

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY & COMPLIANCE DIVISION
Telecommunications BranchRESOLUTION NO. T-14732
December 18, 1991R E S O L U T I O N

RESOLUTION T-14732. REQUEST OF AT&T, MCI, AND SPRINT SERVICES TO OFFER INTERLATA 900 INFORMATION SERVICES. REQUEST OF LOCAL EXCHANGE CARRIERS TO OFFER INTERLATA 900 ACCESS SERVICES.

BY ADVICE.

<u>LETTER NO.</u>	<u>FILED BY</u>	<u>DATE FILED</u>
223	AT&T COMMUNICATIONS OF CALIFORNIA	AUGUST 9, 1991
223A	AT&T COMMUNICATIONS OF CALIFORNIA	SEPTEMBER 5, 1991
225	AT&T COMMUNICATIONS OF CALIFORNIA	AUGUST 30, 1991
225A	AT&T COMMUNICATIONS OF CALIFORNIA	SEPTEMBER 5, 1991
128	MCI TELECOMMUNICATIONS CORPORATION	SEPTEMBER 6, 1991
1	US TELECOM, INCORPORATED (dba SPRINT SERVICES)	APRIL 23, 1991
1A	US TELECOM, INCORPORATED (dba SPRINT SERVICES)	MAY 15, 1991
11	TELESPHERE NETWORK, INCORPORATED	AUGUST 15, 1991
140	CALAVERAS TELEPHONE COMPANY	JUNE 14, 1991
157	CALIFORNIA-OREGON TELEPHONE CO.	NOVEMBER 4, 1991
157A	CALIFORNIA-OREGON TELEPHONE CO.	NOVEMBER 12, 1991
919	CONTINENTAL TELEPHONE COMPANY OF CALIFORNIA	MAY 9, 1991
924	CONTINENTAL TELEPHONE COMPANY OF CALIFORNIA	SEPTEMBER 26, 1991
282-T	CP NATIONAL CORPORATION	JUNE 13, 1991
282-T/1	CP NATIONAL CORPORATION	JULY 1, 1991
164	DUCOR TELEPHONE COMPANY	JUNE 13, 1991
207	EVANS TELEPHONE COMPANY	JUNE 14, 1991
5316	GTE CALIFORNIA INCORPORATED	MAY 13, 1991
5317	GTE CALIFORNIA INCORPORATED	MAY 13, 1991
357	GTE WEST COAST INCORPORATED	JUNE 10, 1991
357A	GTE WEST COAST INCORPORATED	JULY 1, 1991
359	GTE WEST COAST INCORPORATED	JUNE 14, 1991
123	HAPPY VALLEY TELEPHONE COMPANY	JUNE 13, 1991
113	HORNITOS TELEPHONE COMPANY	JUNE 13, 1991
15962	PACIFIC BELL	MAY 13, 1991
85	PINNACLES TELEPHONE COMPANY	JUNE 13, 1991
190	THE SISKIYOU TELEPHONE COMPANY	JUNE 12, 1991
171-T	TUOLUMNE TELEPHONE COMPANY	JUNE 13, 1991
171-T/1	TUOLUMNE TELEPHONE COMPANY	JULY 5, 1991
177	THE VOLCANO TELEPHONE COMPANY	JUNE 13, 1991
177A	THE VOLCANO TELEPHONE COMPANY	NOVEMBER 8, 1991
26	WINTERHAVEN TELEPHONE COMPANY	JUNE 13, 1991
26A	WINTERHAVEN TELEPHONE COMPANY	JUNE 14, 1991

SUMMARY

This Resolution approves tariffs filed by sixteen (16) of California's local exchange carriers (LECs) to provide interexchange carrier (IEC) access for interLATA 900 information access services. This Resolution also approves tariffs filed by U.S. Telecom, Incorporated (dba Sprint Services), AT&T Communications of California (AT&T), and MCI Telecommunications Corporation (MCI) and authorizes the interexchange carriers to begin offering interLATA 900 information access services.

BACKGROUND

Commission Decision 91-03-021 authorized Sprint Services, AT&T, MCI, and Telesphere Network, Incorporated (Telesphere), to provide interLATA information access services using the 900 area code subject to terms and conditions established in the decision. These IECs (also referred to herein as "Applicants") were authorized to file advice letters which complied with the terms and conditions of D.91-03-021 within 180 days of that decision. D.91-03-021 further ordered that the tariffs submitted with these advice letters not become effective until approved by further order of the Commission. This Resolution approves and authorizes tariffs filed by Sprint Services, AT&T, and MCI for intrastate interLATA 900 services.

Telesphere filed Advice Letter No. 11 on August 15, 1991. Telesphere subsequently declared bankruptcy and withdrew Advice Letter No. 11 on September 11, 1991. Pursuant to Ordering Paragraph 8 of D.91-03-021, Telesphere's authority to offer intrastate interLATA 900 services has expired.

