

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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COMMISSION ADVISORY AND COMPLIANCE DIVISION      RESOLUTION NO. T-13069 →  
Telecommunications Branch                              May 26, 1989

RESOLUTION

Pacific Bell. Order authorizing a contract covering the provision of Centrex Service to Great Western Bank and establishing Schedule Cal. P.U.C. No. K which sets forth a listing of customer specific contracts.

Pacific Bell (Pacific) by Advice Letter No. 15531, filed March 17, 1989 and by Advice Letter No. 15531A, filed April 5, 1989 requests authority under the provisions of General Order No. 96-A (G.O. 96-A) and Decisions 87-12-027 and 88-09-059 to deviate from filed tariff schedules to provide Great Western Bank (Great Western) with Centrex service under contract. This resolution authorizes the contract and also authorizes the establishment of Schedule Cal. P.U.C. No. K which sets forth a listing of customer specific contracts.

BACKGROUND

In D.87-12-027 the Commission responded to an application of Pacific Bell to modify a previous decision (D.88465) to revise certain restrictions covering the offering of services under customer specific contracts. D.87-12-027 revised D.88465 to clarify the circumstances under which customer specific contracts could be utilized for the provision of telecommunications services. D.87-12-027 also set forth the following requirements:

"Pacific, and any other telephone utility proposing to file special contracts using the advice letter process, shall coordinate the filing requirements with CACD in advance of making the filing." (Ordering Paragraph 3.)

"The first customer specific special contract filing under the advice letter process shall be served on all parties to I.87-11-033." (Ordering Paragraph 4.)

In November 1987, the Commission instituted I.87-11-033 to reconsider the regulatory framework within which local exchange companies are regulated. The investigation was structured into three phases. The first phase of I.87-11-033 was to address pricing flexibility issues for services subject to competition. In April 1988, a settlement was reached among the parties. In D.88-08-059, the Commission discussed the proposed settlement and set forth proposed modifications to the settlement. In D.88-08-059 the Commission indicated that the "filing requirements" which were established under the provisions of D.87-12-027 had been incorporated by the parties into the proposed settlement. The proposed modified settlement attached to D.88-08-059 also incorporated the provision from D.87-12-027 that the first advice letter filing

requesting approval of a customer specific contract be served on all parties to the I.87-11-033 proceeding.

In D.88-09-059 the Commission adopted a modified Phase I Settlement (hereinafter referred to as the Settlement). Under the provisions of the Settlement, the Local Exchange Companies (LEC's) are allowed to provide certain services such as Centrex service under the terms of contracts between the LECs and customers. The Settlement provides that such contracts become effective upon authorization by the Commission.

Appendix A of D.88-09-059 sets forth a process and requirements for the filing of advice letters requesting authorization of customer specific contracts. Such requirements include the following:

- The contracts do not become effective until authorized by Commission Resolution.
- Contracts are to be filed under the advice letter process. The advice letter and the contract will be a public documents and are subject to protest under the provisions of G.O. 96-A.
- LECs may request confidential treatment of workpapers and supporting cost documentation. Parties to the Settlement, other than the Division of Ratepayer Advocates (DRA) must enter into protective agreements to obtain such workpapers and/or documentation.
- The first advice letter requesting approval of the first contract will be served on all parties in I.87-11-033 and will include a statement that subsequent filings will be made available upon request.
- A new tariff schedule will be created which lists all contracts entered into as a result of Decisions 87-12-027 and 88-09-059.
- Contracts must contain "appropriate" services.
- Each contract shall cover the costs of the services provided under each such contract.
- The methodology for determining costs shall be either fully allocated embedded or direct embedded.
- For Pacific's Centrex service, the price may in no event go below the price of the single-line business rate, plus the multi-line End User Common Line (EUCL) charge per line.
- Tracking procedures will be set up to validate costs.
- Contracts are to be used only in unusual or exceptional circumstances. The LEC shall have the burden of demonstrating the existence of such circumstances and the reasons why service cannot be provided as a generally tariffed offering. The LEC shall state such circumstances and reasons in the advice letter transmitting any contract for Commission approval. Unusual or exceptional circumstances may include, but are not limited to, such situations

as the LEC's inability to provide the requested service over existing facilities or unexpected and unforeseen customer-specific service requirements.

Advice Letter No. 15531 contains the first customer specific contract for which Pacific is seeking approval under the provisions of D.88-09-059 and G.O. 96-A. The contract filed under Advice Letter No. 15531 covers the provision of Centrex service to Great Western at 9 customer locations in Southern California. Centrex service is a communications system based in the central office and is equipped with primary station lines capable of receiving direct in-dialed calls and capable of direct out-dialing of calls. Centrex service also provides the customer with optional system and station features.

