

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission Advisory & Compliance Division
Telecommunications Branch

RESOLUTION T-14016 *
Date November 22, 1989

R E S O L U T I O N

RESOLUTION T-14016. Stockton Cellular Telephone Company (U-3012-C); Ventura Cellular Telephone Company (U-3010-C); Sacramento Cellular Telephone Company (U-3013-C). Approval of contracts for the provision of cellular telecommunications service to the California State Department of Transportation at less than tariffed rates.

BY ADVICE LETTER Nos. 16, 10, and 16 respectively, FILED ON October 12, 1989.

SUMMARY

This resolution authorizes Stockton Cellular Telephone Company (Stockton), Ventura Cellular Telephone Company (Ventura), and Sacramento Cellular Telephone Company (Sacramento) to enter into an agreement with the California State Department of Transportation (Caltrans) to provide cellular telecommunications service at other than tariffed rates, pursuant to Commission General Order No. (G.O.) 96-A, Section X.A, "Contracts and Services at other than Filed Tariff Schedules: General Requirements and Procedure."

The contracts were filed with the Telecommunications Branch of the Commission Advisory and Compliance Division on October 12, 1989, and served on competing and adjacent utilities. One protest was received from GTE Mobilnet of California Limited Partnership. The utilities have filed a joint response to the protest. We find a portion of the protest to have merit.

BACKGROUND

Contracts for the provision of cellular telecommunications (cellular) service to Caltrans was filed by Stockton, Ventura and Sacramento. Stockton provides cellular service within the Stockton and Modesto Metropolitan Statistical Areas (MSAs), Ventura provides cellular service within the Oxnard-Simi Valley-Ventura MSAs, and Sacramento provides cellular service within the Sacramento and Yuba City MSAs. Services will be provided to Caltrans in accordance with each carrier's Retail Tariffs on file with the Commission.

DISCUSSION

The prices and terms specified in Schedule A of each contract deviate from the prices and terms specified in each carrier's Retail Tariffs on file with the Commission. The estimated annual revenue effect of each contract is: \$720.00 for Stockton, \$251.00 for Ventura, and \$1,007 for Sacramento.

Each contract will be for an initial period of one year, with the terms applied monthly. In the event that each contract continues into effect after October 1, 1990, each utility will file an advice letter requesting Commission approval for each new contract. Each contract contains a provision which will entitle each utility to refund the difference between the proposed contract rate and the tariffed rate if Caltrans were to subscribe to service at the tariffed rates before this advice letter is approved.

PROTESTS

A protest was received from GTE Mobilnet of California Limited Partnership (GTE) on October 27, 1989. GTE protested the advice letter for two reasons: (1) "neither the proposed contracts nor any relevant contract terms and conditions, including rates, have been provided" with the advice letters; and (2) "the request for retroactive application of the unidentified contract rate is an improper attempt to evade the Commission's notice requirements."

The utilities filed a joint response to the protest on November 3, 1989. In response to the first issue, the utilities point out that all advice letters filed with the Commission included copies of the contracts, each one containing all the terms and conditions of each utility's provision of service to Caltrans, including rates. In addition, the utilities point out that these contracts have been available at the Commission for review since the date of their filing, and that copies of the contracts were made available to others upon request.

In response to the second allegation, the utilities claim that the request for retroactive approval will not shorten the time for the Commission staff to review the contracts, nor will it evade the Commission's notice requirements. However, until the contracts are approved by the Commission, all terms and agreements in the contract are not valid. We find this issue in the protest to have merit.

FINDINGS

With the exception of the provision where each utility will refund the difference between the proposed contract rate and tariffed rate if Caltrans were to subscribe to service at the tariffed rates before this advice letter is approved, the Commission finds the rates and terms of each contract to be reasonable. We find that approving refunds for service purchased prior to an approval of the contract may be considered

Resolution T-14016
November 22, 1989

retroactive ratemaking, from which we must refrain. We find this section of the protest to have merit.

THEREFORE, IT IS ORDERED that:

The Contracts for Cellular Telecommunications Service with the California State Department of Transportation filed by Stockton Cellular Telephone Company, Ventura Cellular Telephone Company, and Sacramento Cellular Telephone Company on October 12, 1989, excluding the provision where each utility will refund the difference between the proposed contract rate and tariffed rate if Caltrans were to subscribe to service at the tariffed rates before this advice letter is approved, is made effective today.

Each utility will file a new contract with the Commission Advisory and Compliance Division within 30 days of this advice letter's adoption to contain the changes reflected in this order.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on November 22, 1989. The following Commissioners approved it:

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

Wesley Franklin

Wesley Franklin
Acting Executive Director