

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-14095  
TELECOMMUNICATIONS BRANCH July 6, 1990

R E S O L U T I O N

RESOLUTION T-14095. AT&T COMMUNICATIONS OF CALIFORNIA. REQUEST FOR WAIVER OF ORDERING PARAGRAPHS OF D.88-06-048 IN ORDER TO PERFORM DIRECT BILLING FOR BUSINESS CUSTOMERS OF AT&T'S PRO WATS CALIFORNIA SERVICE.

BY ADVICE LETTER NO. 161, FILED ON APRIL 20, 1990.

SUMMARY

This resolution authorizes AT&T Communications of California (AT&T-C) to begin direct billing of the business customers of its PRO WATS California Service under conditions for customer notice and decision-making which are specified in the ordering paragraphs. This resolution waives certain specific conditions mandated in D.88-06-048 solely for this limited takeback of billing for the business customers of PRO WATS California service only. Such waiver does not establish any precedent and in no way diminishes this Commission's intent or order in D.88-06-048 regarding the process to be employed by AT&T-C in taking back its billing and collection function from any local exchange company.

BACKGROUND

In early 1988, this Commission opened I.88-01-007 following the announcement by AT&T-C of plans to "take back" billing of some of its business and residence customers from the local exchange companies (LECs), who include bills for AT&T's interLATA and interstate message toll service in the same envelope with their monthly bills. The Commission's involvement in this proceeding stemmed from its desire to protect customers rather than as part of an effort to deny the many changes wrought by divestiture. (D.88-06-048, at pp. 12-13) In D.88-06-048, this Commission considered the issues raised by AT&T-C's proposed takeback of billing and collection functions from the LECs, and mandated certain conditions under which AT&T-C could implement such a takeback:

- \*1. AT&T Communications of California, Inc., for interstate and interLATA business and residence toll telecommunications services within the State of California, shall not take back its billing and collection function from any local exchange telephone company except upon terms which comply with Conclusion 6, and upon approval of this Commission by advice letter filing. (Conclusion 6: "New customers should be

automatically billed by the LEC for three months, after which the customer should be automatically switched to AT&T-C if his or her bill meets the threshold amount. Customers may switch between an LEC and AT&T-C one time (not including the automatic switch) at no cost; each additional switch should be at a reasonable charge to be paid by the customer to the company losing the customer.")

"2. AT&T-C shall arrange to provide at least 60 days' advance notice, included with the local exchange telephone company bills, of any pending takeback of billing services. This notice shall be reviewed by the Commission's staff (coordinated with the Public Advisor's Office) prior to being mailed to customers.

"3. This investigation will remain open for the limited purpose of determining any revenue, expense, and rate impacts to AT&T-C's California intrastate operations resulting from AT&T-C's full implementation of its separate billing program, such determination shall be considered after six full months of operation of the separate billing program." (at pp. 18-19)

Since D.88-06-048 was issued, AT&T-C has taken back billing and collection for its Private Line services (Advice Letter No. 124), effective on March 13, 1989. No waiver of D.88-06-048 conditions was requested for this takeback. Collaterally, this Commission has since authorized AT&T-C to offer three new services intrastate and directly bill those customers who subscribe to them: MEGACOM WATS, MEGACOM 800 and 800 Readyline.

On April 20, 1990, in compliance with D.88-06-048, AT&T-C filed Advice Letter No. 161, requesting authority to directly bill business customers of AT&T PRO WATS California Service beginning in the fourth quarter of 1990. AT&T-C estimates that this take back of billing from the LECs will affect about 6,000 of its estimated 600,000 business customers in California. AT&T-C states that it "intends to implement this billing conversion utilizing customer record information that will be solicited from the customers through a series of notifications and customer contacts," starting in May 1990 and culminating in the first bills rendered to customers in October 1990. Due to the very limited focus of this billing take back (about 1% of business customers), AT&T-C seeks a waiver of D.88-06-048 Ordering Paragraph (O.P.) 2's requirement for customer notification by LEC bill insert. AT&T-C also seeks a waiver of O.P. 1 (Conclusion 6), requiring LEC billing for new customers and customer options for billing agent (AT&T-C or LEC), citing cost inefficiencies and the customer's option to subscribe to MTS (Message Toll Service) if LEC billing is desired. AT&T-C allows that it "will entertain requests of business customers to continue to be billed by LECs for PRO WATS California ..."

