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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION
TELECOMMUNICATIONS BRANCH

RESOLUTION T-14944
June 17, 1992

R E S O L U T I O N

RESOLUTION T-14944. REQUEST OF PACIFIC BELL TO DEVIATE FROM GENERAL ORDER 96-A TO CONDUCT MARKET TRIALS AT RATES, TERMS, AND CONDITIONS DIFFERENT FROM ITS TARIFFS USING COMMISSION APPROVED GUIDELINES.

BY ADVICE LETTER NO. 16101, FILED ON NOVEMBER 12, 1991,
AND SUPPLEMENT NO. 16101A, FILED MARCH 10, 1992.

SUMMARY

This Resolution authorizes Pacific Bell's (Pacific) Advice Letters (A.L.) No. 16101 and Supplement 16101A, filed November 12, 1991, and March 10, 1992, respectively, to become effective on the date Pacific files a supplement to its advice letters reflecting changes ordered in this Resolution. These advice letters request blanket authority for Pacific to deviate from General Order (G.O.) 96-A to conduct market trials at rates, terms, and conditions different from its existing tariffs. Approval of this deviation is conditioned upon strict adherence to the A.L. 16101A Guidelines for Conducting Technology Tests and Market Trials, attached to this Resolution, as modified in this order.

Pacific has already been granted authority in Resolution (Res.) T-11083, dated December 3, 1986, to deviate from G.O. 96-A to conduct technology tests. Technology tests are conducted in order to determine if a new, unproven service technology works, using a small, controlled environment with limited customers. Pacific wishes now to expand the authorization to include market trials. This would allow it to determine the marketability of new services on a small, controlled group of customers, ensuring better services for customers and reducing the risks and embarrassment of introducing unsuccessful services to the marketplace. The process also reduces the advantage competitors of Pacific have with the existing resolution or application approval process, which takes a long time to process and allows competitors to obtain market trial details long in advance of the trial.

The market trial guidelines filed in A.L. 16101 mirrored those that were granted to AT&T in Res. T-14556, dated September 6, 1991. Pacific's A.L. 16101A added revisions to address the

anticompetitive concerns of a protest. The Commission, in this order, is clarifying A.L. 16101A and modifying the conditions of the market trial request. The modifications were added to reflect the additional safeguards needed for a utility which provides monopoly services to reduce the possibility of anticompetitive behavior. One of the modifications is temporary and will be rescinded with the issuance of the Commission's Implementation Rate Design (IRD) decision in I.87-11-033, New Regulatory Framework for Local Exchange Companies (LEC), which will define imputation and unbundling principles conceptually described in D.89-10-031 (Phase II of I.87-11-033).

A protest was received from MCI on A.L. 16101 on December 2, 1991, and on A.L. 16101A on March 30, 1992. The protest was accepted in part.

BACKGROUND

General Order 96-A states that Commission authorization must be obtained before any utility may furnish service at rates or under conditions other than those that are contained in effective tariff schedules, including new, untariffed services. Requests may be made by formal application, or if of minor importance or temporary in nature, by an advice letter filing.

With increasing competition in the telecommunications marketplace, the need for telecommunications utilities to quickly evaluate the marketability of new services to ensure new sources of revenue, meet customer service needs, and remain competitive has become evident. The existing requirements of G.O. 96-A provide an unfair advantage to Pacific's competitors by allowing them to review Pacific's new services long before Pacific introduces them. The current requirements also increase pressure on Pacific to immediately tariff a new service without a market trial, increasing the risks that the new service may not be profitable or meet the needs of its customers.

Pacific has already been granted authority in Res. T-11083 to deviate from G.O. 96-A to conduct technology tests. Technology tests are conducted in order to determine if a new, unproven service technology works, using a small, controlled environment with limited customers. This process of having the Commission Advisory and Compliance Division (CACD) staff review the test using Commission approved guidelines in lieu of an advice letter requiring Commission approval has proven very successful. Pacific can test new technologies quickly with regulatory review and approval by CACD normally granted in about a week. There have been no complaints by other parties. Pacific wishes to expand the technology test authority to include market trials with appropriate safeguard guidelines in place.

