

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-14064*
Telecommunications Branch April 11, 1990

R E S O L U T I O N

RESOLUTION T-14064. REQUEST BY PACIFIC BELL FOR PROVISIONAL AUTHORITY TO INTRODUCE A NEW INTRALATA 800 SERVICE OFFERING, "CUSTOM 800," AND TO EXPAND THE CURRENT 800 ACCESS SERVICE OFFERING TO PROVIDE TEN-DIGIT CUSTOMER IDENTIFICATION AND ASSOCIATED OPTIONAL FEATURES, BY MEANS OF THE NEW CUSTOM 800 DATABASE.

BY ADVICE LETTERS NO. 15686 AND 15690, FILED ON FEBRUARY 16, 1990, ADVICE LETTER SUPPLEMENT NO. 15686A, FILED ON MARCH 28, 1990, AND ADVICE LETTER SUPPLEMENT NO. 15686B, FILED ON APRIL 6, 1990.

SUMMARY

This resolution authorizes Pacific Bell's (Pacific) requests in Advice Letters No. 15686 and 15690 for provisional authority to introduce a new intraLATA 800 service offering, "CUSTOM 800," and expand the current 800 access service offering to provide ten-digit customer identification and associated optional features by means of the new CUSTOM 800 database. Provisional authority is granted for 24 months, effective April 13, 1990 to April 12, 1992, unless otherwise ordered by this Commission.

Further, this resolution accepts Pacific's categorization (in Advice Letter No. 15686) of the new CUSTOM 800 service as Category II (discretionary and partially competitive), in accordance with D.89-10-031, our new regulatory framework for Pacific and GTE California. Pacific has not requested pricing flexibility for this service, but reserves the right to do so at a later date. Such request must be made by application in our expedited application docket, in accordance with D.89-10-031, Ordering Paragraph 3.

In Advice Letter No. 15690, Pacific correctly recognizes that the ten-digit customer identification feature being added to its 800 access service requires this existing service's categorization under D.89-10-031 of Category I, monopoly services. We reject, however, Pacific's categorization of the associated optional features as Category II. In D.89-10-031, we clearly included existing switched access services in Category I. As specified in that decision's Ordering Paragraph 20, requests for recategorization of existing services must be made by application.

During the 24-month provisional period, Pacific will track certain specified data on a monthly basis and report this data quarterly to the Commission Advisory and Compliance Division (CACD). Pacific will also track specified cost data monthly and report it annually to the CACD. However, we direct Pacific to be prepared to provide cost data when requesting pricing flexibility for these services.

BACKGROUND

The 800 service market has grown dramatically since it was first introduced in 1967. A 1988 San Francisco Consulting Group Study put the national growth rate of 800 call volumes, over ten years, at 19% per year. Prior to 1986, 800 service was provided exclusively by Pacific for intraLATA traffic and by AT&T for interLATA traffic, and both benefitted by this growth in the 800 market. At its peak in 1986, Pacific's 800 volume had increased 27% over 1985.

Since 1984, Pacific and other Bell Operating Companies (BOCs) have worked to deploy a new 800 Database to provide equal access for 800 service to all interexchange carriers, and thereby open the 800 market to full competition. This strategy is based on the premise that true equal access can only be provided through a central 800 Database for number administration. The Federal Communications Commission (FCC) has thus far refrained from ordering all carriers to "load their numbers" into this centralized database, which inhibits consumer mobility among carriers (since customers often place a high value on their specific 800 number). In response to a carrier request supported by Judge Greene, Pacific made the "800 NXX Plan" available to all carriers on October 16, 1986. The 800 NXX Plan is an interim form of equal access to 800 service which allocates 800 NXX prefixes to specific carriers, and thereby allows them to provide 800 service using their allocated numbers. MCI and US Sprint became active in the California 800 marketplace in mid-1987. Since then, numerous alternatives to Pacific's 800 service have been introduced to provide universally recognized toll-free calling, including:

- AT&T MEGACOM (Interim Authority granted 11/23/88)
- MCI 800 Service (Dedicated Access Lines)
- MCI Business Line 800
- US Sprint Ultra 800 (Dedicated Access Lines)
- US Sprint FONLine 800
- Cable & Wireless 800

Pacific currently offers four intraLATA 800 subscription alternatives in California: Metro 800, Service Area 800, Half State 800 and Full State 800. Half and Full State 800 services are offered in conjunction with AT&T. Pacific provides customers with the terminating dedicated access line and intraLATA usage, while AT&T provides the interLATA transport. Other interexchange 800 carriers within the state of California are not required, under the 800 NXX Plan, to hand off the intraLATA traffic to Pacific for transport and billing. Pacific alleges that this "bypass" of its intraLATA 800 traffic is

eroding its 800 revenue base, primarily in the high volume market segment (MEGACOM, MCI 800, Sprint Ultra 800). However, with the introduction of intrastate 800 service on regular business lines by MCI, Sprint and Cable & Wireless, Pacific is starting to experience erosion in the mid- and low-end market segments as well. Further, Pacific avers that its intraLATA franchise is being threatened by these competing 800 services which do not block or restrict intraLATA calling.

AT&T has filed A.89-03-046 to provide intrastate 800 READYLINE service on regular business or residential lines. This proceeding has been split into two phases: Interim Authority and the main phase. A settlement in the Interim Authority phase has been proposed, and we will take action on it today, as well.

In order to compete effectively in the rapidly proliferating California 800 marketplace, and in accordance with the proposed settlement in A.89-03-046, Pacific filed two complementary advice letters on February 16, 1990. Advice Letter No. 15686 seeks authority to offer a new intraLATA "CUSTOM 800" service which is available (for the first time) on regular business lines as well as on dedicated lines. Customers may choose to have CUSTOM 800 calls terminated to existing or new regular business lines, e.g., 1MB, COMMSTAR, CENTREX, PBX trunks or equivalent lines capable of receiving incoming calls. The CUSTOM 800 offering also includes optional features of two major types, "Call Handling and Destination" and "Service Management and Control." Complementary to this offering is Advice Letter No. 15690, which expands Pacific's current 800 Access service to allow for the assignment of a single ten-digit 800 number to the subscriber for both intraLATA and interLATA calling, thus providing access to Pacific's network for intraLATA calls and access to a single interexchange carrier for interLATA calls.

In compliance with D.89-10-031 (Phase II, Alternative Regulatory Framework), Advice Letters No. 15686 and 15690 propose categorization of these services for purposes of pricing flexibility. Advice Letter No. 15686 establishes CUSTOM 800 as a new Category II (discretionary and partially competitive) service, but does not request flexible pricing at this time. Advice Letter No. 15690 recognizes that the existing 800 Access service being expanded has been classified in D.89-10-031 as Category I, monopoly services, but proposes that the optional features associated with the expanded functionality be classified as Category II services. However, pricing flexibility for these optional features is not requested at this time, either. In both cases, Pacific "reserves the right to propose a flexible pricing structure at a later date."

