

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-14231
Telecommunications Branch February 21, 1991**R E S O L U T I O N**

RESOLUTION T-14231. CONTEL SERVICE CORPORATION REQUEST FOR PROVISIONAL AUTHORITY TO FILE ADVICE LETTERS TO WAIVE OR DISCOUNT SPECIFIC TARIFFED CHARGES DURING A PROMOTIONAL PERIOD.

BY ADVICE LETTER NO. 905, FILED ON OCTOBER 22, 1990.

SUMMARY

This resolution authorizes Contel Service Corporation (Contel) to file advice letters with the California Public Utilities Commission (CPUC) to specify optional services that will be offered during a promotional period with waived or discounted tariffed nonrecurring charges. The services promoted will be those that result from new or upgraded utility serving facilities or statewide offerings of new or existing optional services. Any promotion must be offered to all classes of customers to whom the promoted service is available. Toll service will be excluded from any promotional offering. A promotion cannot be provided in tandem with market trials or technology tests. The duration of each promotional period shall not exceed 120 days.

Authorization is provisional and will expire two years after the effective date of this resolution, unless cancelled, changed, or extended.

BACKGROUND

Currently, when Contel offers a new optional service, the subscriber is charged the full tariffed rates and charges and is not allowed to subscribe to the service on a reduced-cost trial basis. Section X of General Order 96-A requires utilities to "first obtain the authorization of the Commission to carry out the terms of...any contract or deviation for the furnishing of any public utility service at rates or under conditions other than the rates and conditions contained in its tariff schedules on file and in effect at the time."

In Advice Letter No. 905, filed on October 22, 1990, Contel requests authorization to introduce a provisional tariff allowing it to offer selected network and exchange optional services at waived or reduced nonrecurring tariff charges. Contel proposes the following terms and conditions:

1. "Each promotion will be filed as an advice letter effective on regular notice.
2. "Promotions will be offered when a new service or product becomes available in a central office. Only customers served out of this central office may participate.
3. "Only the nonrecurring charge is eligible for discounting or waiver.
4. "Each promotional period shall not exceed 120 days.
5. "Customers may be notified by bill insert and/or special mailing of the availability and duration of such offerings.
6. "Customers may cancel at any time during or at the conclusion of the promotional period.
7. "Customers who participate in the promotion will receive a notice requesting the customer's intent to either retain or discontinue the service. This notice will be given prior to the termination of the promotional program.
8. "Toll services will be excluded from any promotional offering.
9. "This rule will be in effect on a provisional tariff basis, for two years from this filing's effective date..." (Proposed Schedule AC, Sheet 113-T).

Contel will provide a financial impact report of the promotion no later than 60 days after its completion. The report will include the following information:

- a. The nonrecurring revenue loss from the promotion;
- b. the recurring revenue gain from new customers;
- c. the recurring expenses;
- d. the number of subscribing customers;
- e. the record of any complaints;
- f. the record of how long customers retain the service during the promotional period.

While not specifically mentioned in Advice Letter No. 905, we expect Contel to include nonrecurring costs in its report.

Contel states that no new promotions will be offered until this report is filed.

PROTESTS

Notice of this Advice Letter was published in the Commission calendar on October 25, 1990. The Commission Advisory and Compliance Division (CACD) has received no protests to Advice Letter No. 905.

DISCUSSION

A. The Terms of Commission Authorization

Advice Letter No. 905 proposes to establish a Commission-authorized (as required by G.O. 96-A, Section X) platform from which specific promotional offerings may spring. Once the Commission authorizes and adopts a promotional program by resolution (i.e., via Advice Letter No. 905), no further Commission resolutions should be required for promotional offerings which meet the terms and conditions of that authorization. Such subsequent filings can be made as advice letters which will go into effect on regular notice without a Commission resolution.

B. Definition of Legitimate Services/Offerings

Public Utilities (P.U.) Code Section 453 (c) prohibits public utilities from "establish(ing) or maintain(ing) any unreasonable difference as to rates, charges, services, facilities, or in any other respect, either as between localities or as between classes of service." In order to satisfy this statute, promotional offerings should be available to all customers using equivalent services and facilities, regardless of class or locale. Therefore, promotional offerings (reduced or waived nonrecurring charges) are appropriate when offered to all customers or when a service is newly available, either throughout the utility's intrastate service territory or due to the upgrade of the utility's serving facilities.

Market trials and technology tests should continue to require separate evaluation and authorization as currently required, since by definition they are conducted prior to services being made available throughout the utility's service territory and already constitute a "deviation" from the utility's tariff.

In considering whether a "service" is appropriate for promotion, we should consider the definition of "new service" which we adopted in D.87-07-017, D.88-12-091, and D.90-11-029. Therein, we have agreed with AT&T's definition of a new service as "an offering which customers perceive as a new service and which has a combination of technology, access, features or functions that distinguishes it from any existing services." (D.88-12-091 at p. 53) We adopted this definition with the qualifier that "repricing or repackaging of an existing service would not be considered a new service" and observed that "the definition does not classify an optional calling plan which discounts existing service as a new service." (Id. at pp. 53-54)

C. Conclusion

Authorizing the promotional pricing of optional services will allow customers the benefit of making an informed decision based on personal use of the service. In addition, Contel anticipates a stimulation in the usage of optional services after the promotional period.