AT&T received authorization to conduct market trials in Res. T-14556 on September 6, 1991. The market trials process and guidelines were based on Pacific's technology test guidelines. Pacific filed a limited protest to AT&T's A.L. 211, which requested the deviation from G.O. 96-A for marketing trials. The protest was based on the fact that Pacific's marketing trial

requirements were far more restrictive because they required Commission approval. The Commission, in Finding No. 2 of Res. T-14556, stated that other utilities could file for the same market trial practice. With that understanding, Pacific filed A.L. 16101 to obtain the same authority AT&T was given, using the same guidelines as AT&T.

PROTESTS

Notices of A.L. 16101 and A.L. 16101A were published in the Commission's Daily Calendar on November 18, 1991, and March 13, 1992, respectively.

MCI protested Pacific's A.L. 16101 on December 2, 1991, on the basis that:

1. An advice letter is an inappropriate process for determination of regulatory policy and supporting procedures.
2. The guidelines lack adequate safeguards to prevent monopoly anticompetitive bundling practices.
3. The definition of market trial is so broad that it lacks adequate safeguards to prevent anticompetitive behavior. The market trials should be limited to new services, and the definition of new services should be the same as the Commission used in its AT&T Readyline decision (D. 90-11-029).
4. The guidelines are not clear enough to allow Commission staff to investigate possible abuses of the customer selection process.
5. The 5% (residence)/15% (business) trial market size restriction added by the Commission in Res. T-14556 for AT&T, and included in Pacific's filing, is not an effective safeguard for limiting the scope of market trials for the business market segment of an LEC.

Pacific responded to MCI's protest on December 10, 1991. Pacific pointed out that it had used the same process, definitions, and guidelines in its filing for market trials as approved for AT&T in Res. T-14556. In addition, Pacific claimed that the guidelines filed were sufficient to prevent anticompetitive behavior, because they had included the same anticompetitive guidelines that the Commission added to AT&T's guidelines in Res. T-14556. According to Pacific the 15% market size limitation would not allow Pacific to target 25% of its business customers who produce 75% of its revenue, as MCI has alleged. Pacific also argued that CACD and the Division of Ratepayer Advocates (DRA) are qualified to review the market trial proposals and are fully capable of detecting and preventing any unlawful or unauthorized trial.

On March 10 Pacific filed A.L. 16101A to try to resolve some concerns of MCI and the CACD staff. In the March 10 supplement, Pacific:

1. Removed the undisclosed changes it had made to the Commission approved technology test guidelines when it merged them with the proposed marketing trial guidelines. This change restored the Commission approved safeguard to deter marketing abuse practices for technology tests in the guidelines.
2. Required written notice to customers taking part in the marketing trial. The original filing gave Pacific the option of using written or oral notices. This change will result in fewer customer complaints because the customer has written notice of the possibility of the discontinuance of the service at any time Pacific determines the marketing trial objectives have been met or at the end of the trial. (See guideline B.4)
3. Added the requirement of CACD approval before Pacific can go forward with the marketing trial. However, CACD must respond to Pacific within ten working days to express any concerns about the marketing trial. The original guidelines allowed the utility to file the marketing trial 30 days before the trial began and required a Commission resolution to stop the trial. CACD trial approval should reduce any possible embarrassment to the Commission and company caused by Pacific withdrawing the marketing trial service shortly after it begins if the trial doesn't meet the guidelines. (See guideline C.5)
4. Changed the guidelines to allow Pacific to extend the trial with a ten day notice, if Pacific decides it wants to tariff the service. Pacific then has 60 days to file the tariff after the originally scheduled trial ends. This change makes the guidelines more customer focused because the original guideline required withdrawal of the service at the end of the trial, and required the customer to wait until the utility had an effective tariff in place to obtain the service again. (See guideline B.4.a)
5. Limited trials to specifically defined geographic areas and prohibited company wide trials. This trial limitation responded to MCI's concerns over trials being used to provide untariffed service to significant portions of Pacific's customer base. Only 15% of business customers in a certain geographic area will be allowed to participate in a trial. (See guideline B.2 and paragraph 4 of A.L. 16101A)
6. Inserted imputation and unbundling statements to respond to MCI's concerns over compliance with D.89-10-031 for trial service pricing requirements. (See guideline B.3)

MCI protested A.L. 16101A on March 30, 1992, claiming the added language still fell far short of reducing the threat of cross

subsidies and anticompetitive behavior in the market trial process. MCI, in its comments, reiterated most of the same arguments it had used in its original protest. MCI did commend Pacific for adding the imputation and unbundling requirements, but pointed out its concerns about Pacific's misguided interpretations of these same concepts in Pacific's IRD testimony.

