

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Branch

RESOLUTION T-14020*

Commission Advisory and Compliance Division November 22, 1989

R E S O L U T I O N

RESOLUTION T-14020. Los Angeles SMSA Limited Partnership Retail and Wholesale Cellular Service Offers, "Emergency Preparedness Plan"

BY ADVICE LETTER No. 53 and 53A, FILED ON September 26, 1989 and October 23, 1989, Los Angeles SMSA Limited Partnership (LASLP) offers new retail and wholesale cellular service called Emergency Preparedness Plan.

SUMMARY

LASLP offers new wholesale and retail cellular service called an "Emergency Preparedness Plan" that reduces access rates from the standard \$45 per month (wholesale, \$34.41 per month) to \$16.50 per month (wholesale, \$14.50 per month) and raises usage charges from the standard \$.45 per minute (wholesale, \$.37 per minute) to \$.99 per minute (wholesale, \$.86 per minute), for the first 30 minutes each month. For usage over 30 minutes per month, the standard retail and wholesale charges apply. The purpose of the offer is to provide a cellular service plan that serves as a backup for organizations in the event of a disruption in landline telephone service. The plan is designed for low usage (casual, or for testing purposes) unless landline service is actually disrupted.

Protests were received from Mission Bell Telecommunications Corporation (Mission Bell) and the Cellular Resellers Association (CRA). The protests complained that that the LASLP original retail-only offer (Advice Letter No. 53) did not permit the resellers an opportunity to compete when selling below the reseller's own cost. LASLP responded to the protests by filing its supplemental Advice Letter No. 53A, which included a wholesale plan, and revised the retail plan so that at any level of usage a retail margin is available to the reseller.

CRA and Mission Bell both protested LASLP's wholesale offer in Advice Letter 53A, calling the Plan's gross margin unreasonable and anti-competitive. LASLP responded that it believes the margin offered in its Plan is reasonable given the uniqueness and limited demand expected. The margin depends on the subscriber's usage (less than 12.6% at or below 30 minutes of usage, to over 20% for 60 minutes of usage).

LASLP states that it has priced the Plan in response to inquiries from potential subscribers who desire a low monthly access fee and limited usage except in case of emergency. It believes the Plan is not anti-competitive and will offer resellers an opportunity to design their own unique retail back-up communications plans.

We find the retail and wholesale Emergency Preparedness Plan offers of LASLP to be fair and reasonable, and make them effective today. The protests of Mission Bell and CRA are dismissed.

BACKGROUND

On September 26, 1989, LASLP filed Advice Letter No. 53 offering a new retail cellular service plan, Emergency Preparedness Plan, that lowered monthly access charges from \$45 to \$15, and raised peak airtime usage charges from \$.45 per minute to \$1.00 per minute for the first 60 minutes of use each month. Usage greater than 60 minutes a month would incur access charges of \$45 for that month and \$.45 per minute for each minute of use over 60.

The purpose of the filing was to establish a service plan for cellular to service as a communications back-up for organizations in the event of a disruption in landline service. The plan was designed for low usage (primarily off-peak) for testing unless landline service is actually disrupted.

Protests were received on October 10, 1989, from Mission Bell and on October 16, 1989, from CRA. Mission Bell protests that LASLP does not offer its wholesale customers (resellers like Mission Bell) a compensatory rate, demonstrating that it is impossible for any reseller to make the same offer to the reseller's retail customers without incurring a substantial loss. CRA also protests that resellers cannot match LASLP's retail Advice Letter No. 53 without selling below their cost.

On October 23, 1989, LASLP filed supplemental Advice Letter No. 53A in which it introduced a wholesale equivalent of the retail Emergency Preparedness Plan. LASLP reduced the number of minutes of usage from 60 to 30 minutes at which time charges revert to the standard access and usage rates. LASLP revised the retail per minute rate from \$1.00 to \$.99 and the monthly access from \$15 to \$16.50.

The wholesale rates are \$14.50 per month for access and \$.86 per minute for usage up to and including 30 minutes of use.

LASLP stated that it believes its revised Emergency Preparedness Plans (Advice Letter No. 53A) are responsive to the basic concern of Mission Bell and CRA, and will make cellular service available to businesses which have expressed a need for cellular to play a part in their individual emergency preparedness plans.

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On November 7, 1989, CRA and Mission Bell protested LASLP Advice Letter No. 53A. Mission Bell states that the resulting gross margin for the Plan (with no monthly usage) is only 12.1%, well below the standard Basic Rate margin of 23.5%. It believes the Emergency Preparedness Plan is anti-competitive and unreasonable.

CRA states that the Plan's maximum gross margin of 12.85% is not justified by LASLP and does not "present a realistic business opportunity to independent resellers". It calls the reduction of the standard gross margin by almost 50% "unfair and anti-competitive".

LASLP responds that the purpose of the plan is to meet a limited customer demand for low access - low usage back-up communications service. It believes the plan will be used only by businesses who want an alternative communication system during emergencies such as a fire, earthquake, or other disaster. It estimates that no significant marketing costs will be generated by these Plans. LASLP demonstrates in its response that as the customer's usage exceeds the 30 minute cap established in the Plan, the gross margin returns to over 20%, the same as in the Basic Rate Plan.

LASLP offers to provide Commission Staff with a report in one year on the number of subscribers to the Plans and a description of actual usage patterns. We will ask Staff to request such a report from the company after one year of experience with these offers. In the interim, we agree with LASLP that the Emergency Preparedness Plan is in the public interest and we accept the present offer as reasonable.

DISCUSSION

We find that LASLP has responded effectively to the protests of Mission Bell and CRA, and has offered in its supplemental Advice Letter No. 53A wholesale and retail Emergency Prepared Plans that offer cellular service that is in the public interest and provides an opportunity for resellers to compete in the marketplace with the cellular carrier.

PROTESTS

The protests of Mission Bell and CRA are dismissed.

FINDINGS

The Emergency Preparedness Plans of LASLP as supplemented by Advice Letter No. 53A are fair and reasonable and in the public interest.

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THEREFORE, IT IS ORDERED that:

Advice Letter No. 53 (as supplemented by Advice Letter No. 53A filed October 23, 1989) is made effective today.

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