Public Utilities Code Section 532 authorizes the Commission to authorize exceptions by rule or order, as may be considered just and reasonable for each public utility.

**PROTESTS:** The Commission Advisory and Compliance Division (CACD) has received no protests to this advice letter.

#### DISCUSSION

The issue at hand is whether AT&T-C's request for waiver of D.88-06-048 O.P.s 1 and 2 is just and reasonable in light of this particular takeback of billing and collection for the business customers of PRO WATS California Service. This Commission's concern and intent in promulgating these two requirements was clearly communicated in D.88-06-048:

"The question of customer reaction to the billing takeback is equally important, especially the reaction of the residential customer, but, again, we see no need for further evidence at this time. Under our proposed resolution of the issue any customer that wants combined billing by the local carrier can obtain it. If AT&T-C is correct that there is a felt need for separate billing, ratepayers will stampede to get on its mailing list. Certainly, this Commission will not stand in the way. And, customers can choose not to use AT&T-C if they are dissatisfied for any reason (including billing); the incentive for AT&T-C is to treat its customers well, which is also the Commission's basic objective. For those who feel that \$6 a year is too much to pay for the benefit of a separate bill, there is a safe harbor.

"Public Utilities Code Section 453 provides:

'(a) No public utility shall, as to rates, charges, service, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage.'

'(c) No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.'

"One of the stated goals of Commission policy is 'to protect the interests of captive customers of utilities' monopoly services.' (CPUC 1988 Workplan, p. 51.) AT&T-C's current dominant position suggests that we pay careful attention to the impacts its actions may have upon customers. While competitive choices are a fact, we should be sensitive to customers who may be ill-informed as to their options. We should also recognize that the need for oversight of such AT&T-C functions as billing may diminish over time as competitive forces become the primary determinant in the interexchange market. For now, our primary concern is with the out-of-pocket cost to the customer resulting from a separate bill from AT&T-C. If AT&T-C could avoid this cost, our concern would lessen." (at pp. 13-15, emphasis added)

In issuing D.88-06-048, this Commission clearly believed that it was mitigating both the need for further study and potential adverse impacts on consumers by including the requirements, in

O.P.s 1 and 2, that LEC billing and collection be maintained as a customer option and that full customer notification be performed. In this limited takeback of billing proposed by AT&T-C for an estimated 1% of AT&T-C's business customers, we agree that the concern and intent behind the notification requirement (O.P. 2) would be met more effectively and efficiently by the focused notification of affected PRO WATS business customers by AT&T-C itself. However, we insist that such notification materials be reviewed by the CACD and the Public Advisor prior to being mailed to customers, as ordered in O.P. 2. The notification to the affected customers must clearly state that the result of this action will be that they will receive an additional bill for their PRO WATS service, the frequency of the bill, and any terms and conditions of service which will be different (e.g., disconnection for nonpayment, reconnection, notices). In the ensuing discussion, we shall make an additional requirement for customer notification.

Regarding the proposed takeback itself, since AT&T-C proposes only to take back the billing and collection function for the business customers of PRO WATS California service only, the impact on the LECs should be minimal. No LEC has protested or commented on AT&T-C's Advice Letter No. 161. Our concerns expressed in D.88-06-048 regarding the impact on customers are mitigated somewhat by AT&T-C's limiting this takeback to business customers only, and to the single PRO WATS California service. Residential customers will not be affected, nor will AT&T-C's broader long distance services. We are therefore persuaded that the requirements of O.P. 1 (and Conclusion 6) are not fully necessary in order for our concerns and intent to be justly and reasonably addressed by this particular takeback.

We do, however, believe that the threshold requirement for any takeback must continue to be that affected customers have the option to affirmatively elect to retain billing and collection by the LEC. This is consistent with this Commission's policy and practice to minimize the impact on the subscriber in the face of unilateral utility action, by "grandfathering" existing service at the customer's option. AT&T-C's contention that customers wishing to be billed by the LEC may do so by subscribing to its Message Toll Service rather than PRO WATS would place an unreasonable and unjust burden on existing customers in response to a unilateral AT&T-C action. In addition to the nonrecurring charges associated with changing service, these customers would pay higher rates. Further, there is no reason to assume that existing or new customers would be able to discern this choice, since AT&T-C has provided no customer notice materials to support its statement and no where in AT&T-C's current tariff is there a clear statement about LEC versus AT&T-C billing.