Pacific responded to MCI's protest of A.L. 16101A on April 6, 1992, stating that:

1. Pacific's definition of market trial was the same one approved in Res. T-11083, for Pacific's Technology Test and Market Guidelines, and Res. T-14556, in AT&T's Market Trial Guidelines.
2. Pacific had followed AT&T's guidelines which contained six additional anticompetitive guidelines added by the Commission.
3. Pacific's request for proprietary treatment of market trial data is necessary in a competitive environment and the market trial reviews made by the CACD and DRA staff are adequate.
4. The advice letter process is appropriate for this filing. It is the same process approved by the Commission in Res. T-14556 for AT&T's filing, which also authorized Pacific to request the same market trial process in an advice letter filing.
5. The unbundling and imputation guidelines that Pacific added to A.L. 16101A complied with the unbundling and imputation requirements adopted in D.89-10-031 and matched Pacific's proposed definitions in its IRD testimony.

DISCUSSION

The Commission recognizes that telecommunications utilities need to quickly implement market trials in the more competitive environment. Accordingly, the Commission authorized AT&T in Res. T-14556 to deviate from the Commission approval requirements of G.O. 96-A, contingent on following the Commission's approved guidelines. Streamlining of the market trial process reduces the costs and risks of product failure to the utility and aids in bringing services that meet the needs of its customers quickly to the market place.

MCI argues that Pacific's advice letters for market trials should be rejected because the advice letter is an inappropriate process for determination of regulatory policy and supporting procedures. This is the same issue that MCI raised in AT&T's advice letter filing for market trials and was rejected by Res. T-14556. G.O. 96-A allows the Commission to authorize a utility, under particular circumstances, to depart from its filed and effective tariff schedules. The Commission has historically accepted the

advice letter as the proper vehicle to review and make the determination on such requests.

Pacific, on the other hand, misinterprets Finding No. 2 in Res. T-14556, by asking the Commission to approve its market trial advice letter under guidelines identical to AT&T's. The Commission in that finding, however, only provided other telecommunications utilities "the opportunity to file for the same practice." Res. T-14556 never intended to imply that the same guidelines would be used for all companies. LECs are subject to specific regulatory oversight directed by decisions in I.87-11-033. Therefore, safeguards set up for IEC utilities are not necessarily sufficient for LECs under current regulatory standards.

Pacific, in its supplemental advice letter, did make a concerted effort to respond to the concerns of MCI and CACD, and included changes to make the trial process more customer focused and to implement anticompetitive safeguards. These changes were appropriate because Pacific is an LEC which provides bottleneck or monopoly services. MCI again protested the changes because it believed they did not adequately provide safeguards to prevent anticompetitive behavior.

One of MCI's major concerns about Pacific's market trial request was the lack of prohibition against service bundling in the guidelines. Without a safeguard against bundling, according to MCI, Pacific could bundle two service components, one monopoly and one competitive, at less than the price it charges separately for the monopoly component and the cost of the competitive one. MCI believes this practice could also deter market entry by competitors because Pacific could set a lower price for its monopoly offerings for customers who also buy potentially competitive offerings from Pacific rather than a competitor. Pacific believes it has adequately addressed the concern by adding imputation and unbundling statements to its guidelines. (See guideline B.3)

The Commission would agree with Pacific that the addition of its imputation and unbundling statements would be satisfactory safeguards for MCI's anticompetitive concerns, if they met standards adopted by the Commission. MCI's protest certainly demonstrates the controversy concerning Pacific's interpretation of the unbundling and imputation statements in D.89-10-031. Pacific ignores the fact that the Commission decided that the imputation and unbundling issues should be resolved in a Phase III IRD decision. It is premature to allow Pacific to use its understanding of imputation, as explained in Pacific's Phase III, I.87-11-033, testimony, especially when that interpretation involves using incremental cost standards for Category II services, which is a methodology not authorized in D.89-10-031.

