

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission Advisory and Compliance Division RESOLUTION T-14707
Telecommunications Branch November 20, 1991

R E S O L U T I O N

RESOLUTION T-14707. LOS ANGELES CELLULAR TELEPHONE COMPANY. REQUEST FOR AUTHORITY TO IMPLEMENT END USER BILLING AND COLLECTING OPTION TARIFF FOR CORPORATE PLAN CUSTOMERS.

BY ADVICE LETTER NO. 180, FILED ON OCTOBER 23, 1991.

SUMMARY

This Resolution delays the effective date of Los Angeles Cellular Telephone Company's (LACTC) Advice Letter No. 180 (AL 180), filed on October 23, 1991. In that Advice Letter, LACTC seeks Commission authorization to file an end user billing option tariff for its Corporate Plan (volume user) customers. AL 180 was filed without data substantiating LACTC's direct cost to provide the service and a corresponding tariff was not filed for the resellers' volume users' individual subscribers (reseller tariff), as required by Decision (D.) 91-06-054.

For the reasons discussed herein, we find the request incomplete as required by D.91-06-054 for such filings. The Advice Letter will not be allowed to take effect until the direct costs have been substantiated and the Advice Letter has been supplemented to include a corresponding reseller tariff.

Protests were filed by the California Reseller's Association and Twentieth Century Cellular, Inc. The protests were found to have merit.

BACKGROUND

Decision 90-06-025 allowed facilities-based carriers to implement a "large-user" tariff for their customers if sufficient demand existed. Subsequently, the Commission, in D.91-01-033, ordered all carriers who were interested in either offering or continuing to offer the large-user (volume user) service, to submit advice letters modifying their tariffs by no later than March 1, 1991.

Furthermore, Ordering Paragraph 3 of D.91-06-054 modified Ordering Paragraph 18 of D.90-06-025 to include both the

facilities-based carriers and resellers in providing volume user services. It also authorized the carriers/resellers to provide billing and collecting services to the volume users' individual subscribers as follows:

"Ordering Paragraph 18 of D.90-06-025, as modified by D.90-10-047, shall also be modified to authorize facilities-based cellular carriers and resellers of cellular service to provide billing and collecting services to the volume users' individual subscribers and to any carrier or reseller on a tariff basis so long that the tariff charges are based on the cellular service provider direct cost for providing such services. Any facilities-based carrier or reseller that submits a tariff filing for volume users' billing and collecting services shall substantiate to the Commission's Advisory and Compliance Division Director, prior to implementation, that its proposed tariff rates reflect the cellular service provider's direct cost to provide such services..."

In addition, Footnote No. 1, of D.91-06-054, stated what direct costs were to include, as follows:

"Direct cost consists of the cost incurred to process, mail, and collect bills. It includes hardware and software costs associated with the billing and collecting process and excludes allocation costs from other departments and overheads such as administrative cost allocations."

LACTC filed AL 180 on October 23, 1991 to become effective 30 days after filing. LACTC did so without supplying the substantiating data required in D.91-06-054. On November 1, 1991, LACTC submitted a single sheet entitled "ADVICE LETTER NO. 180: COST SUPPORT DATA" which CACD examined and found to be insufficient to support the tariff rate filed. The data submitted by LACTC was merely a summary sheet for the major cost elements without backup showing their derivation. As recently as November 15, CACD was still receiving information from LACTC and attempting to ascertain whether the proposed tariff rates reflect LACTC's direct costs as the decision required.

NOTICES/PROTESTS

Public notice that LACTC filed AL 180 appeared in the California Public Utilities Commission's October 25, 1991 Daily Calendar. In addition, copies of the Advice Letter were mailed to competing utilities and known interested parties.

Two protests were received.

On November 6, 1991, Cellular Resellers Association, Inc. (CRA) protested LACTC's AL 180. CRA's main arguments are presented below:

1. LACTC did not include with its filing of AL 180 any supporting financial data which would indicate that the tariff rate reflected LACTC's direct cost to provide the service, nor

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did LACTC make any attempt to indicate any future plans for submitting such data. CRA also cited Footnote No. 1 of D.91-06-054 in referencing what LACTC's direct costs should include. CRA contends that LACTC was in violation of D.91-06-054 in this respect when it filed AL 180. CRA also contends that the Commission should review the supporting data and should determine whether the data should be made public or should be considered proprietary and protected. CRA believes that the supporting data should be made public for comment, or should be released under a proper and reasonable non-disclosure agreement.

2. LACTC did not submit a reseller tariff for the same service and by not doing so, LACTC is in violation of D.91-06-054. CRA cites Ordering Paragraph 3 of D.91-06-054 as authorizing facilities-based carriers and resellers to provide billing and collecting services not only to volume users' individual subscribers, but also to "any carrier or reseller on a tariff basis..."

