

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-159
Administrative Law Judge DivisionProposed RESOLUTIONOPINION PROPOSING NEW EXPEDITED APPLICATION
PROCEDURE TO BE USED FOR UTILITY REQUESTS
FOR APPROVAL OF SPECIAL SERVICE CONTRACTS
BETWEEN THE UTILITY AND ITS GAS OR
ELECTRIC CUSTOMERS

The informal General Order 96A advice letter procedure is currently used to address gas, electric, telephone, and water utility matters falling into the following broad categories:

1. Compliance with Commission decisions/resolutions
2. New Service Offerings
3. Minor realignment of franchised areas
4. Changes in the conditions of service
5. Rate reductions
6. Rate increases for small utilities
7. Contracts with non-governmental agencies at other than filed tariff rates.

Advice letters are filed with Evaluation and Compliance Division, are noticed once a week on the Commission's Daily Calendar, and are served by the utility on anyone requesting a copy. Advice letters can be protested but there is no formal procedure for distributing the protests. The advice letter (and protest, if any) is evaluated and a resolution is prepared and placed on the Commission's agenda. Advice letters have no assigned commissioner, no administrative law judge, no hearings, and no forum in which to address concerns of third parties or to raise questions.

Increasingly, the Commission is being asked to address complex issues and develop major policy positions, especially in gas and electric matters, with far-reaching effects using an informal process that was not designed to serve this function. In these cases the process needs to be opened up to broader participation with a more formal look at what is being applied for and the impacts it will have on ratepayers, on other proceedings, on Commission policy, etc. if granted.

An alternate procedure, the Expedited Application Docket, has been developed and is attached to this resolution. The Commission proposes to implement it on an experimental basis for gas and electric contract matters since these seem to be of greatest concern and urgency at the moment. Other matters may be included in the future, as we gain experience with the docket, and of course Evaluation and Compliance Division has the discretion to convert an advice letter to an Expedited Application Docket as it does presently when it converts water utility advice letters to applications upon customer protest, evidence of widespread service problems or other circumstances which make informal handling inappropriate.

Before implementing this procedure, even on an experimental basis, the Commission offers the opportunity to interested parties to comment on the proposed procedure. Because the procedure is experimental and we wish to have it in place as soon as possible, we will limit the comment period to 30 days, and implement the procedure, as modified after receipt of comments, by resolution in May 1987. We expect to give the experimental procedure a one-year trial and, at the end of that time, will reevaluate whether to continue it.

THEREFORE:

1. The Executive Director is directed to serve a copy of this resolution and attachments on all gas and electric utilities in California and on all interested parties in R.84-12-028.

2. Any party interested in filing comments on the proposed procedure shall send two copies of the comments to the Chief Administrative Law Judge on or before May 8, 1987. Copies of comments shall be served on other parties by request.

The effective date of this Resolution is April 8, 1987.

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on April 8, 1987. The following Commissioners approved it:



Executive Director

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. CHANIAN
Commissioners

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EXPEDITED APPLICATION DOCKET

This docket is established on an experimental basis for a period of one year and is limited to requests for approval of special service contracts between the utility and its gas or electric customers.

An application, titled Expedited Application Docket, will be filed in original and 12 copies with the Commission's Docket Office.

The application shall meet all routine filing requirements currently imposed on regular applications (e.g., signature, verification, format, etc.) and shall, in addition, include the following:

1. An allegation that it is for a contract rate with an individual customer
2. A statement that the customer threatens bypass and that the threat is credible
3. An affidavit or verified statement from the customer that it will commit to leave the utility system at a given date unless the contract is approved.
4. A written supporting explanation to be used by the utility to justify and explain what it's requesting. The supporting material shall be in the nature of testimony but shall be in the form of a declaration under the penalty of perjury. The explanation must demonstrate that the deviation from existing tariffs or rates is necessary to retain the customer(s) on the utility system either as a sales or transportation customer(s). It must also include a statement quantifying any lost contribution to margin and where that lost contribution is made up. An analysis of benefits to other ratepayers of this customer retention must also be provided.
5. Any contracts for service under the new rates or terms and conditions must be attached to the application.
6. A statement that workpapers are available on request and have been provided to the Commission staff (see service requirement below).