Decision 91-03-021 also ordered Pacific Bell (Pacific) and GTE California Incorporated (GTEC) to file advice letters with access tariffs for IEC access for 900 service within 60 days of the effective date of that order. Each LEC under our jurisdiction (except Pacific and GTEC) was ordered to file advice letters with access tariffs within 90 days of the effective date of that order if the LEC did not concur with Pacific's access tariff. All LEC advice letters would not become effective until further order of the Commission. This Resolution approves and authorizes the tariffs filed by LECs to offer IEC access for 900 service.

In addition to filing advice letters with tariffs containing the provisions set forth in Ordering Paragraph 11 of D.91-03-021, Applicants were ordered to,

"...conduct an educational campaign by inserts in LEC bills in each area in California from which a caller may reach a 900 number carried by Sprint Services, AT&T, MCI, and/or Telesphere. Sprint Services, AT&T, MCI, and Telesphere shall

also include an insert in their own bill, and/or their billing agents' bills, if different than the LEC bills."

Applicants were directed to consult Consumer Action and other consumer groups in preparation of the bill inserts. After review by the consumer groups and incorporation of their comments as appropriate, Applicants were ordered to submit a copy of the proposed bill insert to the Commission Advisory and Compliance Division (CACD) and the Public Advisor for review and comment. Applicants were ordered not to begin intrastate, interLATA 900 service before the bill insert education campaign was completed. The insert is to be in all major languages, and be included in bills no later than the commencement of Applicants' intrastate operations.

Finally, Applicants were ordered to develop a tracking plan and monitoring reports which are to be submitted to the CACD monthly. These reports will be used to measure the effectiveness of the safeguards established by the Commission in D.91-03-021, and will contain data on the items enumerated in Attachment C of D.91-03-021. Applicants' tracking plan and report format are to be finalized and approved by the CACD prior to the effective date of Applicants' 900 tariff, and Applicants' monthly reports are to be submitted to the CACD (with copies to the DRA) within 45 days of the end of each month. Applicants also are required to submit a first-year report within 45 days of one year after the effective date of Applicants' 900 tariff containing data on the items enumerated in Attachment C of D.91-03-021.

PROTESTS

Sprint Services Advice Letter No. 1

Notice of Sprint Services Advice Letter No. 1 was published in the Commission Calendar on April 29, 1991. The CACD received one protest to this advice letter from the Division of Ratepayer Advocates (DRA) on May 13, 1991. The DRA states that the advice letter fails to include all of the terms and conditions specified in Ordering Paragraph 4(s) of D.91-03-021, and the advice letter's requested effective date provides insufficient time to ensure a reasonable review period for interested parties.

Sprint Services replied to the protest of the DRA on May 17, 1991. Sprint Services states that two of the three terms and conditions ordered in Ordering Paragraph 4(s) of D.91-03-021 were inadvertently omitted, and voluntarily supplemented its filing on May 15, 1991 to correct these omissions. Sprint Services states that the condition that, "the carrier shall not block access during any investigation of disputed charges until the completion of the complaint procedure and adjustment policy" is adequately addressed in Advice Letter No. 1. Sprint Services expressed willingness to include additional clarifying language, should the Commission so desire. Finally, Sprint Services notes that

Ordering Paragraph 7 of D.91-03-021 states that "...tariffs shall not become effective until further order of the Commission...", and that Sprint Services was simply expressing its desire for authorization at the earliest possible date.

AT&T Advice Letter Nos. 223 and 225

Notice of AT&T's Advice Letter Nos. 223 and 225 was published in the Commission Calendar on August 14, and September 6, 1991, respectively. The CACD received no protests to AT&T Advice Letter No. 225. The CACD received one protest to AT&T Advice Letter No. 223 from the Law Offices of Earl Nicholas Selby on August 14, 1991. On October 7, 1991, Mr. Selby withdrew his protest.

Telesphere Advice Letter No. 11

Notice of Telesphere's Advice Letter No. 11 was published in the Commission Calendar on August 19, 1991. The CACD received one protest to this advice letter from the Information Providers Group (IPG) on August 29, 1991. The IPG states that the advice letter should be rejected, the Commission should schedule hearings to investigate Telesphere's 900 service, and the Commission should suspend and or revoke Telesphere's authorization to offer 900 service and its certificate of Public Convenience and Necessity (CPC&N).

IPG states that, 1) Telesphere is the subject of involuntary bankruptcy proceedings; 2) that Telesphere is not presently able to meet its current financial obligations, and is the subject of complaint C.91-08-019 filed with the Commission on August 9, 1991; and 3) that Telesphere is engaged in a scheme to offer certain Information Providers (IPs) discriminatory pricing for 900 transport services, and that Telesphere's unspecified "non-refundable uncollectibles charge" is arbitrary, discriminatory, and a means by which Telesphere is reducing or eliminating payments owed to IPs.

Telesphere failed to reply to the IPG protest. Instead, Telesphere advised the CACD on September 11, 1991 that it elected to no longer offer 900 services, and withdrew Advice Letter No. 11.

MCI Advice Letter No. 128

Notice of MCI's Advice Letter No. 128 was published in the Commission Calendar on September 11, 1991. The CACD received protests to the advice letter from the Information Provider Action Committee (IPAC) on September 25, 1991, and from Phone Programs, Inc. on October 2, 1991. The protest filed by Phone Programs, Inc. was not received timely by CACD. This late-filed

protest, however, echoed the same concerns raised by the IPAC protest.

