

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION
Telecommunications BranchRESOLUTION NO. T-14068
May 4, 1990R E S O L U T I O NPACIFIC BELL. ORDER ADDRESSING CREDITS TO TOUCH-TONE
CALLING SERVICE CUSTOMERS SERVED BY STEP-BY-STEP CENTRAL
OFFICE EQUIPMENT.BY ADVICE LETTER 15658, FILED JANUARY 9, 1990SUMMARY

Pacific Bell (Pacific) filed Advice Letter No. 15658 to request authorization for a \$5 million credit to existing touch-tone customers served by step-by-step central offices.

Five protests were filed concerning Advice Letter 15658. This resolution modifies the advice letter.

BACKGROUND

Pacific filed Advice Letter No. 15658 on January 9, 1990. It proposes a \$5 million credit to current touch-tone customers served by step-by-step central offices.[1] The amount of credit will be based on the rates and charges paid by the customer for touch-tone service from March 1984, or from the date touch-tone service was installed, allowing for 7% interest. The credit will be adjusted upward or downward on a prorated basis so that the credit will be exactly \$5 million. (Pacific's Advice Letter No. 15657, filed January 9, 1990, also addresses touch-tone service provided by step-by-step central offices by seeking to eliminate the charges for these customers and offering an extended grace period for residential customers whose central office is upgraded to an electronic switch.)

1 A step-by-step central office is an electro-mechanical switch which requires additional equipment to provide touch-tone calling. This equipment translates the signals from the pushbutton dial into direct current dial pulses which direct the operation of selector switches in the central office. Electronic central offices can process the pushbutton signals directly.

May 4, 1990

The Commission's public records detail three events or letters that have bearing on this advice letter filing. The first is Case(C) 86-07-013, in which George Sawaya complained that although he was paying for touch-tone service he was not getting faster service as advertised by the utility. Mr. Sawaya was served by a step-by-step central office. The Commission ruled against the complainant on several grounds, among which was that Pacific had already refunded Mr. Sawaya's charges for touch-tone service, and Pacific agreed to change its advertising. Mr. Sawaya's petition for a rehearing of his complaint was denied on May 26, 1989 in D.89-05-075.

Secondly on May 11, 1989, Pacific sent a letter to the Commission's Executive Director (with copies to the Commission President and Deputy General Counsel) committing itself to refund a total of \$5 million, including interest, to existing residential customers who are served by step-by-step central offices and who subscribe to touch-tone service. In its letter Pacific represented that it would file an advice letter requesting waiver of the \$1.20 monthly charge for touch-tone for residential customers served by step-by-step central offices.

Finally, in his May 30, 1989, response to Pacific's May 11th letter, the Commission's Deputy General Counsel reminded Pacific that any such refund and termination proposal would be subject to full public scrutiny, consistent with the Commission's routine advice letter procedures.

Both the May 11, 1989 and May 30, 1989 letters are part of the formal record on C.86-07-013.

PROTEST AND RESPONSES

Protests were filed by Division of Ratepayer Advocates (DRA), Toward Utility Rate Normalization (TURN), AT&T Communications (AT&T), Utility Consumers Action Network (UCAN), and Mr. George M. Sawaya. Pacific filed responses.

UCAN Protest and Pacific Response

UCAN's filed protest, dated January 26, 1990, addresses the advice letter. It states the Advice Letter No. 15658 refund credits are inadequate, in part, because cross-bar central office customers are not included. UCAN states that hearings are warranted on ambiguities in the advice letters.

Pacific responded on January 31, 1990, that UCAN's protest neither meets General Order (GO) 96-A requirements nor supports its request for hearings. Pacific further states that UCAN fails to state why it believes the credit to be inadequate or why it believes certain customers are not receiving "true" touch-tone service.

