

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Branch
Commission Advisory & Compliance Division

RESOLUTION T-14126
September 12, 1990

R E S O L U T I O N

RESOLUTION T-14126. FRESNO MSA LIMITED PARTNERSHIP (U-3005-C). RESOLUTION ESTABLISHING CELLULAR RADIOTELEPHONE SERVICE DOWNWARD PRICING FLEXIBILITY PER TEMPORARY TARIFF AUTHORITY PURSUANT TO ORDERING PARAGRAPH NO. 8 OF DECISION 90-06-025.

BY ADVICE LETTER NO. 22, FILED ON JUNE 29, 1990.

SUMMARY

This Resolution authorizes Fresno MSA Limited Partnership (Fresno) to exercise the maximum downward pricing flexibility authorized by Decision No. 90-06-025 of not in excess of ten percent (10%) per temporary filing.

BACKGROUND

Decision No. 90-06-025 authorized cellular radiotelephone utilities (carrier or reseller) to make rate reduction tariff filings which will not impact an average customer's bill by more than ten (10) percent. Such offers are to be classified as a temporary tariff and made effective on the date filed. Absent any protest to the tariff filing within the statutory 20-day protest period, the temporary status of the offer shall expire and it shall be classified as a permanent tariff pursuant to the terms of the tariff provisions.

Prior to making use of such temporary tariff filings, the Commission required cellular utilities to make an annual filing to establish how large a range they should have for temporary tariff filings. Otherwise, the question of whether or not temporary tariffs fall within the ten percent limit could become contentious.

The Commission required each utility wishing to use the temporary tariffs for rate reductions to file an advice letter containing calculations sufficient to support the requested range of flexibility. Utilities can request less than the maximum ten percent of the expected customer revenues as the allowed range, but must file a further advice letter if they wish later to expand the range.

On June 29, 1990, Fresno filed its Advice Letter No. 22 requesting the maximum pricing flexibility authorized by Decision No. 90-06-025.

DISCUSSION

In its Advice Letter No. 22, Fresno proposes that the downward pricing flexibility authorized by Decision No. 90-06-025 include the following elements:

- a) that a cellular utility will provide to the Commission Advisory and Compliance Division (CACD) the base estimated average customer bill for the year the temporary offer is made.
- b) that the revenue effect of each temporary tariff advice letter filing will be calculated on the basis of the net effect on the average customer bill of all rate element changes (downward and upward) made in the advice letter filing.
- c) that the 10% limit on the decrease in the average customer bill be calculated for the first temporary tariff advice letter filing with reference to the base established by the initial reference filing (Fresno's Advice Letter No. 22) and for each subsequent temporary tariff advice letter filing with reference to the base as decreased by the immediately preceding temporary tariff advice letter filing (as shown by information furnished separately to the CACD).
- d) that any advice letter filed pursuant to Ordering Paragraph No. 9 (concerning requests for cellular rate increases) of Decision No. 90-06-025 will include a calculation of the net effect on the base estimated average customer bill.

Concurrently with filing Advice Letter No. 22, Fresno submitted to CACD, under seal for confidential treatment pursuant to General Order No. 66-C, certain proprietary information which calculates the range of pricing flexibility requested by Fresno.

We find Fresno's above proposals to be reasonable except for item b, which implies some rate element increases in conjunction with rate element decreases. As we stated in our Decision No. 90-06-025, page 53, temporary tariffs may be used only for rate decreases. By this we mean that we will accept no temporary tariffs proposing an increase in any existing rate element. All rate element increase filings must be made pursuant to our General Order 96-A, Section VI.

PROTESTS

On July 19, 1990, the Cellular Reseller's Association (CRA) protested Fresno's Advice Letter No. 22. CRA called Fresno's Advice Letter No. 22 vague and alleged that "basing rate flexibility on a standard of calculation that a cellular carrier is allowed to control is violative of Section 451 of the Public Utilities Code. CRA complained that Fresno requests its

standard of flexibility to be based on the estimated average customer bill in 1990, and states that a 1990 average may not be as appropriate as a 1989, 1988, or 1987 "average" bill. CRA also questions what rate elements are included in Fresno's "average customer bill, e.g., roamer charges, activation fees, etc.

CRA requests that Fresno's Advice Letter No. 22 be suspended pending a hearing and an order from the Commission responding to CRA's Application for Partial Stay and Rehearing of Decision No. 90-06-025 (Application). CRA also requests that all material furnished CACD by Fresno be provided to CRA under terms of a non-disclosure agreement.