The IPAC protest states that MCI's definition of the technical interface for required answer supervision as "appropriate" was not sufficiently specific, and requests that system interface requirements be specifically defined, with at least a reference to applicable technical specifications.

MCI replied to the protest of IPAC on October 1, 1991. MCI states that its description is accurate and sufficient, and that standards established by the Electronic Industries Associations/Telecommunications Industry Association (EIA/TIA) are available to any equipment vendor or customer. MCI further states that its interstate tariff filed with the Federal Communications Commission (FCC) contains identical language, and MCI is unaware of any problems resulting from system interface or answer supervision specifications used by MCI in its 900 services offerings.

The IPAC responded to MCI's reply on October 16, 1991, by stating that the EIA/TIA standards cited in MCI's reply require parties to agree to adopt the recommended standards.

Other Protests

Listed below are the advice letters filed by LECs in compliance with D.91-03-021 to provide 900 access services to authorized interLATA 900 service Applicants. Also shown is the date of publication in the Commission Calendar, and whether protests were filed with the CACD.

<u>LOCAL EXCHANGE CARRIER</u>	<u>A.L. No.</u>	<u>PUBLISHED</u>	<u>PROTESTS</u>
Calaveras	140	6-18-91	No
California-Oregon	157	11-8-91	No
California-Oregon	157A	11-18-91	No
Contel	919	5-10-91	No
Contel	924	9-27-91	No
CP National	282-T	6-18-91	No
CP National	282-T (Supp 1)	7-05-91	No
Ducor	164	6-18-91	No
Evans	207	6-18-91	No
GTE California	5316	5-16-91	No
GTE California	5317	5-16-91	No
GTE West Coast	357	6-14-91	No
GTE West Coast	357 (Supp A)	7-02-91	No
GTE West Coast	359	6-18-91	No
Happy Valley	123	6-18-91	No
Hornitos	113	6-18-91	No
Pacific Bell	15962	5-16-91	Yes (2)
Pinnacles	85	6-18-91	No
Siskiyou	190	6-14-91	No

<u>LOCAL EXCHANGE CARRIER</u>	<u>A.L. No.</u>	<u>PUBLISHED</u>	<u>PROTESTS</u>
Tuolumne	171-T	6-18-91	No
Tuolumne	171-T (Supp 1)	7-09-91	No
Volcano	177	6-18-91	No
Volcano	177A	11-13-91	No
Winterhaven	26	6-18-91	No
Winterhaven	26 (Supp A)	6-18-91	No

Pacific Bell Advice Letter No. 15962

As shown above, notice of Pacific's Advice Letter No. 15962 was published in the Commission Calendar on May 16, 1991. The CACD received timely protests to the advice letter from MCI on June 3, 1991, and from Sprint Services on June 4, 1991.

MCI protest to Advice Letter No. 15962

MCI states that Pacific's advice letter 1) failed to comply with the Commission's incentive regulation plan with respect to unbundling, nondiscriminatory access, and imputation principles; 2) contained inflated rate elements for bill and declaration letter processing; and 3) included a pending inquiry rate which is presently the subject of hearings in A.91-02-070.

MCI states that Pacific failed to comply with the Commission's incentive regulation plan with respect to unbundling, nondiscriminatory access, and imputation principles, by not showing that it charges itself (for its California 900 service) the same rates charged to Applicants and by requesting "Category II" treatment of its filing.

MCI also states that Pacific's bill and declaration letter processing rates are inflated due to Pacific's underestimation of intrastate 900 message volumes, unnecessary additional costs included in advance notification estimates for tasks not ordered by D.91-03-021, and Pacific's use of inflated labor rates.

Finally, MCI states that Pacific's advice letter inappropriately contains an inquiry rate which is presently the subject of hearings in A.91-02-070, and recommends that the Commission order Pacific to reference the existing inquiry rate to insure that rates changes resulting from the A.91-02-070 proceeding are reflected in Pacific's 900 access tariff.

Pacific responded to MCI's protest on June 17, 1991 (Pacific states it did not receive MCI's protest until June 10, 1991). Pacific's reply states that the principles of unbundling, nondiscriminatory access, and imputation as set forth in D.89-10-031 addressed services which (unlike 900 access) face competition. Pacific states that MCI incorrectly alleges that Pacific's California 900 Service (which is not the subject of Advice Letter No. 15962) must impute the rates in Advice Letter No. 15962, and that D.89-10-031 does not require Pacific's advice letters for services containing monopoly building blocks to show that all Category II services using these building blocks meet the imputation requirements.

In response to MCI's protest that Advice Letter No. 15962 contained inflated rate elements for bill and declaration letter processing, Pacific states that it used industry norms to estimate bill processing and inquiry rates, and that none of the Applicants complied with Pacific's request for forecasts of intrastate 900 messages. Pacific further states that it would support approval of its bill processing and inquiry rates on a one-year provisional basis with subsequent revisions to these rates based on actual data obtained. Pacific proposes that the Commission collect Applicants' actual volumes of intrastate 900 messages, and provide aggregated (non-carrier specific) data for Pacific's use in modifying its bill processing and inquiry rates.

