

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-14518
Telecommunications Branch July 24, 1991

R E S O L U T I O N

RESOLUTION T-14518. AT&T COMMUNICATIONS OF CALIFORNIA, INC. REQUEST FOR AUTHORITY TO FILE ADVICE LETTERS TO WAIVE OR DISCOUNT SPECIFIC TARIFFED CHARGES DURING A PROMOTIONAL PERIOD WITHOUT REQUIRING COMMISSION RESOLUTIONS.

BY ADVICE LETTER 208, FILED ON MAY 23, 1991.

SUMMARY

This resolution authorizes AT&T Communications of California, Inc. (AT&T-C) to file advice letters without requiring subsequent Commission resolutions, which advice letters specify optional services that will be offered during a promotional period with waived or discounted tariffed nonrecurring charges. 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 will be between one day and one year.

BACKGROUND

Currently, when AT&T-C 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 208, filed on May 23, 1991, AT&T-C requests the authorization to deviate from the General Order.

PROTESTS

Notice of this Advice Letter was published in the Commission calendar on May 24, 1991. AT&T-C stated in the Advice Letter that it will provide copies of it to competing and adjacent

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utilities, as well as interested parties. The Commission Advisory and Compliance Division (CACD) has received no protests of Advice Letter 208.

DISCUSSION

A. The Terms of Commission Authorization

AT&T-C Advice Letter No. 208 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 208), 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. Competing interexchange companies (IECs) will be noticed when each advice letter is filed.

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. Promotional offerings (reduced or waived nonrecurring charges) are appropriate only 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 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, AT&T anticipates a stimulation in the usage of optional services both during and after the promotional period.

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.
- 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.

Similar authority has been granted to Pacific Bell in Resolution T-14174 (October 12, 1990), Contel of California, Inc. in Resolution T-14231 (February 21, 1991), CP National Corporation and Tuolumne Telephone Company in Resolution T-14361 (April 24, 1991), and Evans Telephone Company in Resolution T-14394 (June 5, 1991).

The LECs face certain requirements in their promotional offerings:

- a. LECs have only provisional authority for promotional offerings without separate authorization (i.e., 24 months).
- b. LECs are required to provide a report on the financial impact of each offering before the next offering could be made.

AT&T-C requests that these requirements be waived for its promotional offerings:

- a. AT&T-C places no closing date on its requested authorization to file promotional offerings that would go into effect on regular notice.
- b. AT&T-C does not state that it will file a financial impact report on each offering after its completion.

CACD makes the following recommendations concerning these differences:

- a. AT&T-C should be permitted to have an open-ended promotional tariff offering. AT&T operates in the interexchange market, which appears to be more competitive than the LEC market.

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b. AT&T-C should not be required to provide a financial impact report to CACD after each promotional offering is completed.

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. AT&T-C's Advice letter 208 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 208), 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. 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.
5. 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.
6. 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.
7. 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.
8. 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).
9. Authorizing the promotional pricing of optional services will allow customers the benefit of making an informed decision based on personal use of the service.
10. AT&T-C anticipates a stimulation in the usage of optional services both during and after the promotional period.
11. Each promotion-specific advice letter should include the following elements:

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- a. The overall criteria for waiving or discounting the non-recurring charge during the promotional program.
 - 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.
12. Because past promotional offerings have been allowed for AT&T-C without further safeguards being added to the tariffs, it appears unnecessary to add such safeguards at this time.
13. Advice letters which comply with the conditions enumerated in Finding 11 should become effective on regular notice.

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THEREFORE, IT IS ORDERED that:

1. AT&T Communications of California, Inc.'s (AT&T-C) request in Advice Letter 208 to file promotional offerings by advice letter and to have them made effective on regular notice is granted.
2. In its promotional offerings, AT&T-C is authorized to waive or discount tariffed, nonrecurring charges.
3. AT&T-C is authorized to promote only specific optional services which result from upgraded serving facilities, or territory-wide offerings of new or existing optional services that have passed the technology test and market trial stages.
4. AT&T-C shall file advice letters for specific optional services' inclusion in Schedules Ca. P.U.C. C-4 (Switched Digital Services) Section 8.1.4, C-9 and C-11 (Private Line Services) Sections 18.1.7 and 18.1.8 and Sections 18.1.8 and 18.1.9 respectively. Such advice letters shall include the elements specified in Finding 11.
5. The restrictions outlined in the Discussion Section above that were imposed on Local Exchange Companies need not be added to AT&T-C's tariffs as Special Conditions.
6. 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 July 24, 1991. The following Commissioners approved it:

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


NEAL J. SHULMAN
Executive Director