

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-14867  
Telecommunications Branch April 22, 1992

R E S O L U T I O N

RESOLUTION T-14867. PACIFIC BELL. REQUEST TO PROVIDE DIRECT INWARD DIALING PRIVATE BRANCH EXCHANGE TRUNK LINE SERVICE TO WESTERN DIGITAL CORPORATION UNDER A CUSTOMER SPECIFIC CONTRACT.

BY ADVICE LETTER NO. 16172, FILED ON JANUARY 27, 1992.

SUMMARY

Pacific Bell (Pacific), by Advice Letter No. 16172, filed on January 27, 1992 requests authority under provisions of General Order No. 96-A (G.O. 96-A) and Decision Nos. (D.) 88-09-059 and 91-01-018 to deviate from filed tariff schedules in order to provide Direct Inward Dialing (DID) equipped Private Branch Exchange (PBX) Trunk Line Service to Western Digital Corporation (Western Digital) under a customer specific contract. Western Digital currently takes this service under tariff.

The Division of Ratepayer Advocates (DRA) filed a protest to Advice letter No. 16172 on February 18, 1992. Pacific filed its response to DRA's protest on February 28, 1992. The protest is denied.

This Resolution authorizes Pacific to provide DID service under a contract at rates which are discounted from the tariff rates. Pacific estimates that the revenue impact of this filing is a decrease in annual revenue of \$54,502 for the first year of the contract.

BACKGROUND

In D.88-09-059 the Commission adopted a modified Phase I Settlement (hereinafter referred to as the Settlement). Under the provisions of the Settlement, the Local Exchange Companies (LECs) are allowed to provide certain services, such as Centrex service, under the terms of contracts between LECs and customers. The Settlement provides that such contracts become effective upon authorization by the Commission.

The process and requirements for filing of advice letters to request authorization of customer specific contracts are set forth in Appendix A of D.88-09-059. Additional specifications for advice letter filings requesting authorization to provide service under contract are provided in Resolution Nos. T-13091 and T-13069.

D.90-04-031 further requires that special contracts comply with the principles of unbundling, nondiscriminatory access, imputation, and basing rate structures of monopoly utility services on underlying cost structures. However, D.91-01-018 has tempered this requirement until a further decision on this matter is issued. In the interim, LECs may file advice letters for Centrex and/or PBX contracts using the pricing methodology approved by the Commission in D.88-09-059. D.91-01-018 requires that Pacific offer Centrex-equivalent services under contract to customers who prefer to use a customer-owned PBX.

The contract filed under Advice Letter No. 16172 covers the provision of DID service to Western Digital. DID allows inward calls to a PBX to be completed to specific PBX stations without attendant assistance. Under the terms of the contract, Pacific agrees to provide 120 DID trunks and associated features and 10,000 DID station numbers for a period of three years at a monthly rate of \$2,363. The rates and charges for additional DID trunks and/or associated features, or at additional locations shall be determined by Pacific. Nonrecurring charges for growth trunks will be at the prevailing tariff rate. Pacific indicates that Commission authorization of this contract will result in a decrease in annual revenue of \$54,502 for the first year of the contract.

#### NOTICE

Pacific states that a copy of the Advice Letter and related tariff sheets was mailed to competing and adjacent utilities and/or other utilities and to the customer named in the contract. Advice Letter No. 16172 was listed in the Commission's Daily Calendar of January 29, 1992.

#### PROTESTS

DRA filed a protest to Advice Letter No. 16172 on February 18, 1992. DRA's reasons for recommending that the Commission reject Advice Letter No. 16172 are summarized below:

- o The Settlement does not allow pricing flexibility for DID service. Pacific has violated the Settlement by offering a special contract for DID service, and it is priced below the established tariffed rates.
- o PBX services can only be included in a special contract after a customer is offered a Centrex contract and the customer requests a price comparison of PBX service to Centrex. This proposed DID contract does not meet these criteria and therefore violates D.88-09-059.

- o Pacific fails to justify two critical issues that must be addressed in special contracts:
  1. What unusual or exceptional circumstances justify the proposed contract?
  2. If competition is a factor, the extent of competition must be clearly documented.

Pacific's response is summarized as follows:

- o Pacific is required to offer, upon request, PBX trunks under contract at a rate determined by the same cost methodology used to determine the contract Centrex line rate.
- o The Commission decisions on contracts contain no language requiring Pacific to offer a customer a Centrex contract before Pacific upon request can offer a customer a PBX contract.
- o A competitive threat is not required as a condition precedent to contracting, but it must be documented to the extent that it exists, if it exists.

#### DISCUSSION

Pacific requests a special contract to provide DID service which is provisioned from its PBX services tariff. Pacific states that the customer's request for a fixed price with a set term could not be provided under tariff and therefore was offered under contract. DRA protested the contractual offering of DID service, stating that DID is an inappropriate offering under a contract and is in violation of D.88-09-059.

This is the first contract for DID service offered under D.91-01-018 which was the Decision resulting from Pacific's petition to clarify and/or modify D.89-10-031 and D.90-04-031. D.91-01-018 allows Pacific to file advice letters transmitting all such existing and future Centrex contracts that are priced above direct embedded cost or at a rate equivalent to LMB+EUCL.