Responding to MCI's concern that Pacific includes the cost of sending written notice to customers in addition to the telephone contact ordered in D.91-03-021, Pacific cites page 53 of D.89-02-066 and states that the Commission was "...very explicit that a written notification is appropriate..." Pacific further states that it is too late for MCI to try to change the practice of written notice when customer charges reach \$150.00, and that such a change would undermine an important safeguard. Pacific further replies that the labor rates used in its estimates are rates which have been accepted by the Commission, and will not use rates suitable to MCI.

Finally, in reply to MCI's concern that Pacific's advice letter inappropriately contains an inquiry rate which is presently the subject of hearings in A.91-02-070, Pacific states that it does not oppose the suggestion that its inquiry rate shown in proposed Schedule Cal. P.U.C. 175-T, Section 8.6 be modified to rate reference existing Schedule Cal. P.U.C. 175-T, Section 8.2.

Sprint Services protest to Advice Letter No. 15962

Sprint Services' protest to the advice letter states that Pacific 1) improperly includes interstate 900 charges in computation of charges used for advance notification to customers, 2) uses an inappropriate methodology for determining rates for 900 inquiry services, 3) improperly includes a postage escalation rate, and 4) provides inadequate support for bill processing and inquiry services.

Pacific's reply to Sprint Services' protest states that it is reasonable to interpret the Commission discussion in D.91-03-021 on the benefits of the advance notification safeguard to include interstate 900 messages carried by the Applicants, and cites page 78 of D.91-03-021 in support of this interpretation. Pacific states that advance notification benefits customers by providing a warning of unauthorized or mounting 900 charges, and benefits information providers by mitigating potentially large adjustments. Pacific states that its tariffs should accurately and correctly describe services, and that if the Commission did not intend for interstate 900 charges to be included in

computations for advance notification, the Commission should clarify D.91-03-021.

Pacific's response to Sprint Services' concern about its 900 inquiry rate echoes Pacific's response to MCI's similar concern. Pacific states that it does not oppose the suggestion that its inquiry rate shown in proposed Schedule Cal. P.U.C. 175-T, Section 8.6 be modified to rate reference existing Schedule Cal. P.U.C. 175-T, Section 8.2.

Pacific did not respond to Sprint Services' concern about the inclusion of a postage escalation factor.

Pacific's response to Sprint Services' concern about its bill processing and inquiry rate echoes Pacific's response to MCI's similar concern. Pacific states that it would support approval of its bill processing and inquiry rates on a one-year provisional basis with subsequent revisions to these rates based on actual data obtained.

DISCUSSION

Sprint Services Advice Letter No. 1

We agree with the DRA that Sprint Services failed to include all of the terms and conditions specified in Ordering Paragraph 4(s) of D.91-03-021, and specifically the condition that, "the carrier shall not block access during any investigation of disputed charges until the completion of the complaint procedure and adjustment policy" is not clearly and explicitly stated in Sprint Services' advice letter. Sprint Services has expressed willingness, and we will require Sprint Services, to include additional clarifying language to Rule 10 at page 21-T of its proposed tariff Schedule Cal. P.U.C. No. 1, as follows:

The carrier will not block the end-user's access to 900 services during its investigation of disputed charges pending completion of the complaint and adjustment procedures described above."

On the question of the effectiveness of Sprint Services' tariff, Sprint Services correctly notes that Ordering Paragraph 7 of D.91-03-021 states that "...tariffs shall not become effective until further order of the Commission..." As such, the issue of Sprint Services' requested effective date is moot. Sprint Services' tariff has not yet become effective, and only becomes effective after the adoption of this Resolution by the Commission.

AT&T's Advice Letter No. 223

The CACD received one protest to AT&T Advice Letter No. 223 from the Law Offices of Earl Nicholas Selby on August 14, 1991. On October 7, 1991, Mr. Selby withdrew his protest.

Telesphere's Advice Letter No. 11

Telesphere advised the CACD on September 11, 1991 that it elected to no longer offer 900 services, and withdrew Advice Letter No. 11. Because Telesphere withdrew its advice letter, it is no longer necessary to address the issues raised in the IPG protest.

MCI's Advice Letter No. 128

Unless explicitly ordered by this Commission to include specific language in tariff filings, utilities exercise a great deal of flexibility with respect to the language and wording they may use to describe the terms and conditions of tariff offerings. General Order 96-A requires only that, "the conditions should be brief and clearly worded to cover all special conditions of the rate to which are not fully covered in the rules" (page 5). However, it is well established that when a tariff is found to be ambiguous or unclear, the Commission interprets the tariff in favor of the customer. This is because at the time of tariff construction, the framer (utility) has the opportunity to construct tariffs which are clear and unambiguous.

MCI, as the framer of its tariff, has the opportunity to clearly and unambiguously describe the terms and conditions for its service. If it chooses to describe such requirements in vague, general, or ambiguous language, it places itself at risk in the event such language is challenged. The IPAC protest should serve as a signal to MCI that such a challenge is possible. Other than cautioning MCI to the possibility of a successful challenge to ambiguous tariffs and encouraging MCI to provide clear and concise tariff language, we will not require MCI to modify the tariff language in question.