On March 28, 1990, Pacific filed Advice Letter Supplement 15686A to correct the revenue requirement impact and annual revenue effect figures. The corrected figures are:

Revenue Requirement Impact:	(\$3,697,459)
Annual Revenue Effect:	\$4,174,158

This supplement also extended the requested effective date.

April 11, 1990

On April 6, 1990, Pacific filed Advice Letter Supplement No. 15686B to clarify the applicability of nonrecurring and recurring rates and charges and the subscription area for Custom 800 services.

PROTESTS

Timely protests to both Advice Letters were received by the CACD on March 8, 1990 from AT&T, the Division of Ratepayer Advocates (DRA), MCI Telecommunications Corporation (MCI) and US Sprint Communications Company Limited Partnership (Sprint).

AT&T: AT&T makes a limited protest of the inclusion of functions in these Advice Letters which AT&T believes are not needed to implement Pacific's 800 Access Service and not consistent with the Modified Final Judgment (MFJ). AT&T specifically objects to:

1. Delivery of the "POTS routable number ... to the IC premises;" (POTS = Plain Old Telephone Service; IC = Interexchange Carrier) and
2. The "vertical" routing features by time of day, day of week, originating NPA, NPA-NXX or LATA, specific date within the next 12 months, "allocation to terminating location by percentage," and multiple carriers. (AT&T protest p. 2)

AT&T contends that these are interexchange functions and that the MFJ bars Pacific from performing them. AT&T refers to the pendency of motions by MCI on this issue in the U.S. District Court for the District of Columbia (Civil Action No. 82-0192 HHG), and recommends that this Commission not approve these specific features of Pacific's Advice Letters until the Court rules.

DRA: DRA has also filed protests which are limited to specific issues, and requests certain conditions to be placed on approval of these advice letters. The grounds for DRA's protests are:

1. Pacific has not provided monitoring guidelines for these two new offerings in the Advice Letters, and based on Pacific's recent response to the CACD's interim monitoring guidelines (pursuant to D.89-10-031), DRA is concerned that Pacific does not intend to perform adequate monitoring/tracking. DRA believes that the 24-month provisional period is necessary because there is no historical data on which to base permanent authority for these new products, and Pacific intends to propose a pricing flexibility structure at a later date, thereby setting a precedent for establishing pricing flexibility

authorized by D.89-10-031. DRA recommends that Pacific be required to track certain data for these new products monthly, and report it to the CACD within 45 days of the month-end. The data which DRA recommends that Pacific track monthly are:

A. CUSTOM 800

1. Total call messages and call minutes by
 - a. Termination line type: dedicated and POTS
 - b. Time of day: Day, Evening and Night Rate Periods
2. Total number of ded. vs. POTS lines by business type
 - a. General Business
 - b. Major
 - c. Priority
3. Total 800 nos. on ded. vs. POTS lines by business type
 - a. General Business
 - b. Major
 - c. Priority
4. Migration volumes as
 - a. total number of lines per month
 - b. total number of call messages per month
 - c. total number of call minutes per monthFROM each of the existing 800 services
 - a. Half State
 - b. Full State
 - c. Metro
 - d. Universal
 - e. Service AreaTO Custom 800 by terminating line type
5. New User volume (as no. of lines, call messages and call minutes per month) NOT from Pacific 800 services by business type and terminating line type
6. Total number of optional features subscribed (by no. of lines, call messages and call minutes per month)
7. Actual incurred revenues and costs to provide CUSTOM 800 basic service by business type and terminating line type, as
 - a. non-recurring revenue
 - b. non-recurring cost
 - c. recurring revenue
 - d. recurring cost
 - e. total usage revenue
 - f. total usage cost
8. Actual incurred revenues and costs of providing CUSTOM 800 optional feature service by business type and terminating line type, as
 - a. non-recurring revenue
 - b. non-recurring cost
 - c. recurring revenue
 - d. recurring cost
 - e. total usage revenue
 - f. total usage cost

B. 800 ACCESS SERVICE

1. Total no. of access customers (CPUC-certificated interLATA service providers) participating in Pacific's 800 Database Service
2. Total 800 nos. participating in Pacific's 800 Database Service
3. Total data base queries per access customer
4. Total no. of optional features subscribed (as no. of lines, call messages, call minutes)
5. Actual incurred revenues and costs to provide optional features of 800 Access Service for:
 - a. non-recurring revenue
 - b. non-recurring cost
 - c. recurring revenue
 - d. recurring cost

2. DRA does not believe that Pacific has clearly identified in Advice Letters No. 15686 and 15690 which rate elements "belong in Category II." In Advice Letter 15686, "it is not clear to DRA whether all the rate elements of Custom 800 service, namely the non-recurring charge, recurring rate and usage rates, belong in Category II and therefore will be subject to pricing flexibility in the future" (DRA protest p. 7). DRA specifically cites the reference in the Custom 800 tariff to the access line tariff (A3.1.2.F and A3.1.6.e) for the Service Charges to change from Metro, Half State, Full State or Service Area 800, and wonders whether Pacific considers these access line charges to be in Category II as well. Regarding Advice Letter 15690, DRA questions whether Pacific can "fracture one service offering into two different categories," (DRA protest p. 6) although it does not cite any reason why Pacific cannot. Further, DRA is not certain if the non-recurring charge and recurring rate in Schedule 175-T, Sheet 225-B, related to the optional features of the 800 Access Service are considered by Pacific to belong in Category II. DRA recommends that the Commission require Pacific to clearly define the requested categorization of each recurring and non-recurring rate or charge element of Custom 800 Service and 800 Access Service, for consideration in future requests for pricing flexibility.

Additionally, DRA "notes" that the proposed Custom 800 Service on POTS line requires a 1MB (measured service) business line, unlike AT&T's proposed Readyline 800 Service (and every other IEC's (interexchange carrier's) 800 service), which is available on a residential or business line. DRA also notes that despite the "holding out" restriction in the proposed settlement for interim authority in A.89-03-046 (Readyline), a residential customer can sign up with AT&T's or any other IEC's service directly. Pacific will only transport the intraLATA traffic for those IECs purchasing the 800 Access Service proposed in Advice Letter 15690. (DRA Protest p. 6-7.)

April 11, 1989

MCI: MCI opposes the approval of both Advice Letters No. 15686 and 15690, and "recommends a full examination of all the issues relevant to the provision of Custom 800 and 800 Access Service offering proposed" in these advice letters (MCI Protest p. 6). MCI's protest is based on several generic costing concerns, and the implementation of D.89-10-031, different costing concerns, and the impact of other CPUC and federal proceedings.

1. MCI avers that Pacific has not complied with D.89-10-031 in seeking to introduce a new service which faces competition, without demonstrating that it "compl(ies) with the unbundling, and rate nondiscriminatory that MCI imputation, and rate nondiscriminatory that MCI protest establish p. 2.) (D.89-10-031 at p. 377 cited in MCI decision." MCI believes that "Pacific's filing must be provided in a nondiscriminatory manner to both their own competitive exchange services at the expense of either their own ratepayers or competitors." (MCI protest p. 2, citing D.89-10-031 at p. 141). Further, MCI asserts that Pacific's "filing must show that (it) will be a monopoly to its own offering for any tariffed service which includes in the function similar to building blocks MCI does not consider function." (MCI protest p. 2) MCI does not consider function is needed to determine how this Phase II standard is to be applied.