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Copies of the application shall be served separately on Evaluation and Compliance Division, Public Staff Division, and Legal Division and shall contain copies of the workpapers. Copies of the application shall also be served on all parties to the utility's last general rate case and most recent energy offset proceeding, with a notice that workpapers are available on request. As with advice letters currently, copies of the application shall be served on anyone requesting such service.

Notice of the application will appear on the Commission's Daily Calendar, and a workshop will automatically be set and noticed for Monday (electric) or Wednesday (gas) 20 days after filing.

The application will be assigned to a workshop moderator and to a Commissioner.

Protests may be filed 15 days after the application is filed. Protests must request the opportunity to question the utility about the application and must set out disputed issues of fact to be explored at the workshop. For protests that request evidentiary hearings, good cause for the hearing must be shown.

All other responsive pleadings (e.g., answers to protests, requests for further discovery, etc.) shall be made orally at the workshop and if necessary, argued at that time.

The utility shall produce a knowledgeable person to explain the application and answer questions about it at the workshop. The workshop moderator may accept written or oral statements by workshop participants. The moderator may also require the applicant to file any additional documentation or explanation necessary for the Commission to reach an informed opinion on the matter at issue. Workshops will ordinarily be limited to a single day.

If there are no protests to the application, the workshop will be cancelled and an ex parte order will be prepared and placed on the Commission's agenda.

At the close of the workshop, the moderator will confer immediately with the assigned Commissioner if it appears that the matter is sufficiently controversial to warrant the regular hearing process.

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If the matter is ready for decision at the close of the workshop, it will be placed on the next public agenda and a draft decision will be prepared. Since no hearing has been held, no witnesses sworn, and no testimony taken, the proposed decision will not be circulated to workshop participants for comment prior to Commission action.

Rule 76.51 et seq. respecting compensation shall apply to the Expedited Application Docket.

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-159
Administrative Law Judge Division

R E S O L U T I O N

OPINION ADOPTING NEW EXPEDITED APPLICATION
PROCEDURE TO BE USED FOR UTILITY REQUESTS
FOR APPROVAL OF SPECIAL SERVICE CONTRACTS
BETWEEN THE UTILITY AND ITS GAS OR
ELECTRIC CUSTOMERS

The informal General Order 96A advice letter procedure is currently used to address gas, electric, telephone, and water utility matters falling into the following broad categories:

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Advice letters are filed with Evaluation and Compliance Division, are noticed once a week on the Commission's Daily Calendar, and are served by the utility on anyone requesting a copy. Advice letters can be protested but there is no formal procedure for distributing the protests. The advice letter (and protest, if any) is evaluated and a resolution is prepared and placed on the Commission's agenda. Advice letters have no assigned commissioner, no administrative law judge, no hearings, and no forum in which to address concerns of third parties or to raise questions.

Increasingly, the Commission is being asked to address complex issues and develop major policy positions, especially in gas and electric matters, with far-reaching effects using an informal process that was not designed to serve this function. In these cases the process needs to be opened up to broader participation with a more formal look at what is being applied for and the impacts it will have on ratepayers, on other proceedings, on Commission policy, etc. if granted.

An alternate procedure, the Expedited Application Docket, was developed and was sent to all parties to R. 84-12-028 which is the proceeding in which revisions to the Commission's Rules of Practice are being considered.

Before implementing this procedure, the Commission offered interested parties the opportunity to comment on the proposed procedure. Copies of the resolution and proposed rules were served on all parties to R.84-12-028. Comments were due on May 8, 1987 and were filed by Southern California Edison Company (Edison), Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SoCal), TURN and Graham & James.

