

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission Advisory and Compliance Division
Telecommunications BranchRESOLUTION T-14264
January 25, 1991R E S O L U T I O NRESOLUTION T-14264. LOS ANGELES CELLULAR TELEPHONE
COMPANY. ORDER ADDRESSING REQUEST TO REVISE CORPORATE
PLAN'S RATES AND CHARGES FOR CELLULAR SERVICES.

BY ADVICE LETTER NO. 79, FILED ON NOVEMBER 30, 1990

SUMMARY

This Resolution rejects Advice Letter No. 79 filed by Los Angeles Cellular Telephone Company (LA Cellular) on November 30, 1990. We find that LA Cellular's proposal to establish an optional billing and collection service as part of its retail Corporate Plan violates the provisions for volume-user plans established in Decision 90-06-025 issued on June 6, 1990 and modified by Decision 90-10-047 on October 12, 1990.

Protests were filed by National Cellular Network, California Resellers Association and Celluphone, Inc. To the extent that we reject Advice Letter No. 79 for the reasons discussed herein, the protests are granted.

BACKGROUND

The Commission in its Investigation on the Commission's own motion into the regulation of cellular radiotelephone utilities issued D.90-06-025, which was subsequently modified by D.90-10-047. On the issue of discounted rates for large organizations, the Commission determined that carriers could implement a volume-user tariff if such demand exists. The Commission went on to establish specific provisions for volume-user plans:

- o to qualify for the volume-user tariff, the organization or entity must serve as the master customer;
- o the master customer must guarantee payment for all usage by its members;
- o the master customer must not apply any additional charges to its members for such service;
- o the carriers should not bill and collect from individual customers of the volume-user group or organization;

- o the volume-user rates should be at least five percent (5%) above the wholesale rates.

The basis for the above provisions can be found on pages 84 through 88 of D.90-06-025, as modified.

On November 30, 1990, LA Cellular filed Advice Letter No. 79 (AL 79) to revise its Corporate Plan tariff. The proposed revisions to LA Cellular's Corporate Plan are summarized below.

1. Reduction of monthly access rates. Table A provides a comparison of the present and proposed rates.
2. Provision of optional billing and collection service in which LA Cellular would generate individualized end-user bills, mail them and establish a repository to receive payments from individual end-users; the monthly charge for this service is \$1.25 per unit.
3. Addition of tariff language requiring notice by a Master Customer to its end users of its role and responsibilities.

Table A - Corporate Plan's Present and Proposed Rates.

No. of Units on a Single Bill	1-24 units	25-49 units	50-99 units	100-249 units	250+ units
Monthly Access Charge:					
Present	\$45.00	42.00	40.00	38.00	35.00
Proposed	*	40.75	38.75	36.75	33.75
Usage/Peak Minute:					
Present	\$.450	.423	.414	.405	.396
Proposed	*	.423	.414	.405	.396
Usage/Off-Peak Minute:					
Present	\$.270	.254	.248	.243	.238
Proposed	*	.254	.248	.243	.238
Service Activation:					
Present	\$50.00	45.00	40.00	35.00	35.00
Proposed	*	45.00	40.00	35.00	35.00

* Not applicable.

LA Cellular originally requested that AL 79 be made effective on regular notice, December 31, 1990; upon the Commission Advisory and Compliance Division's requests, LA Cellular extended the requested effective date to January 10, 1991, and then to January 26, 1991.

PROTESTS

Protests of AL 79 were filed by National Cellular Network (a cellular reseller), Cellular Resellers Association (CRA) and Celluphone, Inc. (an authorized agent of Pactel Cellular) on December 10, 14 and 17, 1990, respectively. LA Cellular on December 27, 1990 filed its response to the protests. The protestants raised numerous issues; we will only address those which merit discussion in this Resolution.

DISCUSSION

Protestants asserted that LA Cellular's proposed tariff revisions violate the requirements of volume-user tariffs specified in D.90-06-025 as modified by D.90-10-047. Specifically, the revised Corporate Plan being proposed does not comply with the 5% minimum wholesale-retail margin requirement and violates the individualized billing and collection prohibition.

Five percent minimum margin

The protestants provided calculations to demonstrate that the proposed rate reductions violate the Commission's requirement that the retail volume-user rates should be at least 5% above wholesale rates. The protestants' examples compared the two plans' monthly access rates at the 250-unit level, and demonstrated that the resulting margin in only 1.9%, far below the 5% minimum margin. For details, see Attachment A - Page 5 of CRA's Protest.

LA Cellular in its response offered calculations to demonstrate that the proposed rate reductions would produce a margin ranging from 7.0% to 19.7%, depending on the number of units ordered. Instead of comparing individual rates as the protestants had done in their examples, LA Cellular calculated the margin using total bill figures. In its analysis, LA Cellular considered service activation charges (amortized over estimated customer life), monthly access rates, and usage charges (based on monthly usage of 200 minutes with 80% of the usage occurred during peak period). For details, see Attachment B - Attachment A of LA Cellular's Response to Protest.

The Commission in D.90-06-025, as modified, did not specify whether the margin between wholesale and volume-user rates should be calculated based on individual rate or on total bill analysis. We believe that because the total bill analysis considers the overall effect of the three basic rates and charges, it provides a more comprehensive and representative measure of the margin in question. Therefore, we find that the proposed reduction to the Corporate Plan's rates does not violate the 5% minimum margin required in D.90-06-025.