2. MCI challenges Pacific's designations as Category II of all or part of the services proposed in these Advice Letters. Since Pacific is not requesting flexible pricing at this time, MCI further cites the need to categorize at this time. MCI cites the outcome of the AT&T Readyline proceeding (A.89-03-046) as necessary to a determination of the proposed settlement of these services, and invokes the objections of these services in Category II as long as the placement of these services in Category II remains in effect for IECs. "holding out" ban remains in effect for IECs.

3. MCI accuses Pacific of delaying to produce and identify the costing workpapers relating to these advice letters, and repeats its earlier arguments regarding the need for a showing of unbundling and imputation. MCI asserts that Pacific's delaying and tactics deprive MCI of its due process rights, and that a thorough period of an advice letter in any case. MCI protest cost analysis cannot be performed during the 20-day period of an advice letter in any case. MCI warns the Commission that Pacific may be structuring these services to recoup its own data base costs from the IECs, even though these IECs already have their own data bases. Finally, MCI questions the waiver of non-recurring charges in the

CORRECTION

**THIS DOCUMENT HAS
BEEN REPHOTOGRAPHED
TO ASSURE
LEGIBILITY**

MCI: MCI opposes the approval of both Advice Letters No. 15686 and 15690, and "recommends a full examination of all the issues relevant to the provision of Custom 800 and 800 Access Service offering proposed" in these advice letters (MCI Protest p. 6). MCI's protest is based on several different issues relating to the implementation of D.89-10-031, generic costing concerns, and the impact of other CPUC and federal proceedings.

1. MCI avers that Pacific has not complied with D.89-10-031 in seeking to introduce a new service which faces competition, without demonstrating that it "compl(ies) with the unbundling, nondiscriminatory access, imputation, and rate structure principles adopted in this decision." (D.89-10-031 at p. 377 cited in MCI protest p. 2.) MCI believes that "Pacific's filing must establish that those elements common to both offerings are provided in a nondiscriminatory manner to ensure that 'local exchange carriers do not favor their own competitive services at the expense of either monopoly ratepayers or competitors.'" (MCI protest p. 2, citing D.89-10-031 at p. 141). Further, MCI asserts that Pacific's "filing must show that (it) will be imputing to its own offering and other similar services the same tariffed rate of any function deemed to be a monopoly building block in the rates for any tariffed service which includes that monopoly function." (MCI protest p. 2) MCI does not consider that the relevant building blocks have been identified, nor the method of imputation agreed upon, and that more investigation is needed to determine how this Phase II standard is to be applied.
2. MCI challenges Pacific's designations as Category II of all or part of the services proposed in these Advice Letters. Since Pacific is not requesting flexible pricing at this time, MCI questions the need to categorize at this time. MCI further cites the outcome of the AT&T Readyline proceeding (A.89-03-046) as necessary to a determination of the competitive nature of these services, and invokes its objections on the basis of anticompetitiveness to the proposed settlement therein. Finally, MCI questions the placement of these services in Category II as long as the intraLATA "holding out" ban remains in effect for IECs.
3. MCI accuses Pacific of delaying to produce and identify the costing workpapers relating to these advice letters, and repeats its earlier arguments regarding the need for a showing of unbundling and imputation. MCI asserts that Pacific's delaying tactics deprive MCI of its due process rights, and that a thorough cost analysis cannot be performed during the 20-day protest period of an advice letter in any case. MCI warns the Commission that Pacific may be structuring these services to recoup its own data base costs from the IECs, even though these IECs already have their own data bases. Finally, MCI questions the waiver of non-recurring charges in the

first 60 days of the 800 Access Service offering without cost support to ensure that cross-subsidy is not occurring.

4. Like AT&T, MCI challenges Pacific's authority to provide certain features and functions under the Modified Final Judgment (MFJ), and cautions the Commission "in approving tariffs that may not be implemented by Pacific without securing a waiver from the MFJ Court." (MCI protest p. 5) MCI asserts that MFJ Court permission is required for Pacific to provide "vertical services" including call validation, POTS translation, alternate POTS translation, multiple carrier routing, traffic statistics reporting, 800 POTS translation and carrier routing. MCI also cites FCC Report and Order, Docket 86-10 (Reconsideration Pending) at paragraphs 53-58, as limiting BOCs to the provision of these services to customers of access services.
5. MCI is concerned that without a "consensus in an Ordering and Billing Forum on any standard, there remain significant issues for resolution concerning how a particular ten digit number may be ordered and reserved." (MCI protest p. 5)
6. MCI's final concern is in light of the prospects for competition within the LATA (i.e., Phase III, Alternative Regulatory Framework proceeding). MCI believes that these advice letters "unduly threaten to compromise the confidential and proprietary nature of I(E)Cs' customer information." (MCI protest p. 5) MCI challenges the need for IECs participating in Pacific's 800 Access Service to provide the ten-digit number of their customers for access, and cautions the Commission from "casually" requiring such divulging of information.

SPRINT: Sprint's protest of both Advice Letters 15686 and 15690 is limited to Pacific's designation of services therein as Category II. With respect to Advice Letter 15686, Custom 800 Service, Sprint believes that it "should not be granted Category II treatment until intraLATA entry is authorized for other carriers." (Sprint protest p. 1) Sprint argues that Custom 800 Service "does not differ materially from other Pacific Bell 800 services which are currently assigned to Category I," and that Pacific's request for Category II treatment is the "end run" of the adopted categorizations which the Commission warned against in D.89-10-031 at pages 152-153. (Sprint protest p. 2) As regards Advice Letter 15690, 800 Access Service, Sprint believes that the "proposed service is an 'enhancement' of Pacific's existing 800 service" and it "should be considered a Category I service, consistent with the Commission's treatment of Pacific's other switched access services." (Sprint protest p. 1)

While Sprint recommends that the Commission reject Pacific's request for Category II designation, it does not oppose approval of the tariff pages submitted under Advice Letters 15686 and 15690 because they do not establish pricing bands. In fact,

since Sprint is "eager to provide a complementary interLATA 800 service in conjunction with Pacific's 800 service," it urges approval of the proposed tariff pages at the date requested by Pacific. (Sprint protest p.2)

RESPONSE BY PACIFIC BELL TO PROTESTS

On March 15 and 16, 1990, the CACD received Pacific's responses to the protests of DRA and AT&T, MCI and Sprint, respectively.

In its response to DRA's limited protests, Pacific responds to each of the issues raised by DRA.