In evaluating the comments we have kept in mind that the Expedited Application Docket is being put in place to with the hope that we can reach a decision in approximately the same time frame as we would in an advice letter. The purpose of the new docket is to provide a more open forum for considering these matters while not sacrificing timeliness and flexibility. For that reason, we will not adopt suggestions that provide that proposed decisions be circulated for comment prior to decision.

Several parties did suggest that the workshops be reported so that a permanent record of the discussions is created. We have some reservations about this, because it moves the process one step closer to a formal hearing, because roundtable discussions are difficult to report and transcribe accurately and because during peak periods it will further strain our Reporting Branch resources. Nevertheless, we will provide that a transcript be prepared for each workshop session, but caution parties to remember that these transcripts are not records of testimony but are more in the nature of minutes of a meeting. They carry no evidentiary weight and will not be used for that purpose.

We will not provide for taking evidence to supplement the application as PG&E suggested, since this leads to cross-examination, proliferation of witnesses, further cross-examination, argument, briefs and lengthy proposed decisions discussing the positions of all parties. If the need exists for such extensive presentations, it should be done in the context of the regular application procedure.

Graham & James notes that the period for filing protests is shorter than the 20 days permitted under General Order 96-A and urges the Commission to allow at least the same 20 day period in Expedited Application Docket matters. The comment is well taken,

and we will so provide. We will not, however notice protests on the Daily Calendar since we do not ordinarily notice protests in any formal matter. Protests are served on the applicant by the protesting party, other interested parties may review the formal file for protests prior to the workshop. To permit adequate time for this review, workshops will be scheduled no earlier than seven days after the protest period ends.

Both Edison and PG&E proposed that workpapers be considered confidential and proprietary and that they be made available only to Commission staff under the protection of Public Utilities Code Section 583. We are unwilling to make this blanket classification a part of our procedures. While we agree that this expedited docket should not be used by parties as a source of information to gain competitive advantage, we are mindful that the purpose for establishing this procedure is to consider certain kinds of contracts in a more public forum than the advice letter procedure permitted. To categorically restrict the flow of information in the face of that purpose is counterproductive. However, there are protections available if they are needed. Should a utility believe that specific material is confidential and can justify the need for not releasing the information, it can request issuance of a protective order.

To facilitate the exchange of information, we will adopt Edison's suggestion that these procedures contain a provision parallel to Rule 50 which provides that facts disclosed at a prehearing conference are privileged and that except by agreement, they shall not be used against participating parties before the Commission or elsewhere unless proved by evidence other than that employed in disclosing such facts.

Both PG&E and Edison urged that the the procedure be modified so that it is limited to bypass contracts. SoCal noted that it should be modified to include contracts with customers who were not leaving the system but who were threatening to reduce their requirements substantially. We will adopt both suggestions.

Edison noted that requiring both an affidavit from the customer and a statement from the utility that the customer threatened bypass and the threat was credible were duplicative and suggested elimination of the statement by the utility. PG&E noted the same thing but suggested that the affidavit not be required, leaving the utility to support its assertions that the bypass threat is credible by other means such as engineering design completed, equipment ordered, etc. We think the affidavit

from the customer is critical and further, that it will reduce the number of elements the utility needs to show in support of its application, which in turn should reduce the number of questions to be resolved at the workshop. We will adopt Edison's suggestion and eliminate the requirement that the application contain a statement from the utility that bypass is threatened and that the threat is credible.

PG&E suggests that we also eliminate the requirement that the utility specify the manner in which lost margin is made up, indicating that it has not previously furnished this information with its advice letter filings and that it anticipates that the Commission will adopt policies in I.86-10-001, I.86-06-005 and R.86-06-006 the manner in which lost margin is allocated and recovered. We will retain the requirement for the present but will reconsider it in the light of adopted policies when we evaluate the procedure in 12 months.

Edison urges that the role of the moderator and the purpose of the workshop be clearly defined. Because this is an experimental procedure, we are reluctant to do that at this juncture. We will provide, however, that an administrative law judge be assigned as the workshop moderator. We will reconsider further definition of roles and purposes when evaluating the procedure in 12 months.