May 4, 1990

Pacific explains that all its touch-tone customers receive the service described in its tariffs[2], however, some customers are confused about alleged speed differences in placing calls using touch-tone rather than rotary dialing. Pacific also explains that "in light of the fact that touch-tone charges for all residence customers will be eliminated in the near future, pursuant to D.89-10-031, Pacific believed that to the extent any customer confusion existed, the confusion would be eliminated by removing touch-tone charges for residence and business customers served by step-by-step central offices and providing them a limited refund."

TURN's Protests

On January 29, 1990, TURN filed its protest of Advice Letter 15658, Turn requests a formal hearing concerning the \$5 million refund, contending that the ceiling is arbitrarily low and discriminatory. TURN refers to Case 86-07-13 in which George Sawaya complained to Pacific and the Commission that he was not getting faster service as was advertised by the utility in its bill inserts in 1984 through 1986. TURN states that although the Commission denied the complaint, the issue in this advice letter is different from the Sawaya case because there are thousands of customers yet to receive refunds. Pacific has not met its obligation to fully inform customers of the basic services available to that class of customers (Public Utilities Code (PUCode) Section 489 (b)). For this reason and others, TURN urges the Commission to suspend Advice Letter 15658 pending an investigation and hearing into the correct amount of the refund due these customers.

DRA's Protests

DRA protests many points in Advice Letter 15658:

- o No reason is given for the filing.
- o The proposal discriminates against cross-bar customers.
- o The refund amount is arbitrary and unrelated to an actual amount paid by customers. DRA believes the correct refund amount may be several hundred millions of dollars.
- o The effective date of the refund is arbitrary and discriminatory. The effective date excludes former customers, or those whose offices have since be converted.
- o The method of implementation is unnecessarily costly and confusing.
- o The \$5 million refund should be excluded from the Z[3] factor.

2 Schedule Cal. P.U.C. No. A5., Section .5.4.2.A.1 describes Touch-Tone Calling Service as, "[a] service arrangement permitting the use of pushbutton equipped telephone instruments in lieu of rotary dial equipped telephone instruments to originate calls."

3 The Z factor is a part of the price cap index formula, prescribed in Pacific Bell's Genral Rate Case phase 2 Decision 89-10-031. The Z factor adjusts for changes in costs for the year for which rates are set.

May 4, 1990

AT&T's Protests

By letter dated January 29, 1990, AT&T protests the two touch-tone advice letters. AT&T states that the Commission, in previous proceedings, has decided touch-tone calling charges are not to be dealt with until the outcome of I.87-11-033. To do otherwise, AT&T states, will cause confusion and affect rates. Furthermore, AT&T is concerned that the refund will reduce everyone's potential share for shared excess earnings. Finally, AT&T points out that Pacific does not justify a refund for a six year period.

Response to Protests of DRA, TURN and AT&T of Advice Letter 15658

Pacific agrees with AT&T's assertion that the Commission intends to determine the method for eliminating touch-tone charges for all residential customers in Phase 3 of I.87-11-033. Nevertheless, Pacific states that this does not preclude the Commission from acting now on a narrow issue involving a very few customers. Action now will eliminate customer confusion and be consistent with Commission intent to consider elimination of touch-tone charges for residence customers later this year. Finally, Pacific declares that discrimination on behalf of step-by-step customers is reasonable because only step-by-step customers may have been confused.

Pacific rejects all six of DRA's protest points.

- o The purpose of the refund is to maintain goodwill among customers subscribing to touch-tone service while served by a step-by-step central office. The refund is not because customers failed to receive the service described in the tariff as DRA infers, but rather these customers may have been confused about differences in the speed of placing a call with touch-tone service and the speed of placing a call on a rotary-dial telephone.
- o The refund does not discriminate against touch-tone customers served by cross-bar central offices. The No. 5 cross-bar central offices register touch-tone digits directly. As a result, connection takes place faster than in a step-by-step office which requires a converter to complete the call. There has been no customer confusion or complaint about call connection speeds and no reason to grant these customers a refund.
- o A \$5 Million refund is appropriate. It is not compensation for improperly received revenues and therefore the amount does not match the total amount of money paid by all touch-tone customers served by step-by-step offices over the past six years. Pacific does not view the refund as an obligation or liability, rather as an opportunity to prove to customers its commitment to provide quality service.
- o The effective date of the refund is appropriate since Pacific is seeking to eliminate any present confusion about touch-tone service.
- o DRA's protest of the expense and possible confusion about the refund plan is a result of misunderstanding the plan. There

May 4, 1990

will be no unnecessary expense or confusion. Only fully computed credit will be applied to customers' accounts; there will be no credit one month and an adjustment the next.