1. Tracking: While Pacific does not concur with DRA's suggested reasons for requesting provisional authority, it does agree to "accomodate the DRA's request and provide the tracking data outlined during the life of the provisional tariffs (under G.O. 66-C protection) with the following exceptions. The exceptions are due to technical inability to meet the DRA's requests in all cases." (Pacific response p. 3) The exceptions for Custom 800 are:

- A. Pacific is unable to provide the total number of POTS lines using Custom 800 Service by business types. (Item number 2)
- B. Pacific can provide the total number of 800 numbers, but may not be able to do so by line type. If it is able to calculate these figures, Pacific will provide them to the CACD. (Item number 3; Pacific does not confirm that it will report this variable by business type as requested by DRA.)
- C. Pacific will provide disconnect volumes for existing lines and services per Item number 4, and can provide the volume of new subscribers of Custom 800 per Item number 5. Pacific is not able to reflect any direct correlation between these two variables, however.
- D. Pacific cannot breakdown the total number of optional features subscribed as requested in Item number 6.
- E. Pacific proposes to provide the cost data requested in Items number 7 and 8 on an annual basis, because the cost allocation analysis required is so extensive.
- F. Pacific may not be able to provide revenue data requested in Item number 8 (a) and (c) by line type. Further, there is no usage to record for optional features as requested in 8 (e) and (f).

The exceptions for 800 Access Service are:

- A. Pacific currently cannot differentiate between access and exchange queries, as requested in Item number 3.
- B. Pacific cannot breakdown the total number of optional features subscribed as requested in Item number 4.
- C. Pacific proposes to provide the cost data requested in Item number 5 on an annual basis, because the cost allocation analysis required is so extensive.

F. Pacific cannot provide revenue data requested in Item number 5 (a) and (c) by line type.

In closing, Pacific offers "to work with the DRA and the CACD in developing necessary and useful tracking information." (Pacific response p. 4)

2. Pacific responds to DRA's questions regarding which elements of Advice Letters 15686 and 15690 Pacific intends to have treated as Category II services:

"For the exchange service, Pacific is not proposing Category II treatment for the business lines or dedicated lines to be used in conjunction with the Custom 800 service. The elements of the exchange service proposed in Advice Letter No. 15686 that Pacific believes should be accorded Category II classification are the usage rates, optional features and the nonrecurring and recurring elements associated with the assignment of an 800 number on a business line."

"The access Custom 800 elements that Pacific believes should receive Category II treatment are both the recurring and nonrecurring rates for the optional features. In the future, Pacific may request pricing flexibility for these exchange and/or access service elements." (Pacific response p. 2)

Pacific does not directly respond to DRA's pondering how the 800 Access Service can be "fractured" into two categories, as proposed by Pacific. Pacific merely states its "position that these services are competitive offerings and that Category II treatment is appropriate." Pacific goes on to say that if we impose Category I instead, it will not oppose such determination in order to quickly bring these services to market. It "may revisit the issue of categorization, however, at a future time." (Pacific response p. 2)

Pacific does respond to DRA's "noting" that Pacific is offering its Custom 800 service over business POTS lines only, while AT&T's proposed Readyline service and other IECs' 800 services are also available on residential POTS lines. Pacific states that while it "may consider offering its Custom 800 service over residential lines in the near future ... it is not prepared to offer it today." Pacific also notes that it "has available a 'One Number' calling card that would permit family members to call home without the card's subscriber incurring charges to other locations." (Pacific response p. 2)

Pacific made a separate response to the protests of AT&T, MCI and Sprint. It addresses AT&T's and MCI's issues regarding the MFJ by citing authority for its position in Department of Justice and FCC documents, as well. Pacific characterizes AT&T's protest as "limited to restating issues that were raised before the Decree Court over three years ago." Pacific states

that "the decree issues raised by AT&T and MCI have been fully briefed before the Court" and that "these issues should not affect the Commission's decision to authorize the provision of these services." (Pacific response pp. 1-2) Pacific's position, articulated in March 1987 before the Court, is that "these services were originally described to the Court in late 1983," and "the proposed optional features are consistent with the exchange and exchange access functions permitted to Pacific under the MFJ." (Pacific response p. 2) In its support, Pacific cites the Department of Justice's conclusion in Further Response of the United States to MCI's Motion (July 17, 1987, p.3):

"implementing customers' carrier selections and translating 800 numbers to standard telephone numbers ... are exchange access services and that they therefore are not prohibited by the decree. In our opinion, allowing the BOCs to provide these services will increase the options available to 800 service customers." (Pacific response p. 2)

Pacific further challenges MCI's presumption of FCC preemption of state jurisdiction over the provision of optional features by BOCs directly to their intrastate end users. Pacific cites FCC Report and Order, Docket No. 86-10, In the Matter of Provision of Access for 800 Service, released April 21, 1989 (p. 93) in observing that

"The FCC specifically stated that its discussion of 800 Data Base vertical features was limited 'to the extent to which LECs may offer these services to ... IXCs' customers in connection with interstate 800 service' and that '(c)learly the LECs may offer the vertical features at issue here to their own intraLATA 800 customers." (Pacific response p. 2)

Based on this reading of the FCC's order, Pacific concludes that its "offering of the optional features associated with Pacific's exchange Custom 800 service directly to end users was specifically approved by the FCC, and the FCC did not preempt the state's ability to authorize their offering to end users on an intrastate basis." (Pacific response p. 2) Pacific also notes that its Petition for Reconsideration of this FCC Report and Order is pending before the FCC on the issue of offering such services to its interstate customers.

The other major issues raised in MCI's and Sprint's protests involve the implementation of this Commission's D.89-10-031, in Phase II of our Alternative Regulatory Framework proceeding. In its response, Pacific dismisses the bulk of MCI's protest as issues relating to flexible pricing, which Pacific is not requesting in these advice letters. Pacific concludes that such concerns will be more appropriately raised at such time as it seeks pricing flexibility for these services. Pacific does not address any other issues raised by MCI or Sprint directly, but rather, defends the competitive nature of the services it has designated as Category II. It cites exhibits and testimony in A.89-03-046 (AT&T Readyline 800) which demonstrate its declining

revenues in the 800 market, as well as "the presence of effective competition." (Pacific response p. 4). Pacific repeats its intention that if we impose Category I instead, it will not oppose such determination in order to quickly bring these services to market, but reserves the right to revisit this issue later. Finally, Pacific seeks to reassure us and all carriers that it "will continue to offer access (via dedicated 800 lines, business lines and Feature Group D access lines) to all of its customers on a nondiscriminatory basis." (Pacific response p. 4)

Pacific responds to the other issues raised by MCI, namely cost support provision, potential cross-subsidization, number reservation and IECs' proprietary customer information. Pacific recounts that it provided MCI with "a full cost support package ... including exchange and access cost information, on March 7, 1990 under nondisclosure agreement." Pacific contends that it has been "timely and cooperative" in doing so, and observes that "MCI's counsel has had a copy of the exchange service cost support since August, 1989, when it was admitted as an exhibit in AT&T's Readyline proceeding." (Pacific response p. 3) Pacific responds to MCI's claim that the proposed services will result in excessive costs to consumers due to data base redundancy among carriers by citing the origination of its service proposal in 1983, the "equal access" it will afford to all IECs, and the increased choices as well as number portability it will offer subscribers. Pacific also counters MCI's concern about the waiver of non-recurring charges in the first 60 days of the service offering by stating that the costs associated with this waiver "will be fully borne by the Custom 800 services themselves." (Pacific response p. 3)