Until the Commission issues an IRD decision which includes imputation and unbundling rules and methodologies, Pacific will be required to impute the tariffed rate of any function deemed to be a monopoly building block in the rates of any bundled tariff services which include monopoly building blocks. The bundled

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rates must be at, or above, the sum of tariffed rates for the bottleneck building blocks and the costs of nonbottleneck components, even if there are floors for a flexibly priced service lower than the tariffed rates. Once the imputation and unbundling principles are established in the Commission's IRD decision, this requirement will be rescinded and Pacific can use the imputation and unbundling guidelines as defined in the IRD decision.

MCI was also concerned that the definition of market trial was too vague and would allow an LEC to provide nearly any current or future service, service element, or feature to a specific customer at out-of-tariff terms and conditions for other than true market testing. The LEC would only need to reconfigure the current mix of services provided under tariff to targeted customers and call the new configuration a "market trial" application, and grant special pricing, terms, and conditions to those targeted customers for up to a year.

We believe that the market trial plan modifications we will impose temporarily on Pacific above, regarding changes to its imputation and unbundling guidelines, should address most of MCI's concerns. Pacific's argument that the Commission has already adopted its definition of market trial in Res. T-11083 is not relevant, because it ignores the fact that Res. T-11083 was issued to provide deviations for technology tests and not market trials. Now that Pacific is applying for a tariff deviation to allow for market trials, the definition needs to be reviewed in light of all the changes that have occurred in the telecommunications industry since 1986. The fact that the Commission adopted the same trial definition for AT&T's guidelines does not necessarily convince us that the same definition is appropriate for an LEC with monopoly services. Unfortunately, Pacific, in its response, does not explain why limiting the definition to new services, as suggested by MCI, would create a hardship for Pacific.

To reduce the possibility of anticompetitive behavior, we will require Pacific to define market trial as a new service, using the definition of new service from the Commission's AT&T Readyline D.90-11-029. In Ordering Paragraph 7 of that decision, a new service is defined 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." This modification to the definition of services eligible for market trial consideration would be in the public interest as it encourages innovation in the delivery of telecommunications services. The Commission is, however, willing to review the new service definition issue again after it issues the IRD decision.

MCI also expressed concern about the ability of DRA and CACD to detect anticompetitive behavior in Pacific's market trial proposals. We are fully confident that those divisions have the ability to detect and bring to our attention any anticompetitive behavior on the part of Pacific. The Commission's delegation of

granting authority for technology tests to CACD has worked very successfully without complaints from any party.

The Commission believes that guideline B.4.a of Pacific's request (added in Pacific's supplement) should also be modified. The guideline allows Pacific to extend the trial for 60 days to file a tariff, if it makes the request not later than 10 working days before the trial ends. We believe the 60 day period is too long and defeats the purpose of this resolution, which is to allow Pacific to quickly evaluate the marketability of a new service and bring it to the marketplace. The guideline would allow Pacific to extend a justified one year trial to over 15 months, which assumes no protests or resolution requirements. That is too long. The Commission will therefore modify the extension to 20 working days, which will give Pacific a minimum of 6 weeks from the time it requests an extension to submit a tariff. A timely advice letter filing will automatically extend the trial until the tariff becomes effective or is rejected or withdrawn.

Guideline B.2, limiting market trials to specific geographic areas, should be clarified to reflect Pacific's advice letter statement on same. In A.L. 16101A, Pacific states that only as much as 15% of the business customers in a certain geographic area will be allowed to participate in the trial. Guidelines B.2 and C.1 taken together do not clearly limit the trial to 15% of the business customers in that geographic area.

The Commission also makes a clarification to Pacific's guideline C.5. Guideline C.5 requires CACD staff to respond to Pacific within 10 days of its filing a market test trial for review. This period should be changed to 10 business days to maintain consistency with the technology test guidelines.