MCI protest to Pacific's Advice Letter No. 15962

While MCI accurately reiterates the principles of imputation, Advice Letter 15962 does not request authority to establish rates for Pacific's California 900 service. As such, it is not appropriate at this time to decide whether Pacific charges itself for its California 900 service the same rates charged to Applicants. This question should more appropriately be raised if, and when, Pacific files for permanent authority to offer its California 900 service.

With respect to MCI's concern that Pacific's bill and declaration letter processing rates are inflated due to Pacific's underestimation of intrastate 900 message volumes, we understand the competitive nature of 900 services and the Applicants' reluctance to reveal what they consider commercially sensitive data. Therefore, we will not require Applicants to provide forecasted message volumes to Pacific.

We also understand that such data is essential to develop accurate bill processing rates applied by LECs. We believe Pacific has made a good faith effort to develop appropriate bill processing and inquiry rates, given the absence of accurate forecasts from the Applicants. We further believe that actual message volume data will be required to avoid overcharging or undercharging for these services. Therefore, we will authorize Pacific's bill processing rate on a provisional basis, with the requirement that this rate be revised (taking into consideration actual message volumes recorded during the first year of interLATA 900 operation) by advice letter one year and sixty (60) days from the date the first Applicant begins intrastate interLATA 900 service.

We now address MCI's concern that Pacific includes the cost of sending written notice to customers in addition to the telephone contact ordered in D.91-03-021. Pacific's reply cites page 53 of D.89-02-066 and states that the Commission was "...very explicit that a written notification is appropriate..." Pacific's citation to page 53 of D.89-02-066, incorrectly attributes those remarks to the Commission. The statement cited at page 53 of D.89-02-066 is actually a summary of Pacific's own proposal, not a statement of the Commission's position.

In D.89-02-066, the Commission ordered, "...that Pacific provide automatic, temporary blocking when monthly 900 and 976 charges, for the first time, exceed \$150.00." (page 54). The Commission did not order Pacific to provide written notification to subscribers when subscriber 900 charges reached \$150.00. Furthermore, D.89-03-061 modified D.89-02-066 as follows:

"In addition to the advance bill notification procedures in the settlement, Pacific shall attempt to promptly contact a customer the first time that customer incurs 900/976 charges of \$150.00 during any single billing period, to inform the customer of the charges. If Pacific is unable to make immediate contact, Pacific shall temporarily block the 900/976 service until it has made contact with the customer, informed the customer of the charges, and determined that the customer desires to resume this service." (page 9).

Moreover, advance notification requirements are clearly stated in Ordering Paragraph 4(j) of D.91-03-021, as follows:

"Applicant will notify each subscriber by letter through its billing agent the first time the subscriber's charges for

all 900 services reach \$75 in one billing period (\$30 for lifeline subscribers). Applicant through its billing agent will contact subscriber by telephone the first time the subscriber's total bill for all 900 services exceeds \$150 in one billing cycle, and if subscriber cannot be reached immediately, Applicant shall temporarily block subscriber's access to 900 services until contact is made and subscriber indicates the desire to resume service. On behalf of Applicant, Applicant's billing agent will accumulate the total 900 charges for each subscriber for all carriers and notify and/or block the subscriber when the above limits are reached." (page 149). [emphasis added]

Written advance notification is clearly required the first time subscribers' charges for all 900 services reach \$75 in one billing period (\$30 for lifeline subscribers). While contact is required when subscribers' 900 charges exceed \$150.00 in one billing period, there is no requirement for written notice when this happens. Moreover, the provisions for written and telephone notification are clearly reflected in Pacific's proposed tariff Schedule Cal. P.U.C. 175-T, Section 8.6.1 (J)(2)(b) and (c). Section 8.6.1 (J)(2)(c) states,

"The Utility will attempt to contact each end user by telephone the first time the total bill for 900/976 services, as described in (c) preceeding, exceeds \$150 in one billing cycle. In the event the end user cannot be reached by telephone, the Utility may temporarily block the end user's access to 900 services, as set forth in Section 6.1 and Schedule Cal. P.U.C. No. A9.5.4, until contact is made and the end user requests access to 900/976 services." (Sheet 652-2-1)

Should Pacific choose to go beyond the requirements of Ordering Paragraph 4(j) of D.91-03-021 by providing a second written notice to customers when charges for 900 services exceed \$150.00, it should modify its tariffs accordingly. It may not, however, reflect the cost of this additional written notification in the rates charged to Applicants for advance notification. Therefore, Pacific is directed to revise its rate for this service to include only those costs related to advance notification as ordered by the Commission.

Finally, MCI states that Pacific's advice letter inappropriately contains an inquiry rate which is presently the subject of hearings in A.91-02-070, and Pacific states that it does not oppose the suggestion that its inquiry rate shown in proposed Schedule Cal. P.U.C. 175-T, Section 8.6 be modified to rate reference existing Schedule Cal. P.U.C. 175-T, Section 8.2. We believe this is appropriate and will order the inquiry rate shown in proposed Schedule Cal. P.U.C. 175-T, Section 8.6 to be modified to rate reference existing Schedule Cal. P.U.C. 175-T, Section 8.2.