Regarding MCI's questions about the number reservation guidelines which will be used for access ordering, Pacific states that it "is ready and willing, as MCI is well aware, to meet with MCI or any other interested party to explain these guidelines in detail. Their description is certainly not necessary to the authorization of" the proposed services. (Pacific response p. 2)

Finally, Pacific addresses MCI's concerns about the requirement to disclose the ten digit numbers of the IEC's customers. Pacific offers to work with MCI, and states that it will not "compromise MCI's confidential customer information," nor "disclose the customer's 10 digit number to anyone." However, Pacific contends that it has "a legitimate need to know the POTS translation of 800 numbers in order to properly route and receive revenues for the intraLATA 800 traffic Pacific is authorized to carry," and cites this Commission's D.84-06-113 in support. Pacific observes that a primary advantage to customers of the proposed 800 Data Base System will be "their ability to direct intraLATA 800 traffic to Pacific for call completion and billing." (Pacific response p. 3)

On April 2, 1990, the CACD received MCI's "limited reply" to Pacific's response to its protest, which was dated March 20, 1990. MCI characterizes Pacific's response as a distortion of

the record concerning both "law and fact." Contrary to Pacific's representation, MCI states that it sought to urge the Commission to follow federal policy on vertical services, not argue that state jurisdiction has been preempted. According to MCI, Pacific mischaracterizes the FCC's Report and Order, Docket 86-10 to support its position, and MCI further quotes from the same order to support its own contention that "the FCC clearly '(c)oncluded that LECs should be able to offer each of the proposed services to IXCs as part of access service, but not to IXCs' 800 service customers.'" MCI grants that it "does not dispute that the LECs may offer vertical services to customers whose 800 use is exclusively intraLATA." MCI takes exception to the provision of these services "through an exchange tariff to customers who use both intraLATA and interLATA 800 service (through a complementary service)" as "clearly inconsistent with the policy of this FCC decision." (MCI reply p. 1)

MCI also calls Pacific to task for misusing the testimony of MCI's expert economist in A.89-03-046 to support the presence of effective competition in the "Readyline-like market." MCI characterizes its witness's testimony as about "a hypothetical market (one that is not necessarily consistent with the Readyline or 800 service market)," which under certain conditions, it might be concluded that there is "some competitiveness, but not effective competition." (MCI reply p. 2)

DISCUSSION

There are two major areas in which issues and concerns have been raised regarding these two advice letters:

1. The implementation of D.89-10-031 (Phase II, Alternative Regulatory Framework) relative to requests for new services, monitoring and categorization.
2. The implications of the Modified Final Judgment (MFJ) and the FCC's Report and Order in Docket No. 86-10.

1. IMPLEMENTATION OF D.89-10-031

DRA, MCI and Sprint have each taken issue with Pacific's proposals to designate Custom 800 and the 800 Access optional features as Category II. DRA's issues are essentially about Pacific's omissions in proposing Category II designations. MCI is also concerned about omissions in Pacific's proposals, but it and Sprint both challenge the designation of Category II itself. We will consider the procedural issues raised about the implementation of our D.89-10-031 first.

A. Introduction of New Services

In Conclusion of Law 15 of our D.89-10-031, we directed that

"At the time Pacific or GTEC requests authority to offer a new service (including a new BSE or other ONA service), the utility should propose the proper categorization of the service for pricing purposes and should propose either below-the-line treatment or inclusion in the sharing mechanism." (at p. 378)

This Conclusion of Law resulted from our discussion of how new services should be introduced under the new regulatory framework we adopted in D.89-10-031. Therein, we observed that

"Utilities currently propose new services, except enhanced services and BSEs, through the advice letter process set out in General Order 96-A. This process appears to work fairly well and will be continued for all new services except those discussed below. ("...enhanced services, BSEs, and any new services comparable to BSEs which might be offered due to the unbundling principles adopted today.") (at p. 327)

In Advice Letters No. 15686 and 15690, Pacific complies with our directive by proposing the categorization of these new services. While MCI questions the need for such designation without also requesting pricing flexibility, Pacific would have been remiss in not proposing categorization and we have not required it to request pricing flexibility concurrently. In fact, by not requesting pricing flexibility at this time, Pacific subjects itself to a more rigorous examination of its request in our Expedited Application Docket, as required by Ordering Paragraph 3 of D.89-10-031:

"All local exchange carriers are authorized to file applications in expedited application dockets to request rate flexibility for Category II services, as provided in Section VII.A.6 of this decision ..." (at p. 390)

Pacific has stated in its "Reply to Comments on the Proposed Stipulation and Settlement Agreement in A.89-03-046" (2/20/90) that it "will request pricing flexibility through the Advice Letter process concomitant with AT&T having pricing flexibility for its READYLINE service." (p. 14) While D.89-10-031 requires Pacific to request flexibility in the Expedited Application Docket rather than by advice letter, Pacific has expressed its intent to seek flexibility concurrent with our consideration of AT&T's flexibility request in A.89-03-046, and we expect Pacific to pursue this course in our Expedited Application Docket.

Pacific has not, however, proposed below-the-line treatment or inclusion in the sharing mechanism to complete its compliance with Conclusion of Law 15. Since this is the first new service request made under the new regulatory framework, some confusion and the need for clarification of procedures is understandable.

At this time, we will rely upon our stated intent in D.89-10-031 to resolve this oversight:

"(Conclusion of Law) 34. Flexibly priced services should be included in the adopted sharing mechanism because competitive markets would not be harmed and potential benefits to basic ratepayers appear to outweigh risks."
(at pp. 380-381)

Barring a compelling showing by Pacific in the appropriate venue to the contrary, we will assume that these services are included in the sharing mechanism.

MCI also raises the requirement placed on Pacific by Ordering Paragraph 2 that it

"...demonstrate as part of any future request to receive pricing flexibility or to provide additional enhanced services or any new services which face competition that such proposals comply with the principles (of unbundling, nondiscriminatory access, imputation, and basing rate structures) of monopoly utility services on underlying cost structures) adopted in this Ordering Paragraph."
(D.89-10-031 at pp. 389-390, emphasis added)

Pacific certifies in its Advice Letter No. 15686 that "This offering is in full compliance with the (PUC) Decision No. 89-10-031, Ordering Paragraph 2, which states that:

'2. As developed in Section VII.A.5 of this Decision, the principles of unbundling, nondiscriminatory access, imputation, and basing rate structures of monopoly utility services on underlying cost structures are adopted in principle. Local exchange carriers shall impute the tariffed rates and charges of any function deemed to be a monopoly building block in the rates and charges for any bundled tariffed service which includes that monopoly function ...'" (Advice Letter No. 15686 p. 2)

Further, on January 22, 1990, Pacific provided to the CACD and DRA a proprietary worksheet which identifies and specifies the unbundling of monopoly building blocks and the imputation of their tariffed rates and charges. The CACD is satisfied that this worksheet meets the "demonstration" requirement of Ordering Paragraph 2, and DRA has not expressed concerns. Of additional reassurance is that this information will be subjected to further and broader scrutiny in the event Pacific seeks pricing flexibility. Perhaps if MCI had not received the cost support for this Advice Letter one day before protests were due, it would not have had such serious concerns. We urge Pacific to make every feasible effort to provide relevant cost support information to requesting parties at the earliest time following the filing of advice letters. Similarly, requesting parties need to make a good faith effort to initiate their request at the earliest time following filing, as well.