FINDINGS

1. Pacific needs to be able to quickly trial new services to evaluate the marketability of new services in the competitive marketplace.
2. The existing market trial notification process under G.O. 96-A does not protect proprietary information from Pacific's competitors, nor does it allow for expeditious processing of trial requests.
3. Pacific's request to perform market trials as a deviation from G.O. 96-A is reasonable.
4. It is appropriate to request in an advice letter authority to deviate from G.O. 96-A for market trials.
5. It is appropriate that additional restrictions be placed on LECs for marketing trials because LECs are subject to different regulatory oversight than IECs.
6. Both the Commission Advisory and Compliance Division and the Division of Ratepayer Advocates will be informed before each

market trial begins. Our two division reviews, using the guidelines approved by the Commission in this resolution, are sufficient to protect both ratepayers and competitors from any unacceptable LEC practices.

7. Pacific's imputation and unbundling statements in guideline B.3 do not provide adequate safeguards against LEC anticompetitive or cross-subsidy behavior.

8. Until the Commission issues its IRD decision setting forth policies and methods for unbundling and imputation, Pacific should be required to impute the tariffed rate of any function deemed to be a monopoly building block in the rates of any bundled tariff services which include monopoly building blocks. The bundled rates must be at or above the sum of tariffed rates for the bottleneck building blocks and the costs of nonbottleneck components, even if there are floors for a flexibly priced service lower than the tariffed rates. Compliance with this requirement should be shown in the market trial package.

9. Once the Commission resolves the issues on imputation and unbundling, Pacific's guideline B.3, revised to incorporate IRD decision principles, will provide adequate protection against anticompetitive behavior and Findings 7 and 8 will be rescinded.

10. Pacific's definition of market trial, in Section E, is too vague to ensure against LEC anticompetitive behavior. Pacific will be required to change its market trial definition to include only new services, as defined in Ordering Paragraph 7 of D.90-11-029, the Commission's Readyline Decision.

11. The Commission, after it issues its IRD decision, encourages Pacific to make a filing requesting redefinition of market trials, if Pacific believes the Commission's decision effects its ability to fairly compete in the marketplace.

12. Pacific guideline (B.2), limiting market trials to specific geographic areas, should be clarified to limit the trial to a maximum of 15% of the business customers in the geographic areas selected for the trial.

13. Pacific's guideline (B.4.a), allowing Pacific 60 days after the trial to file an advice letter, is excessive and should be changed to 20 working days. A timely advice letter filing will automatically extend the trial until the tariff becomes effective or is rejected or withdrawn.

14. Pacific's guideline (C.5) for staff review should be changed to 10 business days.

15. MCI's protest is denied except for those parts the Commission accepted in its discussion.

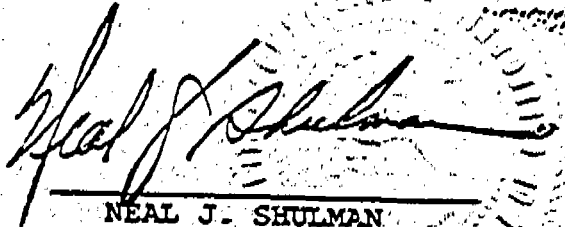
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THEREFORE, IT IS ORDERED that:

1. Pacific Bell's request to deviate from General Order 96-A to conduct market trials is granted.
2. Pacific's request to conduct these market trials according to A.L. 16101A Guidelines for Marketing Trials is also granted with the additional restrictions and clarifications in Findings 8, 9, 10, 12, 13 and 14.
3. Pacific shall file a Supplement to Advice Letter 16101 containing the guidelines in its supplemental Advice Letter 16101A, together with the modifications and clarification ordered in this Resolution. Pacific may submit requests for market trials as authorized in this Resolution after filing the Supplement.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on June 17, 1992. The following Commissioners approved it:



NEAL J. SHULMAN
Executive Director

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

Following are the proposed revisions to the Guidelines for Conducting Market Trials. The Guidelines for Conducting Technology Tests are consistent with the original guidelines established in 1986 (Resolution No. T-11083).

