

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION
Telecommunications BranchRESOLUTION NO. T-14085
June 6, 1990

R E S O L U T I O N

RESOLUTION T-14085. PACIFIC BELL. ORDER ADDRESSING
PACIFIC BELL ADVICE LETTER REQUEST TO MODIFY ITS MARKET
TRIAL FOR SIX BASIC SERVICE ELEMENTS.

SUMMARY

By Advice Letter No. 15710, filed on March 21, 1990, Pacific Bell (Pacific) requests Commission authority to expand its market trial for six Basic Service Elements (BSEs) within the Los Angeles, Sacramento, San Diego, and San Francisco LATAs. Pacific also proposes to lower some prices in the four LATAs. This resolution authorizes Pacific to expand its market trial within the San Francisco LATA only. Pacific is authorized to lower its prices in the four LATAs.

BACKGROUND

Decision No. 88-11-026, dated November 9, 1988, granted Pacific ex parte authority to conduct a market trial for six BSEs under a two-year provisional tariff. Pacific has selected thirty central offices in four LATAs to participate in this market trial. The four LATAs are Los Angeles, Sacramento, San Diego, and San Francisco. Pacific utilizes a different pricing level for each LATA in order to evaluate customers' willingness to pay as well as demand for the BSEs. By Resolution No. T-13043, dated January 27, 1989, Pacific was authorized to begin its market trial effective January 30, 1989.

On March 21, 1990, Pacific filed Advice Letter No. 15710 requesting authority to modify the conditions of the market trial. Specifically, Pacific proposes to (1) make the six BSEs available in any equipped LAESS, DMS100 and 5ESS switches within the current market trial LATAs when a firm order is received, and (2) lower some of the prices. According to Pacific, it has discovered through market research that its customers, the Enhanced Service Providers (ESPs), have concerns related to the limiting availability of the products in only 30 central offices and the perception that prices are too high. The proposed trial modifications are designed to address ESPs' needs. Pacific alleges that it will be able to more adequately assess BSE price and demand elasticities and result in a more viable permanent tariff. Pacific requested that the Commission issue a resolution authorizing this filing.

PROTESTS

On April 10, 1990, MCI Telecommunications Corporation (MCI) filed a protest opposing Advice Letter No. 15710. A second protest was filed by API Alarm Systems (API) on April 11, 1990. Pacific responded to both protests on April 17, 1990.

In its protest, MCI argues that Pacific's plan to expand beyond the 30 central offices to an undefined number of central offices effectively terminates the market trial and establishes these services as a full commercial offering. MCI points out that in Decision No. 88-11-026, the Commission gave significant weight to the limited nature of this offering when it approved the market trial. In its response, Pacific states that under its modified plan, the offering of 6 BSEs is still confined to the original four LATAs. In addition, the 6 BSEs will only be available in technically capable IAESS, 5ESS, and DMS100 offices and only if Pacific receives a firm order for the BSE from an ESP. (The IAESS, 5ESS, and DMS100 are all electronic switching central offices.)

MCI also opposes Pacific's inclusion in its proposed tariff the statement that the BSEs "will only be furnished where facilities and operating conditions permit within the four market trial LATAs." MCI points out that Decision No. 88-11-026 has expressly rejected this language as "too vague and open-ended." MCI asserts that the inclusion of this language gives Pacific complete discretion in the deployment of the services. Pacific, through control over the deployment of BSEs can give preferential consideration to its own ESP over the competition.

To address MCI's concerns, Pacific offers to amend its advice letter to include the following statement:

"1. Basic Service Elements will only be furnished in technically capable IAESS, 5ESS, and DMS 100 offices within the four market trial LATAs upon receipt of a firm order for a BSE and where capacity exists."

Pacific states that the modification will broaden ESPs participation rather than exerting control over unaffiliated ESPs to the advantage of its own ESP. Safeguards against anticompetitive behavior that was established in Decision No. 88-11-026 will remain in place even after this modification.

Lastly, MCI asserts that Pacific must comply with the new requirements set forth by Decision No. 89-10-031 (Phase II Decision on Alternative Regulatory Framework), dated October 12, 1989, before provision of the 6 BSEs on a commercial basis. Pacific states that it will comply with the requirements of the Phase II Decision when these services become a full commercial offering.

In its protest, API charges that Pacific's filing is an attempt to deaverage BSE pricing by geographic area. This, API protests, is inconsistent with the primary thrust of Decision No. 89-10-031 which denied pricing flexibility for Category I services such as BSEs.

Pacific argues that API's protest must be rejected because it was not timely filed. Pacific also asserts that the Guidelines for Conducting Technology

Tests and Market Trials (Test and Trial Guidelines), adopted by Resolution No. T-11083 on December 3, 1986, permits various pricing options during a market trial. Pacific states that the Test and Trial Guidelines was in no way superseded or altered by the Phase II Decision.

DISCUSSION

As Pacific points out, API's protest was received one day after the 20-day protest period has ended. However, Pacific did respond substantively to API's protest and, in general, has adequately responded to API's concerns. Therefore, API's protest will not be considered here.