LACTC responded to CRA's protest on November 11, 1991. LACTC stated that it had hand-delivered the supporting cost data to CACD on November 1 and that such data was submitted as proprietary information. LACTC, however, indicated that "it may be appropriate to share this information with counsel for interested parties" with an appropriate non-disclosure agreement.

In addition, LACTC stated that the wording in D.91-06-054 was permissive with respect to filing similar tariffs for resellers. LACTC argued that, in order to provide such a service, the costs for providing the service would be significantly higher than the cost for the volume user. Specifically, LACTC stated that in order for it to provide such a service, accessibility to the resellers' customer base would have to be provided and a significant change in LACTC's billing practices would need to occur.

On November 13, 1991, Twentieth Century Cellular, Inc. (TCC) protested LACTC's AL 180. TCC's argument was that LACTC's filing was discriminatory since LACTC did not file a similar tariff for resellers.

DISCUSSION

After review of both CRA's and TCC's protests and LACTC's response, we have found that there is merit in both protests, as well as some merit in LACTC's response. We will accept the protests.

LACTC did submit AL 180 without supporting financial data and did not indicate in the filing any future date for submitting the data. LACTC's failure to submit the supporting financial data at the time of the filing caused it to be in direct violation of D.91-06-054. Even though LACTC did submit the data at a later time, it did so in an untimely manner. Because AL 180 was filed with a 30 day effective date, CACD did not have sufficient time to review the data prior to November 23, 1991.

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LACTC did submit the data under protection of General Order (G.O.) 66-C, thereby indicating that the data was proprietary and should not be released publicly. In LACTC's response, it did indicate that it might be responsive to releasing the data under an appropriate non-disclosure agreement. It appears that this issue can be resolved among the parties. If not, CRA is welcome to file a request to obtain the information pursuant to G.O. 66-C.

LACTC indicated that the offering of a reseller tariff would likely be unwarranted and very difficult to implement. Reseller tariff rates are typically lower than the volume user rates. However, in the scenario that LACTC presents, the reseller tariff rate for bulk user billing and collection could well be higher than the volume user tariff rate if the direct costs for providing such service are accurately reflected in the tariff rate. This would be due to the extensive modifications that would have to occur in LACTC's billing procedures. Since LACTC did not submit a reseller tariff with its original filing, it should file a supplemental advice letter to include a reseller tariff and should provide, in accordance with D.91-06-054, all substantiating financial data to support its filing.

This Commission's policy has been quite clear since it approved D.90-06-025. The Commission has taken actions which it feels would allow for fair and equal treatment of all players in the cellular industry, in other words, a level playing field.

In D.91-06-054, this Commission tried to ensure this in the area of volume user tariffs by ordering facilities-based carriers and resellers to substantiate that their proposed volume user billing and collection tariffs reflect the direct costs associated with the services offered.

It would be appropriate for cellular utilities to follow the proposal process whereby the carrier/reseller would submit the proposed advice letter, along with the substantiating data, to CACD for review and evaluation. Once the carrier/reseller received a "no comment" response from CACD, it would then be able to file the advice letter through the usual process.

For the above reasons, we find LACTC's AL 180 to be incomplete, and not in accordance with D.91-06-054. The effective date should be delayed until LACTC files a supplemental Advice Letter for the reseller tariff and the substantiating data for both tariffs has been determined to be adequate by CACD and LACTC has been notified of the determination.

In order to avoid similar problems with future filings, the Telecommunications Branch of CACD has mailed a letter to all cellular utilities informing them to use the proposal process for similar filings done in compliance with D.91-06-054 and outlined the substantiating data it will need.

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FINDINGS

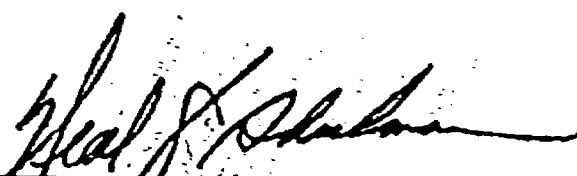
1. LACTC's Advice Letter No. 180 was not filed using the proposal process but rather was filed as an Advice Letter with a 30-day effective date.
2. LACTC's Advice Letter No. 180 did not provide financial data, including backup workpapers, in a timely fashion substantiating that the tariff rates reflect LACTC's direct costs to provide such service, and thus is not in compliance with D.91-06-054.
3. LACTC filed the appropriate billing and collecting tariffs for its volume users' individual subscribers, but failed to file the equivalent tariffs for the resellers' volume users' individual subscribers, as required in Ordering Paragraph 3 of D.91-06-054.

THEREFORE, IT IS ORDERED that:

1. Los Angeles Cellular Telephone Company's Advice Letter No. 180 shall not become effective until it is supplemented to include the billing and collecting tariff for the resellers' volume users' individual subscribers, and the Commission Advisory and Compliance Division's Director determines that the substantiating financial data is adequate, in accordance with D.91-06-054.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on November 20, 1991. The following Commissioners approved it:


NEAL J. SHULMAN
Executive Director

PATRICIA M. ECKERT
President
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

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