A. STRUCTURING TESTS AND TRIALS

1. Pacific Bell will determine up front whether it is conducting a Technology Test or a Market Trial. The number of participants in the Test or Trial, then, will be limited to the sample size required to achieve the technical objectives (if it is a Technology Test) or the market objectives (if it is a Market Trial).
2. Test/Trial objectives, success criteria, cost objectives and outside time parameters will be established prior to the start-up of any Test or Trial. These parameters can be adjusted as results become available with Commission Advisory and Compliance Division (CACD) approval.
3. During CACD's and Division of Ratepayer Advocates's (DRA) review, Pacific Bell may be requested to clarify information stated in the Market Trial Description Package or the Technology Test Description Package. Those requests will be forwarded to Pacific Bell's State Regulatory manager responsible for submitting the Market Trial Description or the Technology Test Description.
4. Routine testing to upgrade the network and research and development activities require no CACD notification when end users are not knowingly and actively participating. However, if the Test/Trial represents a significant technological breakthrough and poses the potential for significant customer impact, Pacific Bell will provide CACD with an advisory FYI (for your information) letter. The FYI letter will be considered proprietary information and will be treated as confidential under General Order 66-C.

B. GUIDELINES FOR CONDUCTING MARKET TRIALS

1. The process for implementing Market Trials under the resolution for a blanket deviation will be for Pacific Bell to submit a Market Trial Description to the Chief of the Telecommunications Branch of the Commission Advisory and Compliance Division for CACD's information and review. A copy will also be submitted to the Assistant Director of the Telecommunications Investigation and Research Branch of the Division of Ratepayer Advocates for DRA's information and review.

The Market Trial Description will be considered proprietary information and will be treated as confidential under General Order 66-C.

2. After establishing its Market Trial objectives, Pacific Bell will determine and limit sufficiently the duration, geographic scope and number of participants in the Market Trial to achieve its market objectives. Market Trials will be conducted in specifically defined geographies. Market Trials will not be conducted on a "company-wide" basis. Market Trials may be less than, but will not exceed 12 months in duration, except as noted in item B.4.a.
3. Each Market Trial Description Package will demonstrate that trial pricing complies with the unbundling and imputation requirements adopted in D.89-10-031 as clarified in the Implementation Rate Design (IRD). (Prior to the resolution of IRD, Pacific Bell will comply with imputation and unbundling requirements by using the principles proposed in its IRD testimony).
4. In written notification to end user participants describing the Market Trial, Pacific Bell will make the the participants aware of the time bounds of the Market Trial and that the Market Trial can be withdrawn at any time during the duration of the Market Trial. Such notification will also indicate that participation in the Market Trial is entirely voluntary and revocable under the terms of the agreement between Pacific Bell and the participants and will include all of the prices, if any, applicable to the services provided under the Market Trial.
 - a. When Pacific Bell determines that the Market Trial objectives are met (prior to the planned termination of the Market Trial), Pacific Bell may request approval to offer the service on a statewide basis using the advice letter process. Such advice letter filings will go into effect on regular notice under current rules and would not necessarily require a Commission resolution. While the advice letter process is pending, Pacific Bell may request an extension of the Market Trial so that the service provided to customers under the Market Trial will not be interrupted. Extensions will only be requested when Pacific intends to develop a filing requesting general authority to offer a service. To receive an extension Pacific Bell must submit a written request to CACD at least 10 business days prior to the end of the trial period.

The request should indicate that Pacific Bell intends to submit a filing requesting authority for a statewide offering to the Commission within at least 60 days for the end of the Market Trial. Unless CACD contacts Pacific Bell prior to the end of the trial, requests for extensions will automatically become effective to avoid service disruptions to the trial customers. Extensions can run from the end of the trial to the point in time where the Commission either accepts or rejects Pacific Bell's proposal.

5. A Market Trial will be terminated under any of the following conditions:
 - The Market Trial objectives are met before the planned termination of the Market Trial;
 - Pacific Bell concludes that the Market Trial is not successful.
6. Pacific Bell's Employees may be included in Market Trials if appropriate. Other End User Participants may be included in trials when they add value beyond that of employees. Examples of their added value include situations where:
 - a significant amount of traffic is necessary to test capacity;
 - employee participants' biases and tolerance levels could skew results; or where
 - employee participants do not fit the test criteria
7. Executive Summaries highlighting the results will be provided to the Chief of the Telecommunications Branch of CACD at the conclusion of Market Trials. These summaries will be considered proprietary information and will be treated as confidential under General Order 66-C.