MCI has raised legitimate concerns regarding the scale of the modified trial. Pacific proposes to expand beyond the 30 central offices to include all technically capable central offices within the four LATAs. According to Pacific, the 6 BSEs will be available in over 200 switching offices. Pacific's response that the market trial will still be confined to the original four LATAs does not take into account that San Francisco, Los Angeles, Sacramento, and San Diego are four of the largest LATAs in California. Pacific's proposed trial modifications do not meet the "small scale" requirement of the Test and Trial Guidelines.

In authorizing the market trial for 6 BSEs, the Commission was hopeful that a limited market trial could provide valuable insight into how to assess the feasibility of ONA services in relatively new and highly uncertain markets. Without modifying the trial to allow realistic participation by ESPs, the value of the market information gathered from the trial will be limited. Recognizing Pacific's needs for more reliable market information while at the same time addressing MCI's legitimate concerns, Pacific's request for expansion of the market trial will therefore be limited to the San Francisco LATA (LATA 1) only. This is consistent with the Commission's policy considerations to establish a set of realistic policies for ONA services based on experiences provided through a market trial.

MCI also correctly points out that in Decision No. 88-11-026, the Commission found that the tariff language which states that BSEs "will only be furnished...where facilities and operating conditions permit" to be too vague and open-ended. The Commission directed Pacific to delete this language and instead indicate any specific technical limitations. Pacific reintroduces similar language in its proposed tariffs. Pacific has also eliminated the list of 30 central offices and the list of input/output (I/O) port capacity from its proposed tariffs. This is contrary to Ordering Paragraph Nos. 1h and 1i of Decision No. 88-11-026, which state:

"1h. Pacific shall modify its tariff provisions in 5.11.1.B to state any specific technical limitations regarding the provision of BSEs. Regarding capacity limitations Pacific shall indicate the number of "input/output ports" installed as of the effective date of this order and which are available for this trial. Pacific shall also indicate the number of trial participants that may be accommodated in each central office."

"1i. Service shall be limited in this Market Trial to stated port capacity and Pacific shall include in its

tariff a method for allocating port capacity in the event demand is greater than availability."

Pacific is directed to amend its advice letter to comply with the aforementioned ordering paragraphs.

Pacific's plan to offer the six BSEs in over 200 central offices in the four largest LATAs in California exceeds the Commission's intended use of the Test and Trial Guidelines. It would be more appropriate for Pacific to request Commission authority for full commercial offering of the 6 BSEs via the Expedited Application Docket process in accordance with Ordering Paragraph No. 23 of Decision No. 89-10-031, dated October '12, 1989, which states:

"23. Pacific and GTEC are authorized to request authority to provide enhanced services, BSEs, and any new services comparable to BSEs which might be offered due to the adopted unbundling principles through applications processed according to the Expedited Application Docket procedure."

The Commission recognizes Pacific's needs for more reliable data upon which to base a future product. The information gathered through a market trial will also provide the Commission with some experience on which to base a set of realistic policies for ONA services. Pacific's request for expansion of the market trial will therefore be limited to the San Francisco LATA. Decision No. 88-11-026 authorizes Pacific to utilize a different pricing level for each LATA during the trial. It is appropriate for Pacific to modify its pricing in the four LATAs in response to ESPs' needs. Pacific shall include a list of the central offices where the 6 BSEs are available and also indicate any specific limitations in compliance with Ordering Paragraph Nos. 1h and 1i of Decision No. 88-11-026.

FINDINGS

- (1) Pacific has adequately responded to API's late-filed protest.
- (2) MCI has raised legitimate concerns regarding the scale of Pacific's modified trial.
- (3) Broader ESP participation in the market trial will increase the value of market intelligence.
- (4) It is consistent with the Commission's policy considerations to limit Pacific's expansion to the San Francisco LATA only.
- (5) Decision No. 88-11-026 approved variations in pricing in the different LATAs during the trial.
- (6) It is appropriate for Pacific to lower its prices in the four LATAs in response to ESPs' needs.
- (7) Pacific's proposed tariff does not comply with Decision No. 88-12-026.

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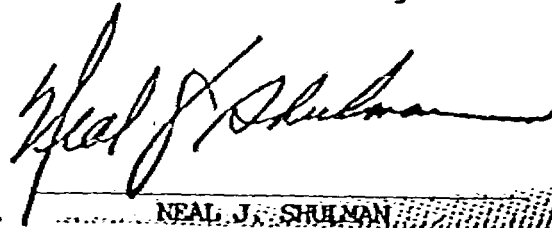
- (8) Request for authority to offer the 6 RSEs as a commercial offering should be filed in accordance with the Expedited Application Docket procedure.

IT IS ORDERED that:

- (1) Pacific Bell shall file a supplement to its Advice Letter No. 15710 within 5 days of the effective date of this order, to make revisions as noted in this order. Pacific's advice letter shall become effective upon written approval by the Chief of the Telecommunications Branch of the Commission's Advisory and Compliance Division.
- (2) All tariff sheets filed under a supplement to Advice Letter No. 15710 shall be marked to show that such sheets were authorized by Resolution of the Public Utilities Commission of the State of California No. T-14085.
- (3) 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 June 6, 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