Pacific does not make a certification regarding Ordering Paragraph 2 in its Advice Letter No. 15690, nor did it provide any additional information for this requirement to the CACD. This oversight will be made irrelevant by conclusions we will reach herein, however, so need not be resolved here.

Pacific has responded to DRA's request for clarification of which rate elements would be included in Category II, and we consider this issue resolved. Pacific has clarified that its proposed Category II designation for the Custom 800 service in Schedule A7.2 does not extend beyond that schedule. We expect that when requests for pricing flexibility are made, they will detail the rates and charges for which flexibility is requested.

Regarding MCI's concern that cost support is lacking to ensure that the initial 60-day waiver of non-recurring charges does not lead to cross-subsidy, such waivers for new services or features have been commonly approved and we see no reason to proceed differently in this case.

B. Monitoring

DRA requested that we order Pacific to track extensive data and report it monthly to the CACD (within 45 days of the month-end) during the provisional period. In its response to DRA's limited protest, Pacific has agreed to much of DRA's request and has detailed why it is unable to provide certain data requested. We commend Pacific for its good faith response to DRA's request, and will adopt DRA's tracking plan with the changes suggested by Pacific, resolving certain inconsistencies between them by also adopting the following:

- 1) Track total number of dedicated vs. POTS lines for Custom 800 (replaces DRA's Custom 800 Item 2)
- 2) Track total 800 numbers on dedicated vs. POTS lines for Custom 800 (replaces DRA's Custom 800 Item 3)
- 3) In recognition of the resource-intensiveness of cost allocation analysis, we will accept Pacific's proposal to provide DRA's requested cost data annually; Pacific will track such data monthly and report it to the CACD within 60 days of the year-end (December 31). However, Pacific must be prepared to provide data such as this at the time it requests pricing flexibility for these products.
- 4) Pacific will track all other data monthly and report it to the CACD quarterly, within 60 days of the quarter-end.

We would like to observe that the provisional authority sought by Pacific for these two offerings is highly appropriate, in light of the final authority for AT&T READYLINE 800 still to be determined, and given the market implications of continuing FCC actions regarding a centralized 800 data base.

C. Categorization

In D.89-10-031, we established Categories I, II and III for pricing purposes. Category II was created "to include discretionary or partially competitive services for which there should be downward only pricing flexibility." (Conclusion of Law 10 at p. 377) In the discussion from which this Conclusion resulted, we elaborated on Category II services as those

"for which the local exchange carrier retains significant (though perhaps declining) market power. We are not willing to allow local exchange carriers discretion to raise rates for these services above levels found to be reasonable by this Commission. Recognizing the necessity to price certain of these services above relevant cost measures in order to maintain a reasonable overall revenue level, we believe that such above-cost pricing should occur only with explicit Commission review and approval in order to protect adequately the interests of these still largely captive ratepayers." (D.89-10-031 at p. 152, emphasis added)

This discussion clearly shows our understanding that Category II services would have significant monopoly characteristics, hence our concern to protect the interests of "still largely captive ratepayers." MCI and Sprint have both raised the continuation of the ban on IECs "holding out" intraLATA service as inconsistent with a finding that the proposed services are properly placed in Category II, ostensibly because intraLATA competition is not sanctioned. However, as the foregoing demonstrates, the LEC can retain "significant market power" and still have the service included in Category II for pricing purposes. For example, we included custom calling/vertical services and information access services in Category II (D.89-10-031 at p. 155), and the same intraLATA ban certainly applies in those markets, as well. Sprint also invokes our warning to LECs not to manipulate existing services to "end-run" our adopted categories (Id. at pp. 152-153), and argues that Pacific is doing just that. In the case of Custom 800 (Advice Letter No. 15686), we disagree. Custom 800 is clearly differentiated from Pacific's existing 800 services in that it is the first 800 product which Pacific will offer independent of AT&T's 800 numbers, and has distinctly different features available. We also believe that Pacific has made a sufficient showing that competitive challenges to this new product exist. We conclude that Custom 800 is a new service appropriately included in Category II.

We disagree with Pacific's designation of the optional features in the 800 Access service expansion (Advice Letter No. 15690) as Category II, however. By Pacific's own description, these features are an expansion of an existing Category I (switched

access) service. If there is any doubt of the categorization of this existing service, it should be dismissed by our Conclusion of Law 14 in D.89-10-031:

"14. Because of their monopoly characteristics, all other local exchange carrier services not listed in Conclusions of Law 11, 12, and 13 should be placed in Category I for pricing purposes." (At p. 378, emphasis added)

Conclusion of Law 11 refers to enhanced services and Yellow Page directory services; 12 refers to inside wiring; and 13 enumerates the Category II services: Centrex and EBSS features, custom calling/vertical services, high speed digital private line services, current information access services, high speed special access services, and billing and collection services. In D.89-10-031, we clearly direct how pricing flexibility for an existing Category I service must be requested:

"(Conclusion of Law) 16. If Pacific or GTEC wants a service to be recategorized for pricing purposes or for below-the-line treatment versus inclusion in the sharing mechanism, it should make such a request through an application, in order to allow full review and evaluation of market conditions. However, Pacific and GTEC should also be allowed to request in Phase III of this proceeding recategorization for pricing purposes of Category I services for which they also propose intraLATA competition." (At p. 378, emphasis added)

Ordering Paragraph 20 specifically directs the steps Pacific and GTEC must follow to apply for recategorization. (At p. 396)

2. THE MODIFIED FINAL JUDGMENT (MFJ) AND FCC POLICY

AT&T and MCI have warned us against approving certain features in these Advice Letters which they claim violate the MFJ and FCC policy. The MFJ forbids LECS from offering interLATA service. The services proposed by Pacific in these advice letters do not involve any interLATA telecommunications transmissions, and appear to have been designed to comply with MFJ restrictions. It appears to us that the use of the LEC's data base to provide an intraLATA 800 service and 800 access service would encourage competition among IECs and enable those without a data base to enter the 800 market. We also observe that MCI is the only carrier who has raised concerns regarding Pacific's number reservation guidelines or the breaching of confidential and proprietary IEC customer information.

However, we cannot rule on MFJ or FCC policy, and suggest that parties petition those bodies if they believe these offerings violate such policies.