Under the terms of the Great Western contract, Pacific agrees to provide Great Western with Centrex service on a total of 2,800 lines for a period of 5 years for a fixed monthly rate of \$46,825.00. Pacific indicates that authorization by the Commission of this contract will result in an estimated decrease in annual revenues for 1989 of approximately \$94,600.

#### PROTESTS/COMMENTS

No protests were filed on Advice Letter Nos. 15531 and 15531A. However DRA and AT&T both offered comments. Following are their concerns and recommendations:

- Because Pacific has failed to serve all parties in the I.87-11-033 proceeding with copies Advice Letter No. 15531 as required by D. 87-12-027 and D.88-09-059 DRA is concerned that some of the parties may not have the full 20 days to protest or comment on the Advice Letter as provided under General Order No. 96A. DRA recommends that the Commission remedy this situation.
- The Great Western contract states in part, "Applicable rates and charges, surcharges and taxes will be billed on a monthly basis." DRA believes that this could apply to the billing surcharge mechanism set forth in Pacific's Schedule Cal. P.U.C. No. A2, Rule No. 33. Since this Rule No. 33 commonly provides for a surcredit, DRA is concerned that the application of a surcredit could cause the contractual rate to fall below the "floor" rate (single-line business rate plus End-User Common Line charge). Although Pacific has addressed this concern by stating in Advice Letter No. 15531 that "Schedule Cal. P.U.C. No. A2, Rule No. 33 surcharges are not applicable to the rates and charges set forth in this contract", DRA recommends that the Commission clearly provide in this resolution that Rule 33 Billing Surcharge mechanism not be applicable to the services provided under the terms of the Great Western contract.
- The requirements set forth in Appendix A of D.88-09-059 do not clearly state whether the contract rate which is compared to the floor rate is to include or exclude nonrecurring charges. Clearly the floor monthly rate of \$13.01 does not include any nonrecurring charges. DRA is concerned that Pacific is misconstruing the requirements of Appendix A of D.88-09-059 by including billings

for nonrecurring charges in the contractual monthly rate per line which is compared to the floor rate per line.

- DRA recommends that the Commission resolution authorizing the Great Western contract specifically provide that the revenues and the costs associated with the services provided under this contract be included in a tracking program which is being addressed in the "contract workshops" which are presently being conducted under the authority of Ordering Paragraph 1 of D.88-09-059.
- Authorization of this contract will result in a reduction in annual revenue to Pacific. All or a portion of this reduction will likely become a burden on the general body of rate payers in the future. DRA questions whether this contract is in the best interest of the general body of rate payers and whether they would not be better served if Great Western did indeed implement a competitive alternative to Centrex service such as PBX service. DRA reasons that under such an alternative Pacific would receive revenues from Great Western which might provide a greater level of contribution than under the Centrex contract.
- AT&T believes that clarification is required on the issues of whether the floor rate of single-line business rate plus the End-User Common Line charge can be fixed in a multiyear contract, and whether non-recurring charges can be included in that rate, without violating Decision 88-09-059.

On April 28, 1989, Pacific Bell responded to the comments of DRA and AT&T as follows:

- Pacific agrees with DRA's comment on expanding the service list for the advice letter and has complied.
- Pacific agrees with the DRA recommendation that the Commission Resolution authorizing the Great Western contract specifically provide that the Rule No. 33 Billing Surcharge not apply to the services provided under the Great Western contract.
- Pacific also agrees with the DRA recommendation that the revenues and costs associated with the services provided be included in the tracking program developed in the Contract Workshops.
- Pacific does not agree with the comments of AT&T and DRA that nonrecurring revenues should be excluded when comparing the contractual monthly rate per line to the floor rate per line. Pacific's primary argument is that the language of D. 88-09-059 does not clearly state that nonrecurring charges are not to be included in comparison of the contract rate to the floor rate.
- Pacific also disagrees with AT&T's comment that the single-line business rate plus the End User Common Line charge should not be fixed in a multiyear contract. Pacific believes this is no longer an issue because it has agreed to offer similar arrangements for PBX trunks and is actively discussing implementation with the Commission.

## DISCUSSION

The Great Western contract states, " This agreement and all Addendums attached hereto shall become effective upon authorization of the CPUC..." (Contract page 2) as required by G.O. 96-A and Appendix A of D.88-09-059. The Great Western contract is filed under the advice letter process and is therefore a public document. With regard to access to supporting information, the Advice Letter states,

"In compliance with Decision 88-09-059, Pacific requests confidential treatment of workpapers and supporting cost documentation. Parties to the Phase I Settlement in I.87-11- 033, other than DRA, must enter into protective agreements to obtain such information."