Therefore, AT&T-C must include in its notice of takeback the clearly described option for the customer to choose to continue being billed by the LEC. In order to minimize confusion or subsequent disagreement, this choice must be documented in writing rather than solely by telephone. One option would be a postage paid and preprinted reply postcard; another would be an 800 telephone number for customers to call, with written verification of the request to retain LEC billing mailed immediately to the customer.

Since filing Advice Letter No. 161, AT&T-C has proposed using a variation of the procedure outlined in D.88-06-048 Conclusion 6 for this limited takeback:

1. All existing PRO WATS business customers will be switched to AT&T direct billing on October 1, 1990.
2. After three bills (months), these customers may elect to return to LEC billing at no charge.
3. PRO WATS business customers will be fully notified of this three-month trial at least 60 days prior to the switch, and will be given an 800 (toll-free) telephone number to call.
4. AT&T will immediately mail a written confirmation notice to any customer who requests return to LEC billing.
5. If a customer informs AT&T that they do not wish to be switched from LEC billing, even for the three-month trial (e.g., by calling the 800 number), AT&T will honor the customer's wishes.

This appears to be a reasonable approach, by giving existing customers an opportunity to evaluate AT&T's billing service and make an informed choice between AT&T billing and LEC billing, while retaining the fundamental right of an existing customer not to be unreasonably disrupted.

AT&T-C should ensure that its procedures adequately address any requirements that the LECs may have to smoothly implement customers' requests to return to (or retain) LEC billing and collection. AT&T-C should include with its proposed customer notification a detailed plan, including prototypes of any communications (verbal or written) with customers and the LECs, for CACD Telecommunication Branch and Public Advisor review before implementation. This plan should address how "new customers" will be defined for purposes of the takeback, e.g., at what point will customers be considered "new," and how will "new" customers be fully informed about billing services, in order to make the informed choice AT&T-C advocates?

In order to evaluate the effectiveness of this alternative approach to O.P. 1 (Conclusion 6) and O.P. 2, AT&T-C should track and report the results of this takeback to the CACD Telecommunications Branch. This report should include the actual number of customers affected by this takeback, actual dates and numbers of customers to correspond with AT&T-C's detailed implementation plan (e.g., notification, "new customer" cut-off date, and customer election of LEC billing before the switch and after the three-month trial), the final number of customers switched to AT&T-C billing and those retaining LEC billing, and the number of complaints received by AT&T-C (both directly from customers, and indirectly via LECs and the CPUC).

Finally, in Advice Letter No. 161, AT&T-C has not attached any tariff revisions to reflect this takeback of billing and collection for PRO WATS California business customers. This does represent a change of conditions for these customers and should

be reflected in AT&T-C's tariff. Further, AT&T-C should ensure that all potential business customers of PRO WATS California are fully informed that billing and collection will be performed by AT&T-C, that this will result in an additional bill, of any terms and conditions that are different from their previous service (i.e., similar to the notice to be provided to existing business PRO WATS customers), and their options should they wish to retain LEC billing (including service rates and conditions). With such notice, potential customers will be able to make the informed choice which AT&T-C has suggested is an acceptable alternative to permitting customers to switch between AT&T-C and LEC billing.

#### FINDINGS

1. In D.88-06-048, this Commission considered the issues raised by AT&T-C's proposed takeback of billing and collection functions from the LECs, and mandated certain conditions in O.P.s 1 and 2 under which AT&T-C could implement such a takeback, in accord with its clearly stated intent to protect customers.
2. Since D.88-06-048 was issued, AT&T-C has taken back billing and collection for its Private Line services (Advice Letter No. 124), effective on March 13, 1989. No waiver of D.88-06-048 conditions was requested for this takeback. Collaterally, this Commission has since authorized AT&T-C to offer three new services intrastate and directly bill those customers who subscribe to them: MEGACOM WATS, MEGACOM 800 and 800 Readyline.
3. AT&T-C estimates that the takeback of billing from the LECs for the business customers of its PRO WATS California service will affect about 6,000 of its estimated 600,000 business customers in California.
4. Public Utilities Code Section 532 authorizes the Commission to authorize exceptions by rule or order, as may be considered just and reasonable for each public utility.
5. Public Utilities Code Section 453 provides:  
    "(c) No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service."
6. In issuing D.88-06-048, this Commission clearly believed that it was mitigating both the need for further study and potential adverse impacts on consumers by including the requirements, in O.P.s 1 and 2, that LEC billing and collection be maintained as a customer option and that full customer notification be performed.
7. In this limited takeback of billing proposed by AT&T-C for an estimated 1% of AT&T-C's business customers, the concern and intent behind the notification requirement (O.P. 2) would be met more effectively and efficiently by the focused notification of affected PRO WATS business customers by AT&T-C itself.