A final issue not raised by protestors, but which should be noted, regards Public Utilities (P.U.) Code Section 2893 (Chapter 483, Statutes of 1989), which directs the CPUC to require any call identification service offered by a telephone corporation, or by any other person or corporation that makes

use of the facilities of a telephone corporation, to allow the caller, at no charge, to withhold, on an individual basis, the display of the caller's telephone number from the telephone instrument of the individual receiving the call. Exempted from this requirement is any identification service provided in connection with any "800" or "900" access code telephone service until the telephone corporation develops the technical capability to comply, as determined by the Commission.

The CACD has recommended that the Commission address its responsibilities under P.U. Code 2893 by requiring any request for intrastate 800 service to address compliance with P.U. Code Section 2893. The request should clearly state whether call identification service is offered in connection with the 800 service, and if so, how and when it will comply with P.U. Code Section 2893:

1. Allow a caller to withhold display of the caller's telephone number, on an individual basis, from the telephone instrument of the individual receiving the call placed by the caller.
2. No charge will be assessed to the caller who requests that his or her telephone number be withheld from the recipient of any call placed by the caller.
3. Notification to corporation subscribers that their calls may be identified to a called party, thirty or more days before a call identification service is offered.

Pacific has stated for the record in A.89-03-046 that it does not offer calling party identification on a real-time basis in connection with its 800 services. (Tr. 2306) Pacific's revised tariffs submitted with Advice Letter No. 15686 also specify that "Calling party identification is not available on 800 service." (Schedule Cal P.U.C. No. A7.1.2.B.6, at Sheet 13.2)

FINDINGS

1. Since 1987, numerous alternatives to Pacific's 800 service have been introduced to provide universally recognized toll-free calling.
2. Pacific currently offers four intraLATA 800 subscription alternatives, two in conjunction with AT&T. Pacific provides customers with the terminating dedicated access line and intraLATA usage, while AT&T provides the interLATA transport. Other interexchange 800 carriers are not required, under the 800 NXX Plan, to hand off the intraLATA traffic to Pacific for transport and billing.

3. In order to compete effectively in the rapidly proliferating California 800 marketplace, and in accordance with the proposed settlement in A.89-03-046, Pacific filed two complementary advice letters on February 16, 1990. Advice Letter No. 15686 seeks authority to offer a new intraLATA "CUSTOM 800" service which is available (for the first time) on regular business lines as well as on dedicated lines, and offers new optional features. Advice Letter No. 15690 expands Pacific's current 800 Access service to allow for the assignment of a single ten-digit 800 number to the subscriber for both intraLATA and interLATA calling, thus providing access to Pacific's network for intraLATA calls and access to a single interexchange carrier for interLATA calls.

4. In compliance with D.89-10-031 (Phase II, Alternative Regulatory Framework), Advice Letters No. 15686 and 15690 propose categorization of these services for purposes of pricing flexibility. Advice Letter No. 15686 proposes CUSTOM 800 as a new Category II (discretionary and partially competitive) service. Advice Letter No. 15690 proposes that the optional features associated with the expanded functionality be classified as Category II services, with the basic access features remaining Category I. Pricing flexibility is not requested at this time.

5. On March 28, 1990, Pacific filed Advice Letter Supplement 15686A to correct the revenue requirement impact and annual revenue effect figures and to extend the requested effective date. On April 6, 1990, Pacific filed Supplement No. 15686B to clarify the applicability of nonrecurring and recurring rates and charges and the subscription area for Custom 800.

6. Timely protests were received by the CACD on March 8, 1990 from AT&T, the Division of Ratepayer Advocates (DRA), MCI Telecommunications Corporation (MCI) and US Sprint Communications Company Limited Partnership (Sprint).

7. AT&T, DRA and Sprint protest limited aspects of the Advice Letters. Only MCI opposes approval of these Advice Letters in full.

8. On March 15 and 16, 1990, the CACD received Pacific's responses to the protests of DRA and AT&T, MCI and Sprint, respectively.

9. On April 2, 1990, the CACD received MCI's "limited reply" to Pacific's response to its protest, which was dated March 20, 1990.

10. There are two major areas in which issues and concerns have been raised regarding these two advice letters: implementation of D.89-10-031 (Phase II, Alternative Regulatory Framework) relative to requests for new services, monitoring and categorization; and implications of the Modified Final Judgment (MFJ) and the FCC's Report and Order in Docket No. 86-10.

11. In D.89-10-031 we concluded that utilities may continue to propose new services through the advice letter process set out in General Order 96-A, except for enhanced services, BSEs, and any new services comparable to BSEs. (At p. 327)
12. Advice Letters No. 15686 and 15690 comply with our directive in D.89-10-031 (Conclusion of Law 15) by proposing the categorization of these new services and features.
13. MCI's protest of such designation without requesting pricing flexibility should be denied, since Pacific would have been remiss in not proposing categorization and we have not required it to request pricing flexibility concurrently.
14. By not requesting pricing flexibility at this time, Pacific subjects itself to a more rigorous examination of its request in our Expedited Application Docket, as required by Ordering Paragraph 3 of D.89-10-031.
15. Pacific has expressed its intent to seek flexibility concurrent with our consideration of AT&T's flexibility request in A.89-03-046, and we expect Pacific to pursue this course in our Expedited Application Docket.
16. Pacific has not, however, complied fully with D.89-10-031, Conclusion of Law 15, as it does not propose below-the-line treatment or inclusion in the sharing mechanism.
17. As this is the first new service request made under the new regulatory framework, some confusion and the need for clarification of procedures is understandable. At this time, we will rely upon our stated intent in D.89-10-031, Conclusion of Law 34, to resolve this oversight and assume that these services are included in the sharing mechanism.
18. In Ordering Paragraph 2 of D.89-10-031, we required Pacific and GTEC to

"...demonstrate as part of any future request to receive pricing flexibility or to provide additional enhanced services or any new services which face competition that such proposals comply with the principles (of unbundling, nondiscriminatory access, imputation, and basing rate structures of monopoly utility services on underlying cost structures) adopted in this Ordering Paragraph." (at pp. 389-390, emphasis added)
19. Pacific certifies in its Advice Letter No. 15686 that its offering is in full compliance with Ordering Paragraph 2.

20. On January 22, 1990, Pacific provided to the CACD and DRA a proprietary worksheet which identifies and specifies the unbundling of monopoly building blocks and the imputation of their tariffed rates and charges. The CACD is satisfied that this worksheet meets the "demonstration" requirement of Ordering Paragraph 2, and DRA has not expressed concerns. This information will be subjected to further and broader scrutiny in the event Pacific seeks pricing flexibility.

21. Pacific does not make a certification regarding Ordering Paragraph 2 in its Advice Letter No. 15690, nor did it provide any additional information for this requirement to the CACD. This oversight will be made irrelevant by conclusions we will reach herein, however, so need not be resolved.

22. MCI received the cost support for Advice Letter No. 15686 one day before protests were due. We urge Pacific to make every feasible effort to provide relevant cost support information to requesting parties at the earliest time following the filing of advice letters. Similarly, requesting parties need to make a good faith effort to initiate their request at the earliest time following filing.

