its new organization.

6. The proposed change for small business customers delays reporting at the district (vice-president) level.

7. The proposed change for the low income senior cell eliminates reporting for this targetted group.

8. FRC retains the capability to resume original tracking and reporting levels for small business customers and low income senior customer groups.

9. Pacific can report to us on a quarterly basis any actions it is taking as a result of internal or external survey information. This information can be included in the cover letter that Pacific prepares each quarter to transmit the FRC study.

10. FRC stated that the recommended changes do not jeopardize the overall objectives of the external audit.

11. The Petition for Modification was properly noticed and no protests have been received.

Conclusions of Law

1. A public hearing is not necessary.

2. The changes requested by Pacific, as detailed by FRC in Exhibit B, should be granted.

3. Pacific should be directed to provide a quarterly status report on actions it is taking as a result of marketing abuse survey information.

O R D E R

IT IS ORDERED that:

The petition to modify D. 90-02-043 is granted.

Pacific shall report to us, and also to all interested parties and former CMOC members who receive the quarterly FRC survey, any actions it is taking as a result of internal or external survey information.

3. In all other respects, D.90-02-043 shall remain in full force and effect.

This order is effective today.

Dated September 25, 1991, at San Francisco, California.

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

I abstain.

/s/ G. MITCHELL WILK
Commissioner

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

NEAL J. SHULMAN, Executive Director