D.91-01-018 made it clear, however, that in allowing Centrex contracts to be priced under tariff levels, we were intent on avoiding pricing policies that would discriminate against users who preferred private branch exchange service over Centrex service. We said that ". . . Pacific and all other LECs will also offer Centrex-equivalent services under contract to customers who prefer to use a customer-owned PBX of a similar capacity." We required further that "[i]n all such cases Pacific and the LECs will use comparable pricing for functionally equivalent Centrex and PBX systems on a nondiscriminatory basis..

Accordingly, in Finding of Fact No. 6 of D.91-01-018, the Commission states:

"It is reasonable to require Pacific and the other LECs to provide comparable Centrex-equivalent contract offers to customers with comparable sized PBXs and which customers desire to purchase their own PBX systems in lieu of taking Centrex service from Pacific or the LECs."

Also in this Decision in Conclusion of Law No. 8, the Commission states:

"Pacific and the LECs should be required to offer similar contracts for Centrex-equivalent services to customers choosing the alternative of owning their own PBX."

In Ordering Paragraph 2 of D. 91-01-018, it is stated:

"For customers who prefer to purchase their own PBX, Pacific and the other California LECs shall offer equivalent trunk capability under contract rates and terms similar to those set forth in the example offerings contained in Appendix B to this order."

DID is a PBX feature cited in Appendix B of D.91-01-018 in the Comparison of Centrex to PBX Trunk Service example used to determine the contract price for PBX trunks. Under the pricing contract guidelines in the example, the minimum contract price per line for Centrex/and or PBX services will not be less than 1MB+EUCL. The proposed service conforms to the existing pricing guidelines and is an appropriate service to be offered under a contract.

By Resolution No. T-13069, the Commission approved Advice Letter No. 15531, the first Advice letter requesting a customer specific contract (for Great Western Bank) filed under the Settlement (D.88-09-059). In that Advice Letter, Pacific, in justifying the "unusual or exceptional circumstances" contract requirement states:

"A special contract is required in this exceptional circumstance given the customer's requirement for a fixed rate over the contractual period, which cannot currently be provided by a general tariffed offering."

The Commission in Resolution No. T-13069 responding to the above "exceptional circumstance justification" states:

"The assertions by Pacific that the customer requires a fixed rate over the contractual period and that the customer finds the current tariff to be too inflexible with regard to price appears to form a reasonable basis on which to determine that an exceptional circumstance exists which warrants the provision of Centrex service under contract to Great Western."

Pacific used similar language to the above "exceptional circumstance justification" in Advice Letter No. 16172 to justify providing DID service to Western Digital Corp. under contract.

The Commission also states in Resolution No. T-13069 with regard to the determination of exceptional circumstances:

"We agree with Pacific that such a determination for Great Western should not be considered and will not be considered by this Commission as establishing a precedent for similar determinations for subsequent contracts with other customers for telecommunication services."

We also agree with Pacific's contention that it is not required to offer a prospective PBX contract customer a Centrex contract prior to offering this customer a PBX contract.

We conclude that the Advice Letter meets the requirements set forth in the previously mentioned Commission orders and G.O. 96-A, and should be approved. We reject the protest of DRA.

#### FINDINGS

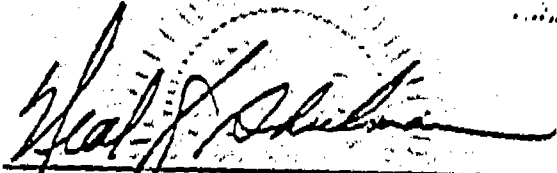
1. Pacific Bell filed Advice Letter No. 16172 on January 27, 1992 requesting Commission authorization to provide DID service to Western Digital under a customer specific contract.
2. The Advice Letter and the contract conform to the requirements of Decision Nos. 88-09-059 and 91-01-018, Resolution Nos. T-13069 and T-13091, and G.O. 96-A.
3. Authorization of the Western Digital contract will result in an estimated decrease in Pacific's annual revenue of \$54,502 for the first year of the contract.
4. Commission authorization of the Advice Letter and the contract does not establish a precedent for the contents of the filing, or the Commission approval of similar requests. Commission approval is based on the specifics of the Western Digital contract.
5. The rates, charges, terms and conditions of the contractual services in this Resolution are just and reasonable.

#### THEREFORE, IT IS ORDERED that:

1. Authority is granted to make Advice Letter No. 16172, tariff sheets and the contract between Pacific Bell and Western Digital Corporation effective on April 23, 1992.
2. The Advice Letter, tariff sheets and contract authorized herein shall be marked to show that they were authorized under Resolution of the Public Utilities Commission of the State of California No. T-14867.
3. DRA's protest to Advice Letter No. 16172 is denied.

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 April 22, 1992.  
The following Commissioners approved it:



NEAL J. SHULMAN  
Executive Director

DANIEL WIL. FESSLER  
President  
JOHN B. CHANTAN  
PATRICIA M. ECKERT  
NORMAN D. SHUMWAY  
Commissioners