Each promotion-specific advice letter should include the following elements, in order to avoid discriminatory treatment and mitigate any negative impact on subscribers or the general ratepayers:

1. The overall criteria for waiving or discounting the non-recurring charge during the promotional program and the financial impacts on the entire service to reflect the revenue required to recover the cost of the promotion.
2. The start and end dates of the promotion(s).
3. The program for customer notification/participation.
4. Samples of the notification materials.
5. Any limitations or safeguards (e.g., customer selection, rate structure, and program monitoring).
6. The tracking (post-implementation analysis) plan.

Contel is unable to predict the cost, revenue, and profitability of these promotional offerings. Pacific Bell, in Resolution T-14174 of October 12, 1990, was granted similar authority, on a provisional basis, to mitigate potential risk to the ratepayer from revenue losses due to the offerings. CACD agrees that Contel's stipulation for provisional status in its Advice Letter No. 905 is appropriate here as well.

FINDINGS

1. Section X of General Order 96-A requires utilities to obtain authorization of the Commission to carry out any deviation from the rates and conditions contained in their tariff schedules.
2. Advice Letter No. 905 is generic and designed to provide the foundation for promotional offerings of optional services which result from new utility serving facility technology or statewide offerings of new or existing optional services.
3. Once the Commission authorizes and adopts a promotional program by resolution (i.e., via Advice Letter No. 905), no further Commission resolutions should be required for promotional offerings which meet the terms and conditions of that authorization. Such subsequent filings can be made as advice letters which will go into effect on regular notice without a Commission resolution.
4. The authorizing resolution's effective date is the standard "trigger" for the duration of provisional tariffs, as well as for most compliance requirements.
5. In order to satisfy P.U. Code Section 453 (c), promotional offerings should be available to all customers using equivalent services and facilities, regardless of class or locale.
6. Promotional offerings (reduced or waived nonrecurring charges) are appropriate when offered to all customers or when a

service is newly available, either throughout the utility's intrastate service territory or due to the upgrade of the utility's serving facilities.

7. Contel should exclude toll service from all promotional offerings.

8. Market trials and technology tests should continue to require separate evaluation and authorization as currently required, and should not be included in the promotional program.

9. In considering whether a "service" is appropriate for promotion, we should consider the definition of "new service" we adopted in D.87-07-017, D.88-12-091, and D. 90-11-029.

10. We adopted this definition with the qualifier that "repricing or repackaging of an existing service would not be considered a 'new service'" and observed that "the definition does not classify an optional calling plan which discounts existing service as a 'new service.'" (Id. at pp. 53-54)

11. Authorizing the promotional pricing of optional services will allow customers the benefit of making an informed decision based on personal use of the service.

12. Contel anticipates a stimulation in the usage of optional services after the promotional period.

13. Each promotion-specific advice letter should include the following elements:

- a. The overall criteria for waiving or discounting the non-recurring charge during the promotional program and the financial impacts on the entire service to reflect the revenue required to recover the cost of the promotion.
- b. The start and end dates of the promotion(s).
- c. The program for customer notification/participation.
- d. Samples of the notification materials.
- e. Any limitations or safeguards.
- f. The tracking (post-implementation analysis) plan.

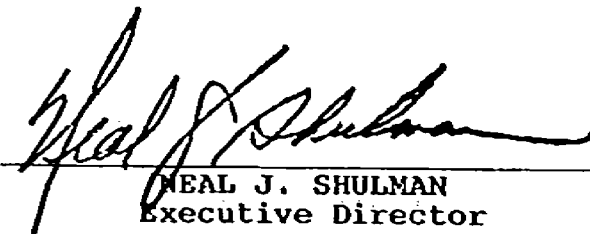
14. Advice letters which comply with the conditions enumerated in these Findings should become effective on regular notice.

February 21, 1991

THEREFORE, IT IS ORDERED that:

1. Contel Service Corporation (Contel) is authorized to offer optional services having promotional periods with waived or discounted, tariffed, nonrecurring charges, as proposed by Advice Letter No. 905 and modified in the body of this Resolution. Contel is authorized to promote only specific optional services which result from upgraded serving facilities, or territory-wide offerings of new or existing optional services.
2. Contel shall file advice letters for specific optional services' inclusion in Schedules Cal. P.U.C. AC and A-38 to become eligible for promotional pricing. Such advice letters shall include the elements specified in Finding 13.
3. Advice Letter No. 905 and the accompanying tariff sheets shall be marked to show that they were authorized by Resolution T-14231, effective on the effective date of this Resolution.
4. 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 February 21, 1991. The following Commissioners approved it:


NEAL J. SHULMAN
Executive Director

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

I abstain.
DANIEL WM. FESSLER
Commissioner

I abstain.
NORMAN D. SHUMWAY
Commissioner