Individualized Billing and Collection

The protestants claimed that "any generation of an individualized bill, for a fee or otherwise, is a violation of the blanket prohibition against individualized billing." The protestants asserted that D.90-06-025 as modified clearly established that the Master Customer is the customer, not the individual end-users; therefore, there should be only one bill delivered to the Master Customer for payment. Furthermore, the protestants pointed out that LA Cellular's proposal to set up a repository, a device to receive individual payments, is an attempt to circumvent the individualized billing and collection prohibition. In doing so, LA Cellular, not the Master Customer, would in effect collect payments from individual members of the Master Customer.

LA Cellular in its protest admitted that language in D.90-06-025 as modified, if read literally, precludes facilities-based carriers from providing end-user billing services. Such prohibition, LA Cellular asserted, would require the volume-user customers to establish in-house billing and collection capability, and therefore, would be an "effective bar to discounted rates for these customers." LA Cellular stated that the "market would be left to the resellers like Motorola which claim to be exempt from the various proscriptions at page 88" of D.90-06-025. For these reasons, LA Cellular proposed in AL 79 to "unbundle" the existing Corporate Plan and provide a new, lower rate for customers with no need for rebilling help, and a separate added per unit charge with customers wanting such assistance.

The proposed billing and collection service, at \$1.25 per unit per month, includes the printing of unit-by-unit detail under the Master Customer's letterhead, postage and mailing, and establishment of a "lock box" account. The "lock box" account would be administered in the Master Customer's name by a bank, or similar financial institution; the bank would collect payments from end-users and which upon being instructed by the customer, would remit payments to LA Cellular.

We agree with the protestants in that LA Cellular's proposed billing and collection service, even at a fee, is an attempt to circumvent the individualized billing prohibition clearly established by the Commission in D.90-06-025 as modified. In allowing the offering of volume-user plans by facilities-based carriers, the Commission established very specific provisions for such plans in order to promote and protect competition in the cellular telecommunications industry. One of those requirements is that "carriers should not bill and collect from individual customers of the volume-user group or organization." LA Cellular in its protest admitted that D.90-06-025 prohibits facilities-based carriers from providing end-user billing and collection services, and attempted to reargue the reasonableness of that requirement. Such argument is inappropriate in an advice letter filing, and cannot be considered in this Resolution.

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For the above reasons, we find that LA Cellular's AL 79 violates the individualized billing prohibition established in D.90-06-025 as modified. LA Cellular's AL 79, therefore, should be rejected. To the extent that we agree with the protestants on this issue, the protests are granted.

FINDINGS

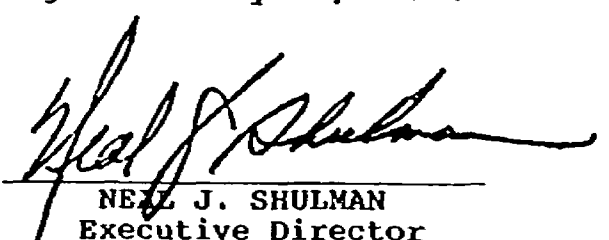
1. The Commission in Decision 90-06-025, as modified by Decision 90-10-047, stated that "carriers should not bill and collect from individual customers of the volume-user group or organization."
2. In its Advice Letter No. 79 filed on November 30, 1990, Los Angeles Cellular Telephone Company proposed to reduce its Corporate Plan's rates, to add a new billing and collection service to its Corporate Plan, and to add tariff language requiring notice by Master Customers of the Corporate Plan to their end users of the Master Customers' role and responsibilities.
3. The proposed billing and collection service, at \$1.25 per unit per month, includes the printing of unit-by-unit detail under the Master Customer's letterhead, postage and mailing, and establishment of a "lock box" account.
4. For the reasons stated in the discussion of this Resolution, the proposed billing and collection service violates the provision established in Decision 90-06-025 as modified, which states that facilities-based carriers shall not provide individualized billing and collection to end-users of volume-user plans.

THEREFORE, IT IS ORDERED that:

- (1) Advice Letter No. 79, filed by Los Angeles Cellular Telephone Company on November 30, 1990, is rejected.
- (2) The protests of Advice Letter No. 79 are granted to the extent that they agree with Finding No. 4 above.
- (3) Rejected tariff sheets shall be retained in the utility's file of cancelled sheets. Sheet numbers and advice letter number of the rejected filing shall not be reused.
- (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 January 25, 1991. The following Commissioners approved it:

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


NEAL J. SHULMAN
Executive Director

2/04/91
Process Office

1991 SCHEDULE

<u>SUBMISSION DEADLINE</u>	<u>PINK DEADLINE</u>	<u>AGENDA MAILING</u>	<u>AGENDA * REVIEW</u>	<u>COMMISSION MEETING</u>
January 17	January 23	January 25	February 4	February 6
February 4	February 7	February 11	February 19	February 21
February 22	February 27	March 1	March 11	March 13
March 5**	March 7**	March 12**	March 20**	March 22**
March 22	March 27	March 29	April 8	April 10
April 5	April 10	April 12	April 22	April 24
April 19	April 24	April 26	May 6	May 8
May 3	May 8	May 10	May 20	May 22
May 17	May 22	May 24	June 3	June 5
May 31	June 5	June 7	June 17	June 19

* Agenda Review
1:30 PM, Room 5305

** change in schedule