23. Pacific responded to DRA's request for clarification of which rate elements would be included in Category II, and we consider this issue resolved. Pacific has clarified that its proposed Category II designation for the Custom 800 service in Schedule A7.2 does not extend beyond that schedule.

24. We expect that when requests for pricing flexibility are made, they will detail the rates and charges for which flexibility is requested.

25. Regarding MCI's concern that cost support for an initial 60-day waiver of non-recurring charges is lacking to ensure that cross-subsidy does not occur, such waivers for new services or features have been commonly approved and we see no reason to proceed differently in this case.

26. For monitoring purposes, DRA's tracking plan with the changes suggested by Pacific should be adopted, with inconsistencies resolved by these modifications:

- 1) Track total number of dedicated vs. POTS lines for Custom 800 (replaces DRA's Custom 800 Item 2)
- 2) Track total 800 numbers on dedicated vs. POTS lines for Custom 800 (replaces DRA's Custom 800 Item 3)
- 3) Track cost data requested by DRA monthly and report it to the CACD within 60 days of the year-end (December 31). However, Pacific must be prepared to provide data such as this at the time it requests pricing flexibility for these products.
- 4) Track all other data monthly and report it to the CACD quarterly, within 60 days of the quarter-end.

27. The provisional authority sought by Pacific for these two offerings is highly appropriate, in light of the final authority for AT&T READYLINE 800 still to be determined, and given the market implications of continuing FCC actions regarding a centralized 800 data base.

28. In D.89-10-031, we established Categories I, II and III for pricing purposes. Category II was created "to include discretionary or partially competitive services for which there should be downward only pricing flexibility." (Conclusion of Law 10 at p. 377)

29. Our discussion in D.89-10-031 clearly shows our understanding that Category II services would have significant monopoly characteristics, hence our concern to protect the interests of "still largely captive ratepayers." (at p. 152)

30. The continuation of the ban on IECs "holding out" intraLATA service would be consistent with a finding that the proposed service are properly placed in Category II. We included custom calling/vertical services and information access services in Category II (D.89-10-031 at p. 155), and the same intraLATA ban applies in those markets, as well.

31. Custom 800 is clearly differentiated from Pacific's existing 800 services in that it is the first 800 product which Pacific will offer independent of AT&T's 800 numbers, and has distinctly different features available. Pacific has made a sufficient showing that competitive challenges to this new product exist.

32. We conclude that Custom 800 is a new service appropriately included in Category II, and that MCI's and Sprint's protests should be denied.

33. By Pacific's own description, the new features proposed in Advice Letter No. 15690 are an expansion of an existing Category I (switched access) service.

34. Our Conclusion of Law 14 in D.89-10-031 firmly reinforces this categorization.

35. In D.89-10-031, Conclusion of Law 16, we clearly direct that recategorization must be requested by application, or may be requested in Phase III of that proceeding for services which are also proposed for intraLATA competition. (At p. 378)

36. Ordering Paragraph 20 of D.89-10-031 specifically directs the steps Pacific and GTEC must follow to apply for recategorization. (At p. 396)

37. The Modified Final Judgment (MFJ) forbids LECS from offering interLATA service.

38. The services proposed by Pacific in these Advice Letters do not involve any interLATA telecommunications transmissions, and appear to have been designed to comply with MFJ restrictions.

39. The use of the LEC's data base to provide an intraLATA 800 service and 800 access service would encourage competition among IECs and enable those without a data base to enter the 800 market.

40. MCI is the only carrier who has raised concerns regarding Pacific's number reservation guidelines or the breaching of confidential and proprietary IEC customer information.

41. We cannot rule on MFJ or FCC policy. AT&T and MCI should petition those bodies if they believe these offerings violate such policies.

42. Public Utilities (P.U.) Code Section 2893 directs the CPUC to require any call identification service offered by a telephone corporation, or by any other person or corporation that makes use of the facilities of a telephone corporation, to allow the caller, at no charge, to withhold, on an individual basis, the display of the caller's telephone number from the telephone instrument of the individual receiving the call. Exempted from this requirement is any identification service provided in connection with any "800" or "900" access code telephone service until the telephone corporation develops the technical capability to comply, as determined by the Commission.

43. The Commission should address its responsibilities under P.U. Code 2893 by requiring any request for intrastate 800 service to address compliance with P.U. Code Section 2893. The request should clearly state whether call identification service is offered in connection with the 800 service, and if so, how and when it will comply with P.U. Code Section 2893.

44. Pacific does not offer calling party identification on a real-time basis in connection with its 800 services.

45. The provisional rates, charges, terms and conditions proposed in Pacific's Advice Letters No. 15686, 15686A, 15686B and 15690 are just and reasonable; THEREFORE

IT IS ORDERED that:

1. Pacific Bell's requests in Advice Letters No. 15686, as supplemented, and 15690 for provisional authority to introduce a new intraLATA 800 service offering, "CUSTOM 800," and expand the current 800 access service offering to provide ten-digit customer identification and associated optional features by means of the new CUSTOM 800 database are authorized. Provisional authority is granted for 24 months, effective April 13, 1990 to April 12, 1992, unless otherwise ordered by this Commission.

2. Pacific Bell's proposal in Advice Letter No. 15686 to categorize the new CUSTOM 800 service as Category II is accepted. Any subsequent request for pricing flexibility for this service must be made by application in our expedited application docket, in accordance with D.89-10-031, Ordering Paragraph 3.

3. Pacific Bell's proposal in Advice Letter No. 15690 to categorize the optional features associated with the ten-digit customer identification feature being added to its 800 access service is rejected. In order to recategorize this existing Category I service, Pacific must apply for authority as specified in Ordering Paragraph 20 and Conclusion of Law 16 of D.89-10-031.

4. During the 24-month provisional period, Pacific shall track the data as adopted in the discussion herein on a monthly basis and report this data quarterly to the Commission Advisory and Compliance Division (CACD) Telecommunications Branch Chief within 60 days of the quarter-end. Pacific shall also track the cost data adopted in the discussion herein monthly and report it annually to the CACD Telecommunications Branch Chief within 60 days of the year-end (December 31). Pacific shall provide copies of these reports to the Division of Ratepayer Advocates (DRA).

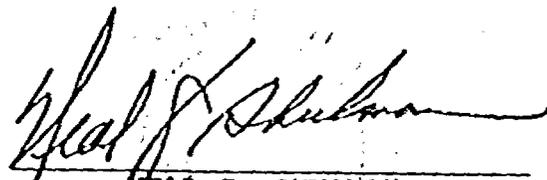
5. Within 30 days of the effective date of this resolution, Pacific will submit its confirmation of the tracking plan adopted herein, specifying the information which will be tracked and the reporting timetable, to the CACD Telecommunications Branch Chief and DRA.

6. Advice Letters No. 15686, 15686A, 15686B and 15690 and their accompanying tariff sheets shall be marked to show this resolution's number and effective date.

7. The effective date of this Resolution is April 13, 1990.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on April 11, 1990. The following Commissioners approved it:

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


NEAL J. SHULMAN
Executive Director