PG&E suggests that development of bypass contract guidelines would complement the proposed expedited application procedures. We will not address that issue here but suggest that utilities and Public Staff Division discuss the matter to see if there is common ground for developing such guidelines.

Lastly, PG&E raises questions about the consequences of the decisions issued under this experimental procedure and states that for purposes of the test period it may be appropriate at this point to simply adopt the same structure as is applied under the Expedited Complaint Procedure. We are reluctant to do this in the absence of legislation similar to Public Utilities Code Section 1702.1 which established the structure of the Expedited Complaint Procedure. Accordingly, our decisions under the Expedited Application Procedure will contain findings of fact and conclusions of law, will be precedent and binding to the same extent all our decisions are and parties will have the right to apply for rehearing or file petitions for modification.

Changes to the Expedited Application Docket consistent with this discussion have been made in Appendix A.

THEREFORE IT IS ORDERED that:

1. The Expedited Application Docket is established on an experimental basis until June 30, 1988 in the form set out in Appendix A.

2. The Executive Director is directed to serve a copy of this resolution and attachments on all gas and electric utilities in California and on all interested parties in R. 84-12-028.

The effective date of this Resolution is June 15, 1987.

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on June 15, 1987. The following Commissioners approved it:



Executive Director

STANLEY W. HULETT

President

FREDERICK R. DUDA

G. MITCHELL WILK

JOHN B. OHANIAN

Commissioners

Commissioner Donald Vial, being necessarily absent, did not participate.

APPENDIX A
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EXPEDITED APPLICATION DOCKET

This docket is established on an experimental basis for a period of one year and is limited to requests for approval of special service contracts offered expressly to prevent a customer from bypassing the utility's gas and/or electric system or from substantially reducing its requirements by fuel switching.

An application, titled Expedited Application Docket, will be filed in original and 12 copies with the Commission's Docket Office. Each application will receive a separate number, preceded by the prefix "EAD"

The application shall comply with Rules 2 through 8, 15 and 16 of the Rules of Practice and Procedure (e.g., signature, verification, format, etc.) and shall, in addition, include the following:

1. An allegation that it is for a contract rate with an individual customer
2. An affidavit or verified statement from the customer that it will commit to leave the utility system at a given date or substantially reduce its requirements unless the contract is approved.
3. A written supporting explanation prepared by the utility or on its behalf to justify and explain the relief requested. The supporting material shall be in the nature of testimony but shall be in the form of a declaration under the penalty of perjury. The explanation must demonstrate that the deviation from existing tariffs or rates is necessary to retain the customer(s) on the utility system either as a sales or transportation customer(s) or to keep the customer from substantially reducing requirements by fuel switching. It must also include a statement quantifying any lost contribution to margin and where that lost contribution is made up. An analysis of benefits to other ratepayers of this customer retention must be provided. The utility may include an analysis of any detriments to other ratepayers should the customer leave the system or substantially reduce requirements.
4. Any contracts for service under the new rates or terms and conditions must be attached to the application.
5. A statement that workpapers are available on request and have been provided to the Commission staff (see service requirement below).

APPENDIX A
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Copies of the application shall be served separately on Evaluation and Compliance Division, Public Staff Division, and Legal Division and shall contain copies of the workpapers. Copies of the application shall also be served on all parties to the utility's last general rate case and most recent energy offset proceeding, with a notice that workpapers are available on request. As with advice letters currently, copies of the application shall be served on anyone requesting such service.

Notice of the application will appear on the Commission's Daily Calendar, and a workshop will automatically be set and noticed for the first Monday (electric) or Wednesday (gas) not less than 27 days after filing.

The application will be assigned to an administrative law judge who will act as workshop moderator and to a Commissioner.

Protests may be filed 20 days after the application is filed. Protests must request the opportunity to question the utility about the application and must set out disputed issues of fact to be explored at the workshop. For protests that request evidentiary hearings, good cause for the hearing must be shown.

