

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY & COMPLIANCE DIVISION
Telecommunications BranchRESOLUTION NO. T-12065
February 10, 1988R E S O L U T I O N

PACIFIC BELL. Order denying protests by MCI Communications and U.S. Sprint Communications Corporation of Pacific Bell's Advice Letter No. 15152. This Advice Letter implements blocking of unauthorized intraLATA traffic carried over or through the facilities of any interexchange carrier.

SUMMARY

Decision 84-06-113 ordered Pacific Bell (Pacific) to block unauthorized intraLATA traffic carried by interexchange companies as soon as equal access was implemented. This action was designed to preserve universal telephone service by banning most intraLATA competition. The blocking implemented with this Advice Letter will intercept and terminate calls originating over Feature Group D 1/ facilities when an interexchange carrier (IEC) access code (10XXX) is used. Blocking has been previously authorized in the Fresno and Monterey LATAs; this Resolution will result in blocking in the remaining eight unblocked LATAs

Pacific filed Advice Letter No. 15152 on September 2, 1986 to comply with Ordering Paragraphs 2. and 3. of Decision No. 84-06-113. MCI Communications Corporation (MCI) and US Sprint Communications Corporation (Sprint) protested this Advice Letter. MCI alleged that Pacific had failed to fully implement equal access, stating it had made bona fide requests for equal access in central offices in which equal access had not yet been implemented. Sprint's protest urged suspension or rejection of Pacific's Advice Letter until Pacific's Petition to Modify Decision No. 84-06-113 received Commission action. Sprint's protest also recommended diversion of unauthorized calls over Pacific's network, rather than blocking. On September 12, 1986 Pacific filed a supplement to A.L. No. 15152 to delay the effective date until resolution of protests.

1/ Feature Group D is a trunk-side connection that allows access to all interexchange carriers. Feature Group D access is comparable to that received by AT&T prior to divestiture.

By authorizing this Resolution we find that Pacific has met the Modified Final Judgment (MFJ) requirements for equal access conversions. Since we have accepted the MFJ position on equal access conversions, we also find that Pacific's Advice Letter is in compliance with D. 84-06-113. Until or unless we reverse our position on intralATA competition, blocking will be used. Protests are denied.

BACKGROUND

In June 13, 1984, the Commission issued Decision No. 84-06-113 concluding OII 83-06-01. The investigation explored whether competition should be allowed in providing telecommunications transmission services within the state. The Decision found there was a need to limit intralATA competition:

Findings of Fact

"8. In order to protect universal telephone service in California, it is appropriate to adopt a prohibition on competitive entry into the intralATA toll market."

The Commission determined the most appropriate method to prevent competitive intralATA entry was blocking of unauthorized intralATA traffic by Pacific. Ordering Paragraph 2 states:

"Pacific Bell (Pacific) shall block unauthorized intralATA traffic carried over or through the facilities of any interexchange carrier upon full implementation of equal access within a LATA."

Blocking generally refers to the interception and automatic termination of certain specified transmissions, in this instance, unauthorized intralATA traffic. The recording used for 10XXX blocking in LATAS 4 and 8 is: "A long distance company code is not needed for this call. Please hang up and try your call again."

The Modified Final Judgment ordered equal access as a means of fostering competition among interexchange carriers. In Appendix B, paragraphs A(1) - A(3), the MFJ directed the Bell Operating Companies to complete the conversion to equal access of all end offices (central offices) by September 1, 1986, except those offices with

"switches technologically antecedent to electronic, stored program control switches or those offices served by switches that characteristically serve fewer than 10,000 access lines (non-conforming offices)"

unless a bona fide request has been made. Upon the receipt of such a request, the facilities should be installed or a waiver sought from the Court that allows installation at a later date or permits no installation if the BOC carries the burden of proof that the costs of implementing equal access in such offices clearly outweigh

the potential benefits. Thus, under the MFJ, Pacific has no obligation to provide equal access in 100% of its offices.

In December 1986, the Department of Justice (DOJ) set March 1, 1988 as the date on which the February 1986 bona fide requests for equal access in nonconforming offices be completed. The DOJ found that 24 months was a reasonable length of time to complete nonconforming office conversion to equal access. Pacific stated that it could comply with this timetable.

Pacific Bell filed four advice letters in 1986 to implement blocking of unauthorized calls on Interexchange Carrier facilities, in compliance with ordering paragraphs 2 and 3 of Decision No. 84-06-113. Protests were received on each advice letter.

