

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-14394 *
Telecommunications Branch June 5, 1991

R E S O L U T I O N

RESOLUTION T-14394. EVANS TELEPHONE COMPANY. REQUEST
FOR PROVISIONAL AUTHORITY TO FILE ADVICE LETTERS TO
WAIVE OR DISCOUNT SPECIFIC TARIFFED CHARGES DURING A
PROMOTIONAL PERIOD.

BY ADVICE LETTER 200, FILED ON FEBRUARY 11, 1991;
ADVICE LETTER 200A, FILED ON MARCH 18, 1991; AND
ADVICE LETTER 200B, FILED ON APRIL 15, 1991.

SUMMARY

This resolution authorizes Evans Telephone Company to file advice letters with this Commission 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 territory-wide offerings of new or existing optional services. Any promotion must be offered to all classes of customers to whom the promoted service is available. 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 24 months after the effective date of this resolution, unless cancelled, changed, or extended by Commission order.

BACKGROUND

Currently, when Evans Telephone Company offers a new optional service, subscribers are charged the full tariffed rates and charges and are 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 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 200, filed on February 11, 1991, Evans Telephone Company requests authorization to introduce a provisional tariff allowing it to offer selected network and

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exchange optional services at waived or reduced nonrecurring tariff charges. Supplements A and B revised the language in the proposed tariff pages to conform to similar advice letters from other utilities. They also withdrew the first promotional offering Evans Telephone Company proposed to make.

Evans Telephone Company proposes the following Special Conditions:

1. "All services listed in Special Condition 6 are approved by Advice Letter filings.
2. "Promotional campaigns listed in Special Condition 6 are the subject of the Utility's Rules and offered only where facilities and operating conditions permit.
3. "The promotional campaign duration shall not exceed 120 days per offering. All promotional campaigns will be approved by Advice Letter filings, which shall include but not be limited to:
 - service selection
 - non-recurring charges
 - promotional area
 - duration
 - customer notification plan.
4. "The method of customer notification of the promotional campaign is at the option of the Utility.
5. "Customers may cancel the promotional offering at any time during or at the conclusion of the promotional period without penalty. Minimum billing as set forth in Rule No. 9 is applicable to a promotional offering.
6. "Promotional campaigns shall be limited to serving central offices designated by the Utility and include the following service:
7. "Promotional Campaigns is a provisional tariff offering that will terminate 24 months from the date of the resolution unless cancelled, changed, or extended.
8. "During the "subscription " phase of each promotion, the customer will be fully informed of all the terms and conditions of the promotional offering, and the Utility will contact the customer regarding the retention or discontinuance of the service prior to the end of the promotional period. This contact will inform the subscriber that if they wish to retain the promoted service, they need do nothing; and if they wish to discontinue it, they need to call our business office to do so. Minimum billing as set forth in Rule No. 9 is applicable to a promotional offering. Samples of the notification materials will be provided to the Commission Advisory and Compliance Division (CACD) when proposing the promotion.

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9. "The post-implementation analysis on each promotion undertaken by the Utility will include customer response and the impact of the promotional scheme on the profitability of the promoted service as a whole, as well as actual revenues and expenses. All customer complaints or concerns will be identified and included in the analysis, which will be submitted to CACD within 60 days of the ending date of each promotion and receive CACD approval before the next promotion commences."

PROTESTS

Notice of this Advice Letter was published in the Commission calendar on February 14, 1991. The Commission Advisory and Compliance Division (CACD) has received no protests of Advice Letter 200 or its supplements.

DISCUSSION

A. The Terms of Commission Authorization

Evans Telephone Company Advice Letter No. 200 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 200), 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.

Similar authority has been granted to Pacific Bell in Resolution T-14174 (October 12, 1990) and Contel Service Corporation in Resolution T-14231 (February 21, 1991).

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.

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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 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, (CP National and Tuolumne) Evans Telephone Company 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.

Evans Telephone Company is unable to predict the cost, revenue, and profitability of these promotional offerings. CACD agrees that Evans Telephone Company's stipulations for provisional status in its Advice Letter 200 is appropriate. A financial impact report on each promotional offering is therefore necessary. The report should include the following details:

1. The nonrecurring revenue loss from the promotion;
2. the nonrecurring costs of the promotion;
3. the recurring revenue gain from new customers;
4. the recurring expenses;
5. the number of subscribing customers;
6. the record of any complaints;
7. the record of how long customers retain the service during the promotional period.

This list of details is longer than the one proposed by Evans Telephone Company.

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. Evans Telephone Company's Advice letter 200 is generic and designed to provide the foundation for promotional offerings of optional services which result from new utility serving facility technology or territory-wide offerings of new or existing optional services.
3. Once the Commission authorizes and adopts a promotional program by resolution (i.e., via Advice Letter 200), 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 (i.e., the same or similarly equipped central offices), 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 (but has passed the market trial and technology test stages), either throughout the utility's intrastate service territory or due to the upgrade of the utility's serving facilities.
7. 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.
8. 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.
9. 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).
10. Authorizing the promotional pricing of optional services will allow customers the benefit of making an informed decision based on personal use of the service.

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11. Evans Telephone Company anticipates a stimulation in the usage of optional services after the promotional period.
12. 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.
13. Advice letters which comply with the conditions enumerated in the Findings should become effective on regular notice.
14. The financial impact report required on each promotional offering should include the following details:
 - a. The nonrecurring revenue loss from the promotion;
 - b. the nonrecurring costs of the promotion;
 - c. the recurring revenue gain from new customers;
 - d. the recurring expenses;
 - e. the number of subscribing customers;
 - f. the record of any complaints;
 - g. the record of how long customers retain the service during the promotional period.

This list of details is more extensive than that proposed by Evans Telephone Company. The financial impact report on each promotional offering should be approved by CACD before the utility initiates another offering.

THEREFORE, IT IS ORDERED that:

1. Evans Telephone Company's request in Advice Letter 200 (and Supplements A and B) to offer optional services having promotional periods with waived or discounted, tariffed, nonrecurring charges are authorized.
2. Evans Telephone Company is authorized to promote only specific optional services which result from upgraded serving facilities, or territory-wide offerings of new (but beyond the market trial and technology test stages) or existing optional services.
3. Evans Telephone Company shall file advice letters for specific optional services' inclusion in Schedules Ca. P.U.C.

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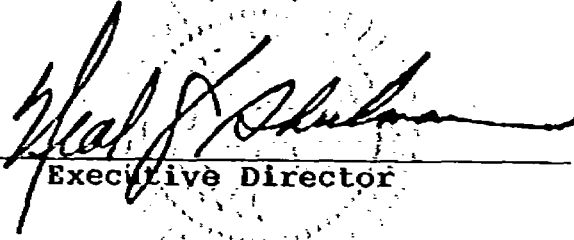
A-5 to become eligible for promotional pricing. Such advice letters shall include the elements specified in Finding 12.

4. The financial impact reports that Evans Telephone Company files after each promotional offering shall include the details specified in Finding 14. The report on the last promotional offering shall be approved by CACD before the next offering is made.

5. 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 5, 1991. The following Commissioners approved it:

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners



Executive Director