Sprint Services protest to Pacific's Advice Letter No. 15962

We found in D.91-03-021 that the benefits of advance notification outweigh the costs. We felt advance notification was necessary to mitigate unauthorized use and lack of awareness of mounting charges. We also found that advance notification and automatic blocking benefited IPs by reducing potentially large adjustments. Thus, we directed Applicants to undertake advance notification. We recognized that there were some flaws with the advance notification process for interexchange carrier 900 service. Nonetheless, we were persuaded to order it because of the benefits that an even less-than-optimal approach would produce.

Sprint Services' protest questions the appropriateness of including references to interstate 900 messages in an intrastate tariff. We acknowledge that such authorization is beyond our jurisdiction. While there is less benefit to customers or information providers in providing advance notice of 900 message charges from only some carriers or only some 900 calls, we lack the authority to order Pacific to include interstate 900 messages in its calculation for advance notification. Therefore, we will order Pacific to remove the wording, "including interstate 900 messages" from its proposed tariff Schedule Cal. P.U.C. 175-T, Section 8.6.1(J)(2)(a).

We note that no Applicant has petitioned the Commission for a modification or rehearing of this issue. We also note that technical constraints limit carriers' ability to determine the jurisdictional nature (intrastate or interstate) of 900 messages. Ordering Paragraph 4(j) of D.91-03-021 states,

"Applicant will notify each subscriber by letter through its billing agent the first time the subscriber's charges for all 900 services reach \$75 in one billing period (\$30 for lifeline subscribers). Applicant through its billing agent will contact subscriber by telephone the first time the subscriber's total bill for all 900 services exceeds \$150 in one billing cycle, and if subscriber cannot be reached immediately, Applicant shall temporarily block subscriber's access to 900 services until contact is made and subscriber indicates the desire to resume service. On behalf of Applicant, Applicant's billing agent will accumulate the total 900 charges for each subscriber for all carriers and notify and/or block the subscriber when the above limits are reached." [emphasis added]

Advance notification for all 900 services from all carriers is important because Californians who use 900 services do not know "a priori" which carrier is transporting a given 900 program, or whether the 900 message is being transported intraLATA, interLATA, or interstate. In the context of our jurisdictional authority, "all 900 services" as used in Ordering Paragraph 4j above must be interpreted to mean "all intrastate 900 services." However, as a practical matter, differentiating between

intrastate 900 messages and interstate 900 messages is not currently feasible. To the extent that intrastate and interstate 900 messages can not be differentiated, we expect Applicants to report, and LECs to accumulate all 900 charges to Californians for purposes of advance notification.

Sprint Services, like MCI, protests Pacific's rate for 900 inquiry services. This inquiry rate is presently the subject of hearings in A.91-02-070. As discussed above, we will order Pacific to modify the inquiry rate shown in proposed Schedule Cal. P.U.C. 175-T, Section 8.6 to rate reference the existing inquiry rate shown in Schedule Cal. P.U.C. 175-T, Section 8.2.

Sprint Services protests Pacific's inclusion of a postage escalation rate, stating that postage increases are one of the factors already accounted for in the price cap indexing mechanism established in the Alternative Regulatory Framework. We agree that factors such as postal increases are taken into account in the price cap indexing mechanism. As stated in D.89-10-031,

"The price cap indexing mechanism which we have adopted is relatively straightforward...Beginning in 1990, Pacific and GTEC should file advice letters no later than October 1 each year for Commission consideration and approval to update rates according to the price cap mechanism with new rates to be effective the following January 1." (page 231)

and,

"We expect that individual rates and charges will be updated by this formula beginning with the January 1, 1991 rate adjustments." (page 238)

Thus, Pacific can presently increase rates by the amount computed in the indexing formula. We believe it is inappropriate for Pacific to incorporate a separate postage escalation factor in addition to the adjustments allowed by the indexing mechanism. Because there is currently a mechanism which accounts for increases in postage rates (i.e., the price cap indexing mechanism), we direct Pacific to remove the postage escalation factor from Schedule Cal. P.U.C. 175-T, Section 8.6.4(J).

Sprint Services, like MCI, protests Pacific's bill processing rates. As stated above, we will authorize Pacific's bill processing rate on a provisional basis, with the requirement that this rate be revised (after accumulating actual volumes) by advice letter within one year and sixty (60) days from the date Applicants begin intrastate interLATA 900 service.

Other Issues

In addition to filing advice letters with tariffs containing the provisions set forth in Ordering Paragraph 4 of D.91-03-021,

Sprint Services, AT&T, MCI, and Telesphere were ordered to conduct an educational campaign by inserts in each area in California from which a caller may reach a 900 number carried by these Applicants. The insert must be in all major languages, and included in bills no later than the commencement of Applicants' intrastate operations. Applicants were directed to consult Consumer Action and other consumer groups in preparation of the bill inserts. After review by the consumer groups and incorporation of their comments as appropriate, Applicants were ordered to submit a copy of the proposed bill insert to CACD and the Public Advisor for review and comment.