- o The Z factor need not be resolved now, since Pacific has not asked for Z factor adjustment for the advice letter.

Pacific dismisses TURN's protest by denying that these advice letters are another chapter in the Sawaya case as TURN stated in its protest. Pacific refers to its response to DRA regarding quality of service from cross-bar offices and states that Section 489 of the Public Utilities Code cited by TURN was not in effect when the 1985 and 1986 bill inserts criticized by TURN were produced.

Pacific believes its response to DRA answers AT&T's protest about a lack of rationale for the refund.

Sawaya's Protest

On March 8, 1990, George M. Sawaya filed a protest of Advice Letter 15658[4]. On March 12, he filed an amendment to document his correspondence and correct the date for receipt of a letter. He protests on three issues. First, he disagrees with the \$ 5 million limit on the amount to be returned to customers. He states there is testimony submitted by Pacific in C.86-07-013 that supports that the total charges and fees paid by that customer class far exceeds \$5 million.

Secondly he objects to limiting the credit to current touch-tone customers only as discriminatory. "By casting the return of those charges and fees in the form of 'a credit' rather than a 'refund', and by explicitly limiting the credit to present touch-tone subscribers only, Pacific would exclude from the rightful return of their money every touch-tone subscriber in step-by step central office area who may have terminated his touch-tone service before the effective date of the advice letter or who may have had his touch-tone Calling Service status changed by Pacific Bell itself...As a result of the revision of its advertising claims [modifying descriptions of Touch-tone service as faster in most areas], together with the newspaper publicity given C.86-07-013 in June 1989 [Los Angeles Times, May 31, 1989] discerning touch-tone subscribers in step-by-step areas who may have prudently terminated their payment of the extra charges would now find themselves denied the rightful return of charges and fees they had previously paid..." Finally, Sawaya states that the artificial \$5 million ceiling negates the possible inclusion of 7% interest.

Pacific responded on March 23, 1990. The response reiterates the statements made to TURN's and DRA's protests.

4 GO 96-A provides for a 20 day protest period. By letters dated December 27, 1989 and January 22, 1990, Mr Sawaya requested information regarding Pacific's request for Commission permission to provide a refund to touch-tone customers served by step-by-step central offices.

DISCUSSION

From time to time the Commission has accepted late protests. Because of delays in providing Mr. Sawaya with requested documents and the complexity of this advice letter filing, we will consider his protest to Advice Letter 15658.

There are a number of problems with this advice letter:

1. The credit amount is arbitrary: why not more, or less? Pacific says the amount is a limited refund to generate goodwill among customers who may be confused about this service.
2. The credit plan, in theory, could permit a customer to obtain more than he/she paid for the service. This point may be merely hypothetical in view of the many protests indicating the amount to be insufficient. It also eliminates customers who have paid for the service but have had their central office upgraded recently, who have moved or who have changed services.
3. Pacific proposes that credits extend to initial offering of the service in 1984. It does not address the variance between its six-year credit plan and the maximum three-year adjustment period allowed in Public Utilities Code Section 736. Pacific does not answer AT&T's protest on these matters.
4. DRA and TURN question the quality of cross-bar service, claiming that customers served by cross-bar are similarly situated to customers served by step-by-step offices. Pacific states that cross-bar service is better than step-by-step, but does not address touch-tone on cross-bar compared to electronic. It defends exclusion of cross-bar customers based on not having received complaints or other indicators of customer confusion. These outstanding issues of fact must be resolved before the Commission can determine whether cross-bar customers are similarly situated to step-by-step customers.
5. Pacific asserts that this advice letter is a goodwill gesture. As such, DRA's position that the refund amount be excluded from recovery from ratepayers is well-taken, but contrary to Pacific's other position that the advice letter is filed in accordance with the agreement per the May 11, 1989 letter.