The Advice Letter states, "...in compliance with Decision No. 88-09- 059, Ordering Paragraph 9, we are serving this first advice letter requesting approval of a special contract on all parties in I.87-11- 033..." A service list attached to the Advice Letter lists certain of the parties to Phase I of the I.87-11-033 proceeding and also lists the customer. On April 5, 1989 Pacific filed Advice Letter No. 15531A for the purpose of revising the service list of those parties receiving the Advice Letter to include the parties to the A.85-01-034, A.87-01-022 and I.87-11-033 proceedings. Pacific also requested in the April 5, 1989 filing that each party be allowed twenty days from April 5, 1989 to file protests and/or comments on the Advice Letter. Since no protests were filed and all comments were filed within 20 days of the initial filing (Advice Letter No. 15531) no extension of the comment period is necessary. Advice Letter 15531 also states that Pacific shall make all subsequent filings available upon request.

The Advice Letter contains the tariff provisions required by D.88-09-059 to establish a new tariff schedule which lists the contracts entered into as a result of D.87-12-027 and D.88-09-059. The new tariff schedule lists each such contract which has been filed with the Commission since the Commission issued D.87-12-027.

Appendix A of D.88-09-059 states, "Contracts can contain "appropriate" tariffed and nontariffed services" (page 13). Appendix A also sets forth a list of services which are inappropriate for contracts. A review of the Great Western contract indicates that this contract does not contain a service listed as inappropriate under the provisions of Appendix A of D.88-09-059.

In the Advice Letter Pacific states,

"In accordance with the Contract Guideline's (sic) outlined in Section B, Appendix A of Decision 88-09-059, each service category of this contract covers its cost as determined by fully allocated cost analysis and is priced above the single line business rate plus the multi-line EXCL per line in effect on the date the contract was signed. Schedule Cal. P.U.C. No. A2, Rule No. 33 surcharges are not applicable to the rates and charges set forth in this contract."

Based on a review of the workpapers and supporting documentation provided with the Great Western contract, it appears that the monthly rate of \$46,825 does recover the specific costs of providing Centrex service to Great Western based on a fully allocated cost analysis and that the monthly rate on a per line basis is greater than the single line business rate plus the multi-line EUCL. The contractual rates and charges are properly excluded from the Rule No. 33 surcharge mechanism in order to provide the customer with a fixed rate and to prevent the application of surcredits which could move the contractual rates below the sum of the single line business rate plus the multi-line EUCL.

With regard to tracking procedures, Pacific states in the Advice Letter that "Tracking procedures which will track revenues and costs have been established to validate costs." The issue of tracking procedures is also currently being addressed in the workshops on contracts being conducted under the provisions of Appendix A of D.88-09-059 (page 15).

The provisions of Appendix A of D.88-09-059 also require that customer specific contracts are to be used "only in unusual or exceptional circumstances" (Appendix A page 14). In the Advice Letter Pacific states,

"A special contract is required in this exceptional circumstance given the customer's requirement for a fixed rate over the contractual period, which cannot currently be provided by a general tariffed offering. In addition, competition is a factor in that the customer has expressed the intention to select a competitive alternative unless Pacific provided the service at rates, terms and conditions more flexible and competitive than the general tariffed offering."

"The terms and conditions of this contract are specific and unique and should not be considered precedential. The statements in the Advice Letter are unique to this contract and should also not be considered as precedential."

The assertions by Pacific that the customer requires a fixed rate over the contractual period and that the customer finds the current tariff to be too inflexible with regard to price appear to form a reasonable basis on which to determine that an exceptional circumstance exists which warrants the provision of Centrex service under contract to Great Western. We note that this determination is made with regard to Great Western based on the assertions made at this time concerning Great Western. We agree with Pacific that such a determination for Great Western should not be considered and will not be considered by this Commission as establishing a precedent for similar determinations for subsequent contracts with other customers for telecommunication services.

Great Western's contract monthly rate per line of \$16.72 includes the nonrecurring charges applicable under the terms of the contract. However in this case the nonrecurring charge is so small that excluding it would not have caused the contract rate to go below the floor rate of \$13.01.