8. Such notification materials should be reviewed by the CACD and the Public Advisor prior to being mailed to customers, as ordered in O.P. 2. The notification should clearly state: (1) that the result of this action will be that the customer will receive an additional bill for their PRO WATS service; (2) the frequency of the bill; and (3) any terms and conditions of service which will be different (e.g., disconnection for nonpayment, reconnection, notices).

9. Since AT&T-C proposes only to take back the billing and collection function for the business customers of PRO WATS California service, the impact on the LECs should be minimal. No LEC has protested or commented on AT&T-C's Advice Letter No. 161.

10. The Commission's concerns expressed in D.88-06-048 regarding the impact on customers are mitigated somewhat since residential customers will not be affected, nor will AT&T-C's broader long distance services.

11. The requirements of O.P. 1 (and Conclusion 6) are therefore not fully necessary in order for our concerns and intent to be justly and reasonably addressed by this particular takeback.

12. The threshold requirement for any takeback should continue to be that the affected existing customers have the option to affirmatively elect to retain billing and collection by the LEC. This is consistent with this Commission's policy and practice to minimize the impact on the subscriber in the face of unilateral utility action, by "grandfathering" existing service at the customer's option.

13. AT&T-C's contention that customers wishing to be billed by the LEC may do so by subscribing to its Message Toll Service rather than PRO WATS would place an unreasonable and unjust burden on existing customers.

14. AT&T-C's proposal to give existing PRO WATS business customers a three-bill (month) trial before deciding whether they prefer LEC billing appears to be reasonable, under the following conditions:

1. All existing PRO WATS business customers will be switched to AT&T direct billing on October 1, 1990.
2. After three bills (months), these customers may elect to return to LEC billing at no charge.
3. PRO WATS business customers will be fully notified of this three-month trial at least 60 days prior to the switch, and will be given an 800 (toll-free) telephone number to call.
4. AT&T will immediately mail a written confirmation notice to any customer who requests return to LEC billing.
5. If a customer informs AT&T that they do not wish to be switched from LEC billing, even for the three-month trial (e.g., by calling the 800 number), AT&T will honor the customer's wishes.

15. AT&T-C should ensure that its procedures adequately address any requirements that the LECs may have to smoothly implement customers' requests to retain LEC billing and collection.

16. AT&T-C should include with its proposed customer notification a detailed plan, including prototypes of any communications (verbal or written) with customers and the LECs, for CACD Telecommunication Branch and Public Advisor review before implementation. This plan should address how "new customers" will be defined for purposes of the takeback, e.g., at what point will customers be considered "new," and how will "new" customers be fully informed about billing services, in order to make the informed choice AT&T-C advocates?

17. In order to evaluate the effectiveness of this alternative approach to O.P. 1 (Conclusion 6) and O.P. 2, AT&T-C should track and report the results of this takeback to the CACD Telecommunications Branch. This report should include the actual number of customers affected by this takeback, actual dates and numbers of customers which correspond with AT&T-C's detailed implementation plan (including notification, "new customer" cut-off date, and customer election of LEC billing before the switch and after the three-month trial), the final number of customers switched to AT&T-C billing and those retaining LEC billing, and the number of complaints received by AT&T-C (both directly from customers, and indirectly via LECs and the CPUC).

18. In Advice Letter No. 161, AT&T-C has not attached any tariff revisions to reflect this takeback of billing and collection for PRO WATS California business customers. This does represent a change of conditions for these customers and should be reflected in AT&T-C's tariff.

19. AT&T-C should ensure that all potential business customers of PRO WATS California are fully informed that billing and collection will be performed by AT&T-C, that this will result in an additional bill, of any terms and conditions that are different from their previous service (i.e., similar to the notice to be provided to existing business PRO WATS customers), and their options should they wish to retain LEC billing (including service rates and conditions).