Fresno responded to CRA's protest on July 24, 1990. Fresno states that CRA's protest is really part of its Application to have the Commission change provisions of D.90-06-025. Fresno states that CRA has not set forth specific grounds for protest as required by the Commission's General Order No. 96-A. Fresno refuses to release to CRA any supporting material for its temporary tariff authority request and says that it believes the Commission intends proprietary treatment for any material submitted to Commission staff in support of its request.

We note that much of CRA's protest to Fresno's Advice Letter No. 22, as pointed out in Fresno's response, may be actually directed in opposition to the temporary tariff provision of D.90-06-025. CRA has filed both a Petition for Modification and Application for Rehearing and Partial Stay or Suspension of Decision that concerns the downward pricing flexibility scheme. We will not discuss CRA's concerns about the pricing flexibility scheme at this time.

CRA has requested access to the calculation provided CACD by Fresno in support of its request for temporary tariff authority. We would encourage utilities seeking temporary tariff authority to release the material they furnish CACD in support of their request to CRA under the terms of a mutually satisfactory non-disclosure agreement.

Should a utility and CRA fail to reach agreement on release of the supporting calculations, we have decided to make the basic information supplied in the calculation public in the form of a summary description in any Resolution granting the utility temporary tariff authority.

Such is the case with Fresno's Advice Letter No. 22. We will summarize the calculation methodology, which we find to be satisfactory, but will not release specific numerical input or results. We will summarize, however, the final average customer bill result in the form of a range of values applicable to any utility on a statewide basis. For example, an average customer bill might fall somewhere in the following ranges:

<u>Range</u>	<u>Average Customer Bill</u>
A	\$0 - \$25/month

B \$25 - \$50/month
C \$50 - \$75/month
D \$75 - \$100/month

.
. and so on.

For the particular case of Fresno, its calculation is based on weighted average customers, utilizes actuals from 1989 and is used as the best estimate possible for 1990. The categories comprising the retail average customer bill consist of:

Airtime: represents per minute charges for the use of the cellular telephone.

Access: represents the monthly access fee for cellular subscribers.

Roamer: represents the charges subscribers incur when they roam on foreign cellular systems.

Long Distance: represents toll charges from calling long distance

Initial Connection: includes connection charges for new customers

Other: items not elsewhere categorized, including late fees, and special features such as voice mail.

The results of Fresno's calculation for retail average customer bill fall in the range \$100 - \$125 per month.

We recall from our Decision No. 90-06-025 that we indicated that we would not permit cellular facilities-based carriers to use temporary tariffs to make rate changes that reduce the current margins between wholesale and retail rates until revisions had been made to the cellular USOA to incorporate cost-allocation methods for any carrier's wholesale and retail operations. In its response, Fresno indicates that it has no intent at this time to alter existing margins until the review of the USOA has been accomplished.

We dismiss the protest of CRA to Fresno's Advice Letter No. 22, and will grant Fresno's request for temporary tariff authority.

FINDINGS

We find that Fresno has submitted sufficient information and calculations in its Advice Letter No. 22 and concurrent proprietary submittal to CACD to support the requested range of downward pricing flexibility (10 %).

The protest of CRA to Fresno's Advice Letter No. 22 is dismissed.

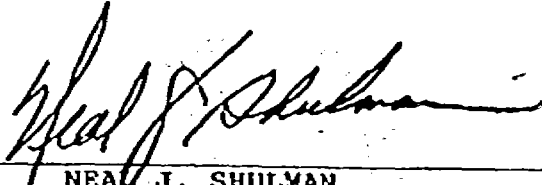
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THEREFORE, IT IS ORDERED that:

- 1) Fresno MSA Limited Partnership is authorized to file, as temporary tariffs effective immediately, rate reductions which will not impact an average customer's bill by more than ten (10) percent at any one time. No temporary tariff filing will be accepted that increases any rate element.
- 2) Such temporary tariff filings shall become permanent pursuant to the conditions specified in Ordering Paragraph No. 8 of Decision 90-06-025.
- 3) This temporary tariff authority is valid for the year 1990; temporary tariff authority may be renewed annually by Fresno by future advice letter request on 30-day notice.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on September 12, 1990. The following Commissioners approved it:

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


NEAL J. SHULMAN
Executive Director

Commissioner John B. Ohanian,
being necessarily absent, did
not participate.