

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission Advisory & Compliance Division
Telecommunications BranchRESOLUTION T-14003
Date September 27, 1989R E S O L U T I O N

RESOLUTION T-14003. LOS ANGELES CELLULAR TELEPHONE COMPANY (U-3009-C). REQUEST FOR AUTHORITY TO REDUCE ITS ACTIVATION, ACCESS, AND/OR USAGE RATES FOR SPECIFIED PERIODS OF TIME FOR EXISTING AND/OR NEW CUSTOMERS ON AN EXPERIMENTAL OR PROMOTIONAL BASIS ON FIVE DAYS' ADVANCED NOTICE.

BY ADVICE LETTER No. 22, FILED ON AUGUST 3, 1989.

SUMMARY

This resolution rejects Los Angeles Cellular Telephone Company's (Utility) request for authority to reduce its activation, access, and/or usage rates for specified periods of time (on an experimental or promotional basis) for existing and/or new customers on five days' advanced notice by Advice Letter. The request was filed with the Telecommunications Branch (Branch) of the Commission Advisory and Compliance Division on August 3, 1989, and served on competing and adjacent utilities. Three protests to dismiss the Advice Letter were received from Cellular Resellers Association, Inc.; Cellular Dynamics Telephone Company of Los Angeles; and Division of Ratepayer Advocates. Utility has replied to the protest. We have found the protests to have merit.

BACKGROUND

Utility is a facilities-based carrier that provides wholesale, as well as retail rates for cellular radio telephone service in the Greater Los Angeles Area.

Utility has filed Advice Letter No. 22 to make changes to its tariffs to contain a provision to give them authority to reduce wholesale and/or retail rates for all existing and/or new customers on five days' advanced notice by Advice Letter. The amount of reduction is not to reduce total retail and/or wholesale revenues at current tariffed rates by more than 10%.

DISCUSSION

Utility has stipulated three limitations on the authority sought by Advice Letter No. 22: 1). The shortened notice provision

would apply only to rate decreases; 2). The total impact of the decrease sought under the authority of the Advice Letter could not exceed 10% of gross revenues under currently tariffed rates; 3). Decreases sought under the shortened notice procedure would be in effect for a specified period of time not to exceed six months. At the end of the specified period, rates would automatically revert to currently tariffed levels.

Currently, G.O. 96-A requires 30 to 40 days before a utility's tariff filing can go into effect. However, a provision in G.O. 96-A, Section III.F states: "If a utility desires to place reduced rates in effect on less than regular notice (40th calendar day after the filed date) the application for short notice authority may be incorporated in the advice letter. The rates will not become effective on less than statutory notice until appropriate action by the Commission, of which the utility will be advised." The statutory notice period the Commission adopted for Cellular Radio Telecommunications Service is 30 days. Any deviation from this procedure requires appropriate action by Commission Resolution.

Furthermore, Section III.C, para. 2 of G.O. 96-A states that: "If the tariff schedules as filed will result in an increase or decrease in revenues, the advice letter should give an estimate of the annual revenue effect thereof." This issue was completely ignored in Utility's Advice Letter. Utility did not seek an exemption from this requirement, nor did they state that a revenue impact study will be provided.

PROTESTS

Protests were received from: Cellular Resellers Association, Inc. (CRA) on August 22, 1989; Cellular Dynamics Telephone Company (CDT) of Los Angeles on August 22, 1989; and Division of Ratepayer Advocates (DRA) on August 22, 1989. The major allegations were that: the Advice Letter filing was procedurally incorrect (not in compliance with G.O. 96-A, which does not permit tariff sheets which change rates or charges to become effective on less than 30 or 40 days notice), and that its approval will lead to discriminatory and predatory pricing of cellular service by the utility. Utility responded to the protests by letter dated August 29, 1989.

In response to the allegation that the Advice Letter was procedurally incorrect, utility cites G.O. 96-A, Section III.F which enables them to seek Short Notice Authority. However, utility failed to note that this Short Notice Authority requires Commission approval; Commission approval, by Resolution such as this, can only be provided on a two-week cycle, after proper notice to the public has been made by a published agenda for our Resolution. Specific requests for five day authorization are inconsistent with this schedule.

DRA and CRA allege that the Advice Letter will lead to discriminatory and predatory pricing of cellular service. They fear that utility will take advantage of its authority to reduce retail prices to a level below retail costs, which would drive

out reseller competitors. Thereafter, utility could then raise retail rates to high, monopoly levels. Utility's response was that there is no decision known to them that "mandates a fixed spread between wholesale and retail cellular rates, or that changes in one set of tariffs be accompanied by a lock-step change in the other." Utility further explained that it "would not be motivated to incur losses by reducing retail rates to less-than-profitable levels;" and that, "if it were to underprice its retail service, it would be subject to the traditional sanctions imposed by the marketplace and the law."

Utility did not provide any documentation to show the extent of its proposed decreases, or any combinations of its proposed decreases, and their effect on total gross revenues. As is required in G.O. 96-A Section III.C, such data must be provided in the advice letter.

We find the protests to have merit.

FINDINGS

The Commission finds the Advice Letter to be unjust and unreasonable. The inclusion of this provision in the utility's tariff sheets will result in the utility's bypassing of current procedures without proper authorization. We note that pricing flexibility such as that proposed herein could promote competition in the cellular market, and we certainly encourage increased competition. We hope that the parties to our Cellular Investigation (I.88-11-040) will consider the options for such increased pricing flexibility over that which is permitted by our General Order 96-A today. We encourage the utility to pursue its goal in the investigation or other formal proceeding to adapt our General Order 96-A to meet the competitive needs of the cellular market.

THEREFORE, IT IS ORDERED that:

The request for Los Angeles Cellular Telephone Company to have authority to reduce its activation, access, and/or usage rates for specified periods of time on an experimental or promotional basis on five days' advanced notice by Advice Letter has been denied.

The accompanying tariff sheets to Advice Letter No. 22 have been rejected, and the Commission will return a complete set of the rejected sheets to Los Angeles Cellular Telephone Company with a letter stating the reasons for its rejection. Rejected tariff sheets shall be retained in the utility's file of cancelled sheets. Sheet numbers and advice letter number of the rejected filing shall not be reused.

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September 27, 1989

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on September 27, 1989. The following Commissioners approved it:

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

Wesley Franklin

WESLEY FRANKLIN
Acting Executive Director