20. With such notice, potential customers will be able to make the informed choice which AT&T-C has suggested is an acceptable alternative to permitting customers to switch between AT&T-C and LEC billing (i.e., D.88-06-048's O.P. 1).

THEREFORE, IT IS ORDERED that:

1. Under the authority vested by Public Utilities Code Section 532, Ordering Paragraphs 1 and 2 of D.88-06-048 are waived in the following respects, solely for the takeback of billing and collection for PRO WATS business customers as described in AT&T-C's Advice Letter No. 161:
  - a. Ordering Paragraph 2's requirement that customer notice be included with the local exchange telephone company bills is waived.



b. Ordering Paragraph 1's requirement for compliance with Conclusion 6 is waived.

Except as explicitly waived herein, all other requirements of D.88-06-048 remain for this takeback. These waivers do not establish any precedent and in no way diminish this Commission's intent or order in D.88-06-048 regarding the process to be employed by AT&T-C in taking back its billing and collection function from any local exchange company (LEC).

2. AT&T-C is authorized to take back the billing and collection function from local exchange telephone companies for the business customers of its PRO WATS California service, subject to the following conditions:
  - a. After three bills (months), customers may elect to return to LEC billing at no charge.
  - b. PRO WATS business customers will be fully notified of this three-month trial at least 60 days prior to the switch, and will be given an 800 (toll-free) telephone number to call.
  - c. AT&T will immediately mail a written confirmation notice to any customer who requests return to LEC billing.
  - d. If a customer informs AT&T that they do not wish to be switched from LEC billing, even for the three-month trial (e.g., by calling the 800 number), AT&T will honor the customer's wishes.
  - e. Customer notification materials shall be reviewed by the CACD and the Public Advisor prior to being mailed to customers, as ordered in D.88-06-048, O.P. 2. The notification shall clearly state: (1) that the result of this action will be that the customer will receive an additional bill for their PRO WATS service; (2) the frequency of the bill; and (3) any terms and conditions of service which will be different (e.g., disconnection for nonpayment, reconnection, notices).
  - f. AT&T-C shall ensure that its procedures adequately address any requirements that the LECs may have to smoothly implement customers' requests to retain LEC billing and collection.
  - g. AT&T-C shall include with its proposed customer notification a detailed plan, including target dates and prototypes of any communications (verbal or written) with customers and the LECs, for CACD Telecommunication Branch and Public Advisor review before implementation.

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h. AT&T-C shall track and report the results of this takeback to the CACD Telecommunications Branch, including the actual number of customers affected, actual dates and numbers of customers to correspond with AT&T-C's detailed implementation plan (including notification, "new customer" cut-off date, and customer election of LEC billing before the switch and after the three-month trial), the final number of customers switched to AT&T-C billing and those retaining LEC billing, and the number of complaints received by AT&T-C (both directly from customers, and indirectly via LECs and the CPUC). The report shall be submitted to the CACD Telecommunications Branch within 180 days of AT&T-C's first direct bill being issued, and cite this Resolution number and ordering paragraph. AT&T-C shall submit its proposed tracking plan and report format to the CACD Telecommunications Branch within sixty days of the effective date of this resolution.

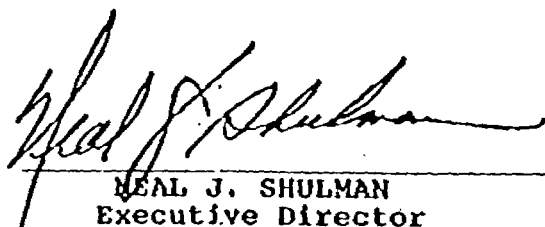
f. Within thirty days of the effective date of this resolution, AT&T-C shall file tariff revisions by advice letter to reflect this takeback of billing and collection for PRO WATS California business customers.

g. AT&T-C shall ensure that all potential business customers of PRO WATS California are fully informed prior to election of service that billing and collection will be performed by AT&T-C, that this will result in an additional bill, of any terms and conditions that are different from their previous service (i.e., similar to the notice to be provided to existing business PRO WATS customers), and their options should they wish to retain LEC billing (including service rates and conditions). This notice shall be reviewed by the CACD Telecommunications Branch and the Public Advisor prior to implementation. Such notice must be in use prior to the "cut-off" date for new customers in the takeback plan.

3. The effective date of this resolution is today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on July 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