The main point of contention in each protest of the Advice Letters was whether Pacific indeed achieved full implementation of equal access within the LATA to be blocked, as specified by the Decision. Other issues raised were the desire to reconsider intralATA competition, lack of equal footing of Interexchange Carriers with AT&T, and the advisability of waiting for results of Pacific's Petition to Modify Decision No. 84-06-113.

The protests of the first two Advice Letters (No. 15050 and 15074) were denied. On April 4, 1986, the first Advice Letter, No. 15050, became effective, and Pacific began blocking in LATA 4 (Fresno). On April 17, 1986, Advice Letter No. 15074 became effective, and Pacific provided blocking in LATA 8 (Monterey) also. However, because of the continuing controversy over the definition of full implementation of equal access, Pacific was encouraged by Staff to file a petition to modify D.84-06-113 to clarify the definition for full implementation of equal access. Pacific so filed in June 1986.

Pacific filed its third Advice Letter (No. 15116) on July 11, 1986. It proposed to provide blocking of unauthorized intralATA traffic in LATA 9 (Stockton). Staff rejected it to await the result of the Petition to Modify. At that time staff believed Commission action on the Petition forthcoming.

On September 2, 1986, (one day after the deadline set by the MFJ for complete conversion to equal access), Pacific filed its fourth blocking Advice Letter (No. 15152) for blocking of all the remaining LATAs. LATA 9, which was the subject of rejected Advice Letter No. 15116, was included in this fourth blocking advice letter. MCI and Sprint protested this Advice Letter. Pacific filed a supplement to its Advice Letter on September 11, 1986, to delay the effective date until the protests could be resolved.

PROTESTS

MCI's protest of Pacific's Advice Letter No. 15152 addressed three issues. First, MCI stated that equal access was not fully implemented in the LATAs specified in the Advice Letter. MCI made a bona fide request for conversion of "nonconforming" end offices to equal access. Until that request is honored, MCI stated, Pacific has not satisfied the condition for blocking which was established in D. 84-06-113.

Secondly, MCI protested the inclusion of LATA 9 (Stockton) which had been previously rejected by staff. As its third point, MCI stated, Pacific should screen and carry the intraLATA 10XXX calls in question, rather than block the calls. MCI also incorporated its previous protests to Pacific Advice Letters No. 15050 and 15072 into the current protest.

Sprint urged that Advice Letter No. 15152 be rejected or suspended pending the outcome of Pacific's Petition to Modify D.84-06-113. Sprint stated that this should be done because the previous blocking Advice Letter had been rejected to await the decision on the Petition to Modify. Sprint also supported MCI in the request that blocking not be used by Pacific, but rather diversion of unauthorized calls onto Pacific's network (screen and carry).

Pacific responded to the protests. On the issue of full implementation of equal access, Pacific said it has provided equal access facilities in all of its conforming end offices. As of September 1, 1986, 72% of all lines have been converted to equal access, for a total of 8.3 million lines. At this time, 306 end offices were converted to equal access. The MFJ contemplates that offices with switches antecedent to electronic switches and these that serve fewer than 10,000 access lines would be treated differently. Pacific submitted its plan handle requests to convert nonconforming offices to the DOJ, which included 24 months to implement additional requests.

Pacific contends that because the DOJ accepted Pacific's conversion plan and, for nearly two years, MCI has been fully aware of Pacific's equal access plan and which offices were scheduled for conversion, it would be inequitable to allow MCI to interfere with implementation of blocking of unauthorized calls by letting MCI sit back and at the last moment request the conversion of another nonconforming office. That could delay the Commission's Decision indefinitely. "Surely, such a result was not contemplated by this Commission...There is no basis for halting this implementation; to the contrary, Pacific has been and remains concerned about the level of intraLATA traffic being provided by interexchange carriers. Implementation of blocking allows realization of Commission objectives without imposing any obligations or burdens on the interexchange carriers that were not considered when Decision No 84-06-113 was issued."

Pacific further stated that it filed its Petition for Modification of D. 84-06-113 to seek clarification whether provision of Feature Group D at all conforming end offices is the appropriate basis upon which unauthorized 10XXX intralATA calls should be blocked. Pacific stated that it filed the Petition as an interim measure pending the September 1, 1986 completion of conversion. D. 84-06-113 ordered Pacific to file an advice letter to implement blocking upon completion of conversion to phase in on a LATA by LATA basis. According to Pacific, the Petition to Modify should not be construed to delay the Decision.