The advice letter filed by Pacific has generated significant controversy. To avoid the many pitfalls, the advice letter should be modified. First, rather than selecting an arbitrary amount, Pacific should provide a credit or refund based on actual charges paid by its customers. The refund or credit for touch-tone service provided by step-by-step offices should be made to all current and former customers who paid for the service, not just those receiving the service at this time. To comply with Public Utilities Code Section 736, Pacific should limit the adjustment to three years from January 9, 1990.

The matter of touch-tone service provision through cross-bar offices is being considered in the touch-tone phase of I.89-11-033. Because

May 4, 1990

of this proceeding and the lack of record, we should not consider the merit of the protesters' request that cross-bar customers be included in the limited refund at this time.

If the credit/refund is a goodwill gesture, the refund and credit amounts, including administrative costs should be eliminated from recovery from ratepayers.

Pacific should obtain the concurrence of CACD and the Public Advisor for the explanation of the credit to be included on customer's bills and should advise customer in areas served by step-by-step central offices how to make full use of any services using or requiring digital dialing, if such services are available in step-by-step areas.

FINDINGS

1. Advice Letter 15658 proposes a \$5 million credit to current touch-tone customers served by step-by-step central offices.
2. Protests were filed by Division of Ratepayer Advocates (DRA), Toward Utility Rate Normalization (TURN), AT&T Communications (AT&T), Utility Consumers Action Network (UCAN), and Mr. George M. Sawaya. Pacific filed responses.
3. From time to time the Commission has accepted late protests. Because of delays in providing Mr. Sawaya with requested documents and the complexity of these advice letter filings, we will consider his protest to Advice Letter 15658.
4. The credit amount proposed by Pacific is arbitrary. The credit plan, in theory, could permit a customer to obtain more than he/she paid for the service. Pacific should provide a credit or refund based on actual charges paid by its customers.
5. The refund or credit for touch-tone service provided by step-by-step offices should be made to all former and current step-by-step touch-tone customers, not just those receiving the service at this time.
6. To comply with Public Utilities Code Section 736, Pacific should limit the adjustment to three years from the date of the Advice Letter, January 9, 1990.
7. Pacific states that cross-bar service is better than step-by-step, but does not address touch-tone on cross-bar compared to electronic. This matter is being considered in the Touch-tone/Expansion of Local Calling Area phase of I.87-11-033 and should not be considered here.
8. Pacific asserts that these advice letters are a goodwill gesture. As such, DRA's position that the refund amount be excluded from recovery by ratepayers is well-taken.

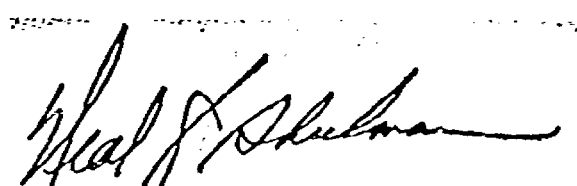
May 4, 1990

IT IS ORDERED THAT:

1. Pacific Bell shall file a supplemental advice letter within 30 days from the effective date of this Resolution. It shall provide a complete credit for actual touch-tone charges paid, without interest, for business and residence customers of touch-tone service provided by step-by-step central offices during the three-year period ending on the effective date of this Resolution. The plan shall include refunds for customers who have migrated from the service or from the utility. The revenue effect shall be reported in the advice letter supplement. Supporting workpapers showing total credit amount and estimated administrative costs shall be provided to Commission Advisory and Compliance Division (CACD) with the supplemental advice letter. Upon written approval from CACD, Pacific will implement the credit/refund plan within 60 days.
2. Pacific shall not apply to recover the credit revenue and administrative costs as a "Z" factor.
3. The protests are granted, to the extent discussed above.
4. 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 4, 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