Sprint Services, AT&T, and MCI have consulted with consumer groups and prepared bill inserts as directed by this order. These Applicants have submitted copies of bill inserts to the CACD and the Public Advisor, and have received and incorporated comments from both. Because Telesphere withdrew its Advice Letter No. 11 and tariffs for interLATA 900 service, it did not prepare or submit for review a bill insert as ordered.

Applicants were ordered not to begin intrastate, interLATA 900 service before the bill insert education campaign was complete. The Commission has been informed that certain LECs (Contel and Citizens) will not complete the required bill insert education campaign until approximately January 24, 1992. Because this campaign must be completed prior to offering intrastate interLATA 900 service, the Commission will not authorize IEC 900 service tariffs to become effective until February 1, 1992.

Finally, Applicants were ordered to develop a tracking plan and monitoring reports which are to be submitted to the CACD monthly. These reports will be used to measure the effectiveness of the safeguards established by the Commission in D.91-03-021, and will contain data on the items enumerated in Attachment C of D.91-03-021. Applicants' tracking plan and report format are to be finalized and approved by the CACD prior to the effective date of Applicants' 900 tariff, and Applicants' monthly reports are to be submitted to the CACD (with copies to the DRA) within 45 days of the end of each month. AT&T, MCI, and Sprint Services have developed tracking plans and reports which have been approved by the CACD.

Applicants are also required to submit a first-year report within 45 days of one year after the effective date of Applicants' 900 tariff containing data on the items enumerated on Attachment C of D.91-03-021.

FINDINGS

1. Decision 91-03-021 authorized four IECs (AT&T, MCI, Sprint Services, and Telesphere) to file advice letters which complied with its terms and conditions within 180 days from that decision.

2. Ordering Paragraph 7 of Decision 91-03-021 ordered that the tariffs submitted with the advice letters filed by authorized IECs not become effective until approved by further order of the Commission.
3. Three IECs (AT&T, MCI, and Sprint Services) filed advice letters and tariffs requesting authority to offer intrastate interLATA 900 services under the terms and conditions of Decision 91-03-021 within 180 days from that decision.
4. Pursuant to Ordering Paragraph 8 of Decision 91-03-021, the authorization granted to Applicants therein expired 180 days from the effective date of that decision.
5. Telesphere filed Advice Letter No. 11 on August 15, 1991. Telesphere subsequently declared bankruptcy and withdrew Advice Letter No. 11 on September 11, 1991. Pursuant to Ordering Paragraph 8 of D.91-03-021, Telesphere's authority to offer intrastate interLATA 900 services has expired.
6. Ordering Paragraph 6 of Decision 91-03-021 ordered Pacific and GTEC to file advice letters with access tariffs for IEC access for 900 service within 60 days from the effective date of that order.
7. Ordering Paragraph 6 of Decision 91-03-021 ordered each LEC under our jurisdiction (except Pacific and GTEC) to file advice letters with access tariffs within 90 days from the effective date of that order if the LEC did not concur with Pacific's interLATA 900 service access tariff.
8. Ordering Paragraph 6 of Decision 91-03-021 ordered that all LEC advice letters not become effective until further order of the Commission.
9. Calaveras, California-Oregon, Contel, CP National, Ducor, Evans, GTEC, GTE West Coast, Happy Valley, Hornitos, Pacific, Pinnacles, The Siskiyou, Tuolumne, Volcano, and Winterhaven telephone companies filed advice letters and tariffs requesting authority to offer intrastate interLATA 900 access services pursuant to Ordering Paragraph 6 of D.91-03-021.
10. Ordering Paragraph 11 of D.91-03-021 ordered Applicants to conduct an educational campaign by inserts in LEC bills in each area in California from which a caller may reach a 900 number carried by Sprint Services, AT&T, MCI, and/or Telesphere before Applicants could begin offering intrastate interLATA 900 services. The insert was ordered to be in all major languages, and be included in bills no later than the commencement of Applicants' intrastate operations. Applicants were ordered to consult with Consumer Action and other consumer groups in preparation of the bill inserts. After review by the consumer groups and incorporation of their comments as appropriate,

Applicants were ordered to submit a copy of the proposed bill insert to CACD and the Public Advisor for review and comment.

11. Ordering Paragraph 11 of D.91-03-021 ordered Applicants to include an insert in their own bill, and/or their billing agents' bills, if different than the LEC bills.

12. Applicants have consulted with Consumer Action and other consumer groups in preparation of the bill inserts, and have submitted copies of the proposed bill inserts to CACD and the Public Advisor for review and comment.

13. Some LECs will not complete mailing of the Applicants' required bill insert until approximately January 24, 1992.

14. Ordering Paragraph 9 of D.91-03-021 ordered Applicants to file monitoring reports monthly with the CACD as specified in Attachment C of D.91-03-021.

15. Attachment C of D.91-03-021 ordered that Applicants' tracking plan and report format be finalized and approved by the CACD prior to the effective date of Applicants' 900 tariffs, and ordered Applicants to submit monthly reports to the CACD (with copies to the DRA) within 45 days of the end of each month. Applicants are also required to submit a first-year report within 45 days of one year after the effective date of Applicants' 900 tariff containing data on the items enumerated on Attachment C of D.91-03-021.