All other responsive pleadings (e.g., answers to protests, requests for further discovery, etc.) may be made either in writing before the workshop or orally at the workshop and if necessary, argued at that time.

The utility shall produce a knowledgeable person to explain the application and answer questions about it at the workshop. The workshop moderator may accept written or oral statements by workshop participants. The moderator may also require the applicant to file any additional documentation or explanation necessary for the Commission to reach an informed opinion on the matter at issue.

Workshops will ordinarily be limited to a single day, and will be reported. Facts disclosed in the workshop are privileged. Except by agreement, they shall not be used against participating parties, before the Commission or elsewhere, unless proved by evidence other than that employed in disclosing such facts.

If there are no protests to the application, the workshop will be cancelled and an ex parte order will be prepared and placed on the Commission's agenda.

At the close of the workshop, the moderator will confer immediately with the assigned Commissioner if it appears that the

matter is sufficiently controversial to warrant the regular hearing process.

If the matter is ready for decision at the close of the workshop, it will be placed on the next public agenda and a draft decision will be prepared. Since no hearing has been held, no witnesses sworn, and no testimony taken, the proposed decision will not be circulated to workshop participants for comment prior to Commission action.

Rule 76.51 et seq. respecting compensation shall apply to the Expedited Application Docket.

ALJ/LTC/vdl **

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

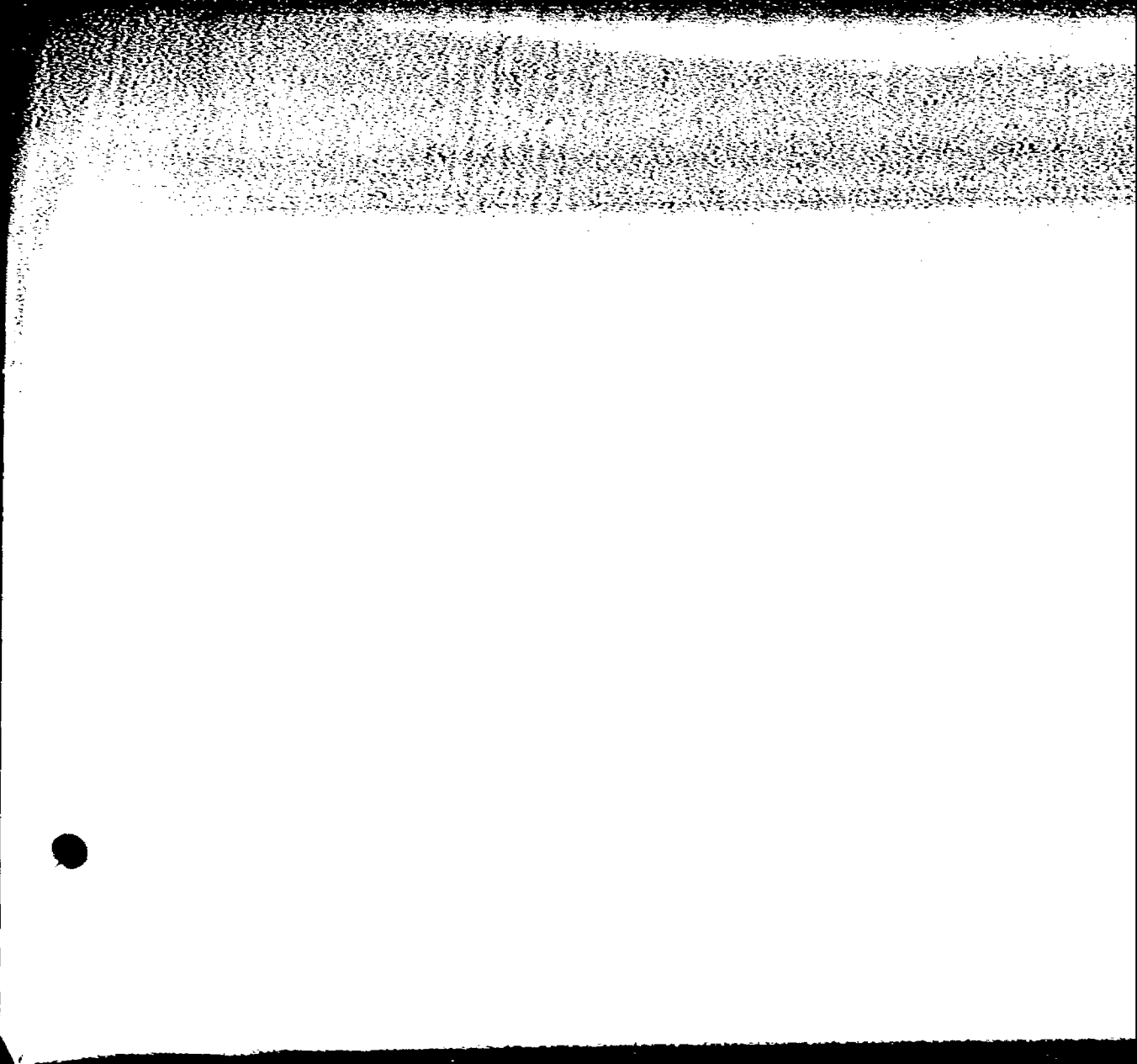
Resolution ALJ-160
Administrative Law Judge DivisionR E S O L U T I O NScheduling for the Commission's Next Review of Pacific Bell's Operations under the Rate Case Plan