DISCUSSION

The California Commission has relied on the MFJ for definition of full equal access. Decision 83-12-024 (page 91) states

"We will look to the MFJ of define equal access for practical purposes... Thus the very court which established the goal of equal access recognized that rigid adherence to that goal may be economically wasteful."

These quotes indicate there was no expectation that 100% of the offices must be converted to equal access for full implementation of equal access. Likewise, there should be no expectation that 100% conversion to equal access should be a prerequisite for implementation of blocking. Also, consideration of the expense involved to upgrade facilities that are completely adequate for present and near-future use is clearly wasteful and harmful for rate-payers, and against long-standing Commission practice.

In the time since Pacific responded to the protests of MCI and Sprint it has increased the number of offices and access lines that are converted to equal access. As of December 31, 1987, Pacific has converted 94% of its access lines to equal access. This is a total of 11,270,000 lines. Pacific has converted a total of 458 or 63.6% of its end offices. Conversion of 161 of the 165 offices for which MCI requested conversion have been completed ahead of the March 1, 1988 deadline approved by the DOJ. The balance of the conversions will be completed on April 2, 1988. In October 1987, MCI and Sprint requested an additional 28 conversions. Four of these requests are scheduled; 24 are under study. (Many of the offices under study are the old step-by-step offices.)

In view of the fast approaching completion date for conversion of nonconforming offices, the acceptance of the conversion plan by the DOJ, and progress in completing the requested conversions, there seems to be no merit in waiting an additional few months to delay or deny this Advice Letter as MCI requested. Pacific's Petition to Modify has in effect become moot.

In addition, Pacific expresses concern over loss of revenues from unauthorized intralATA traffic. Since September 1986, it estimates an annual loss of \$1.37 million. This is the difference between billed access charges and corresponding estimated toll charges.

The Commission chose blocking by Pacific after implementation of equal access after consideration of time and costs to all parties: "it is, quite simply, too late in the game to require blocking prior to equal access" (D.84-06-113, p. 71). Should the Commission modify or reverse its position on intralATA competition, as a result of Phase III of OII 87-11-033, for example, it may be necessary to remove blocking. Pacific Bell states that it can terminate blocking quickly and easily.

Pacific has supplied staff with cost estimates that show the total cost of setting up (or removing) 10XXX blocking is \$45,000. To set up screening and carrying procedures in each end office, as requested by MCI and Sprint, would require considerable expense to install new equipment or software, depending on the existing equipment in the end office.

FINDINGS

1. The Commission has accepted the DOJ recommendations for equal access implementation in D. 84-12-024.
2. The MFJ ordered conversion to equal access of all central offices except those with switches technologically antecedent to electronic, stored program control switches or those offices served by switches that characteristically serve fewer than 10,000 access line unless a bona fide request was made.
3. The DOJ agreed that 24 months was a reasonable time to fulfill bona fide requests for conversion to equal access.
4. Pacific is on schedule with conversion of nonconforming offices according to the approved plan of the DOJ.
5. Pacific has converted all conforming offices as ordered by the MFJ.
6. As of December 31, 1987, equal access is available on 11,270,000 access lines. This is 94% of Pacific's total lines.
7. Pacific has converted 458 (63.6%) central offices to equal access.
8. Decision 84-06-113 ordered Pacific Bell to implement blocking of unauthorized intralATA traffic carried over or through the facilities of any interexchange carrier upon full implementation of equal access within a LATA.

9. The Commission has taken no action on the Petition to Modify. It is not reasonable to delay on the account of the outstanding Petition, since Pacific Bell's equal access provisioning plan has been approved by the DOJ and meets requirements of MFJ. All February 1986 bona fide requests will be fulfilled by April 1988. Later requests are scheduled or under study. The Petition to Modify is moot.

10. Unauthorized intralATA traffic resulted in \$1.37 million loss for Pacific in 1986-87.

11. Diversion of unauthorized calls onto Pacific's network (screen and carry) is very expensive and may require installation of new equipment.

12. Blocking of unauthorized intralATA traffic can be terminated quickly, easily, and at low cost.

IT IS ORDERED that:

- (1) The protests be denied.
- (2) The effective date of Advice Letter No. 15152 is today.
- (3) The following Schedule CAI P.U.C. No. 176-Tariff sheets be marked with this Resolution No. 12065:
 - Revised Sheet 1
 - Revised Sheet 1-C
 - Revised Sheet 176-B
 - Original Sheets 176-B-1 to 176-B-9

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on February 10, 1988. The following Commissioners approved it:

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK B. DUDA
G. MITCHELL WALK
Commissioners



Executive Director