D.88-09-059 states that "for Pacific's centrex, the price may in no event go below the price of the single-line business rate, plus the multi-line EUCL per line". Pacific's interpretation of this is that the floor rate of 1MB plus EUCL would be fixed for the duration of the contract. AT&T's understanding is that the floor rate is not fixed but floats as 1MB plus EUCL changes. In this instance, it does not appear likely that the 1MB+EUCL floor will exceed the contract price of \$16.72 per line in the near future. Moreover, neither AT&T nor DRA protested this issue. We will not address this issue in this resolution, but we will require Pacific Bell to justify its position on this issue in each subsequent filing of an advice letter for a contracted Centrex Service.

We are concerned about the "level playing field" aspects of this centrex contract raised by AT&T to extend such offerings for PBX trunks. Accordingly, we will require Pacific Bell to provide in writing upon request, to each customer considering a centrex contract, an alternate offer to provide the customer deaveraged PBX trunks under contract. Said PBX trunk rates should be determined by the same cost methodology used to determine the centrex line rate. This change will be applicable to all future contracts which are signed on or after the effective date of this order.

#### FINDINGS

We find that:

1. On March 17, 1989 Pacific Bell filed Advice Letter No. 15531 as amended by Advice Letter No. 15531A, filed April 5, 1989 requesting Commission authorization to provide for the offering of Centrex service to Great Western Bank under a customer specific contract.
2. Appendix A of D.88-09-059 and G.O. 96-A set forth certain requirements for the filing of advice letters requesting authorization of customer specific contracts.
3. Advice Letter No. 15531 as amended by Advice Letter No. 15531A (Advice Letter) conforms to the requirements of Appendix A of D.88-09-059 and G.O. 96-A.
  - a. The Great Western contract states that the contract will not become effective until authorized by the Commission.
  - b. The Advice Letter and the Great Western contract are public documents.
  - c. Pacific requests in the Advice Letter that the workpapers and supporting cost documentation associated with the Great Western contract be treated as confidential.
  - d. Pacific has offered the parties to the Phase I Settlement in I.87-11-033 the opportunity to receive and review the workpapers and supporting documentation associated with the Great Western contract if such a party (except DRA) first enters into a protective agreement.

- e. The Advice Letter has been served on all parties to the I,87-11-033 proceeding. It also has a statement that subsequent filings will be made available upon request.
  - f. The Advice Letter establishes a new tariff schedule which lists the contracts entered into as a result of Decisions 87-12-027 and 88-09-059.
  - g. The Great Western contract provides for the offering of Centrex service which is an appropriate service for offering under a contractual arrangement.
  - h. The rates and charges set forth in the Great Western contract cover the costs of providing the Centrex service offered under the terms of the contract.
  - i. The methodology used by Pacific to develop the costs of providing Centrex service to Great Western under the terms of the contract are based on the fully allocated embedded methodology.
  - j. The price per month per line for Centrex services for Great Western under the term of the contract is higher than the sum of the present one-party business measured service rate and the multi-line End User Common Line charge per month per line.
  - k. The Advice Letter indicates that the costs and revenues associated with the provision of Centrex service to Great Western under the terms of the contract will be tracked.
  - l. A contract is required for Great Western because the customer indicated that a fixed rate over time was a requirement to the continued provision of Centrex service by Pacific and this customer requirement could not be met under provisions of Pacific's present tariffs.
4. The surcharge/surcredits set forth in Pacific's tariff Schedule Cal. P.U.C. A2, Rule No.33 do not apply to the rates and charges covered by the Great Western contract.
5. The contract monthly rate per line, for this contract is above the current floor rate of the single-line business rate plus the multi-line EXCL.
6. It is reasonable for Pacific Bell to offer deaveraged PBX trunks under contract to each customer considering a Centrex contract, using the same cost methodology used to determine the centrex line rate. This will be applicable to all future contracts which are signed on or after the effective date of this order.
7. Authorization of the Great Western contract will result in an estimated reduction in Pacific's annual revenues of approximately \$94,600.
8. Commission authorization of the Advice Letter and the Great Western contract do not establish precedents for the contents of these filing or for Commission approval of similar requests. The Commission approval of



the Great Western contract is based on the specifics of the Great Western contract.

9. The rates, charges, terms and conditions of the contractual service authorized in this resolution are just and reasonable; therefore

IT IS ORDERED that:

- (1) Authority is granted to make the above Advice Letter and contract effective on May 26, 1989, subject to the condition set forth in Findings Nos. 4 and 6.
- (2) The Advice Letter and contract authorized herein shall be marked to show that such an Advice Letter was authorized under Resolution of the Public Utilities Commission of the State of California No. T-13069.

The effective date of this Resolution is today.

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on May 26, 1989. The following Commissioners approved it:

G. MITCHELL WILK  
President  
FREDERICK R. DUDA  
STANLEY W. HULETT  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
Commissioners



Executive Director