By Resolution ALJ-151 dated June 6, 1984, we set out a revised schedule for test year rate increase filings under the Rate Case Plan for the four energy utilities and two telephone utilities subject to the Plan. That schedule showed a test year for Pacific Bell of 1986 with the NOI to be filed in the fall of 1985.

In Resolution ALJ-156 dated October 17, 1985, we noted the difficulties involved in maintaining the two-year rate case cycle for Pacific Bell, since that meant entertaining a 1988 test year filing at the same time we were processing General Telephone Company of California's test year 1988 proceeding. We opted instead to defer Pacific Bell's next general rate case filing to fall 1987, using a 1989 test year. We also provided for attrition year filings in 1987 and 1988.

Given the arguments presented at the September 24-25, 1987 en banc session on alternatives to cost of service regulation for local exchange companies, and our desire to begin exploring those alternatives as soon as possible, we have begun the task of assessing our available procedural options. We anticipate issuance of a further order outlining our selected course of action in the near future.

Significant staff and utility resources will be expended in this upcoming proceeding, and for the most part, these are the same resources that would be committed to a 1989 test year rate case. For that reason, we will not require Pacific Bell to make a 1989 test year rate case filing, providing instead for a third attrition year (1989). We will be reevaluating the entire attrition issue in our forthcoming OII into regulatory flexibility. We will apply the results of that investigation as it relates to attrition to Pacific Bell for 1989. If it appears that proposals to fashion a new regulatory framework will not be implemented by year-end 1988, we will take whatever action is necessary to require a timely 1990 test year filing by Pacific Bell, in accordance with the provisions of the Rate Case Plan.



CORRECTION

THIS DOCUMENT HAS

BEEN REPHOTOGRAPHED

TO ASSURE

LEGIBILITY

THE NEXT 1
DOCUMENTS
ARE POOR
ORIGINALS

MICROFILMING SERVICES
WILL NOT ASSUME
RESPONSIBILITY FOR THE
IMAGE QUALITY

IT IS RESOLVED that Pacific Bell is relieved of the requirement imposed in Resolution ALJ-156 that it file for a general rate case in the fall of 1987 using a 1989 test year. In lieu of a test year 1989 general rate case, Pacific Bell shall make an attrition year 1989 filing, using the advice letter format.

IT IS FURTHER RESOLVED that if proposals to fashion a new regulatory framework are not ready for implementation by year-end 1988, we will take action to require Pacific Bell to file for a general rate case in the fall of 1988 using a 1990 test year.

This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on October 28, 1987. The following Commissioners approving it:

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners



Executive Director