16. Applicants have submitted tracking plans and report formats which have been finalized and approved by the CACD.

17. Sprint Services did not explicitly state the condition specified in Ordering Paragraph 4(s) of D.91-03-021 that, "the carrier shall not block access during any investigation of disputed charges until the completion of the complaint procedure and adjustment policy."

18. The question of whether Pacific charges itself for its California 900 service the same rates charged to Applicants should more appropriately be raised if, and when, Pacific files for permanent authority to offer its California 900 service.

19. Applicants should not be required to provide forecasted message volumes to Pacific, or to otherwise reveal what Applicants consider to be commercially sensitive data.

20. Actual message volume data is necessary to develop accurate rates for bill processing services.

21. Ordering Paragraph 4(j) of D.91-03-021 requires Applicants to notify each subscriber by letter through its billing agent the first time the subscriber's charges for all 900 services reach \$75 in one billing period (\$30 for lifeline subscribers).

Applicants through their billing agents are required to contact subscribers by telephone the first time the subscriber's total bill for all 900 services exceeds \$150 in one billing cycle, and if subscriber cannot be reached immediately, Applicant must temporarily block subscriber's access to 900 services until contact is made and subscriber indicates the desire to resume service. Applicants are not required to provide written notice when this happens.

22. Pacific's advice letter contains an inquiry rate which is presently the subject of hearings in A.91-02-070.

23. This Commission's lacks the jurisdictional authority to order the inclusion of interstate 900 messages in the calculation for advance notification.

24. Technical constraints limit carriers' ability to determine the jurisdictional character (intrastate or interstate) of 900 messages.

25. Decision 89-10-031 authorizes Pacific to increase rates in accordance with the indexing formula. Pacific is not authorized to increase rates through the use of "escalation factors."

THEREFORE, IT IS ORDERED THAT:

1. U.S. Telecom, dba Sprint Services, shall include additional language to Rule 10 at page 21-T of its proposed tariff Schedule Cal. P.U.C. No. 1, as follows:

"The carrier will not block the end-user's access to 900 services during its investigation of disputed charges pending completion of the complaint and adjustment procedures described above."

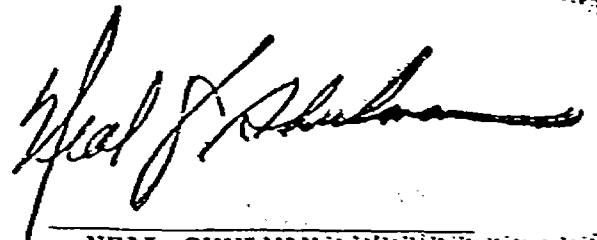
2. Pacific Bell's bill processing rate shown on Schedule Cal. P.U.C. No. 175-T, Section 8.6.5(D), is authorized on a provisional basis, with the requirement that this rate be revised (taking into consideration actual message volumes recorded during the first year of interLATA 900 operation) by advice letter one year and sixty (60) days from the date the first interexchange carrier begins intrastate interLATA 900 service.

3. Pacific Bell shall revise its rate for subscriber advance notification shown on sheet 562-Z-11 of Schedule Cal. P.U.C. No. 175-T, Section 8.6.5 (D) to include only those costs related to advance notification pursuant to Ordering Paragraph 4(j) of Decision 91-03-021. Pacific shall not include the cost for any additional written notifications in the rates charged to interexchange carriers for subscriber advance notification beyond those costs necessary to comply with Ordering Paragraph 4(j) of Decision 91-03-021.

December 18, 1991

4. Pacific Bell shall modify the inquiry rate shown in tariff Schedule Cal. P.U.C. 175-T, Section 8.6.5(G) to rate reference the existing inquiry rate in Pacific Bell Schedule Cal. P.U.C. 175-T, Section 8.2.
5. Pacific Bell shall remove the words, "including interstate 900 messages" from its proposed tariff Schedule Cal. P.U.C. 175-T, Section 8.6.1(J)(2)(a).
6. AT&T Communications of California, MCI Telecommunications Corporation, and U.S. Telecom (dba Sprint Services) shall report, and LECs shall accumulate all intrastate 900 charges to Californians for purposes of advance notification.
7. Pacific Bell shall remove the postage escalation factor from Schedule Cal. P.U.C. 175-T, Section 8.6.4(J).
8. The advice letters filed by LECs requesting authority to offer interLATA 900 access services listed at the beginning of this Resolution and their accompanying tariff sheets as modified by these Ordering Paragraphs, shall be marked to show that they were authorized by Resolution T-14732 with an effective date of January 1, 1992.
9. The advice letters filed by IECs requesting authority to offer interLATA 900 information services listed at the beginning of this Resolution and their accompanying tariff sheets as modified by these Ordering Paragraphs, shall be marked to show that they were authorized by Resolution T-14732 with an effective date of February 1, 1992.
10. 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 December 18, 1991. The following Commissioners approved it:



NEAL SHULMAN
Executive Director

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