C. SAFEGUARDS

1. The number of customers put on a Market Trial should be limited to no more than 5% of the Residential Class and 15% of the market for the service being trialed within the Business Class.
2. When two Market Trials are run back-to-back with hand-picked customers, the same customers should not be allowed to participate in both trials (except when those customers are employees of Pacific Bell). If customers are chosen randomly for Market Trials, Pacific Bell need not exclude previously involved customers. Sampling procedures for each Market Trial should be fully disclosed in the Market Trial Description to be sent to CACD and DRA.

3. When customers on a Market Trial in the Business Class are hand-picked, Pacific Bell should use the following technique to ensure that it does not discriminate among customers in that class: It should identify the top 10% of the Business Class customers eligible for the service being trialed (as determined by the revenue to Pacific Bell they produce on the service) and ensure that no more than 15% of that top 10% are included in the Market Trial. When customers are randomly chosen or signed up on a first-come-first-served basis, this technique need not be used.
4. No Market Trial will last longer than one year except when an extension is necessary as outlined in item B.4.a., preceding.
5. Pacific Bell will be required to file its Market Trial Description to CACD and DRA at least 30 days in advance of the trial's beginning. DRA has the same rights of access to information as CACD and it can keep proprietary information under General Order 66-C in the same way as CACD.) This filing requires CACD staff review and approval before Pacific Bell can move forward. The CACD staff will respond within 10 days of receipt of the Market Trial Description Package. (CACD's verbal responses will be followed up with written confirmation).
6. Pacific Bell will be required to establish detailed subaccounts on Market Trials costs. If, at a later date, CACD and DRA need to review those costs for any reason, they will be available and accurate. Any additional procedures for verification of Pacific Bell's Market Trial practices will be established by agreement between Pacific Bell and the CACD Telecommunications Branch.

D. GUIDELINES FOR CONDUCTING TECHNOLOGY TESTS

1. Technology Test Authorization - Pacific Bell will submit a Test Description Package for CACD Staff review and approval when end user participants are involved in a Technology Test. The CACD will review the Test Description Package for:
 - Completeness of information requirements
 - Clear Test objectives and success criteria
 - Reasonableness of sample size to meet the stated objectives
 - Reasonableness of timeframe

2. A Technology Test will be terminated under any of the following conditions:
 - the success criteria and other objectives are met regardless of the outside time parameter.
 - Pacific Bell concludes that the test is not successful.
 - the Commission issues a formal order.
3. On Technology Tests lasting more than six months, Pacific Bell will provide interim tracking results to CACD.
4. Internal participants (company employees at their homes) may be included in Technology Tests when appropriate. Other End User Participants may be included in Technology Tests when they add value beyond that of company employee participants. Examples of their added value include situations when:
 - a significant amount of traffic is necessary to test the capacity.
 - company employee participants' biases and tolerance levels could skew test results
 - company employee participants do not fit the test criteria.
5. When testing enhancements to "basic service", Pacific Bell, when feasible, will recruit participants who currently subscribe to the basic service.
6. Pacific Bell will track all costs on the technology test and provide such information to CACD upon request.
7. The CACD Telecommunications Branch Chief will be informed in writing of Pacific Bell's intentions to conduct a Test at least 3 working days prior to a Company initiated press release.
8. Brief Executive Summaries highlighting the results and indicating Pacific Bell's future plans (if any) will be provided to the CACD Staff at the conclusion of the Technology Test. This information is proprietary and will be treated as confidential under General Order 66-C.

9. Pacific Bell's Director - Network and Exchange Services is responsible for reviewing all Technology Test submittals to the CACD Staff for:
 - Completeness of information requirements.
 - Clear Technology Test objectives and success criteria.
 - Reasonableness of sample size to meet the technology objectives.
 - Reasonableness of timeframe.

10. In written notification to End User Participants describing the Test, Pacific Bell will make participants aware that the Test can be withdrawn anytime during the test period and will be withdrawn at the end of the Test period. Such notification will also indicate the rates and charges applicable to the services provided under the Test. If no rates or charges apply, the notice will clearly state that the service being tested is provided at no charge.

E. DEFINITION OF TERMS

MARKET TRIALS - The trialing of services, features, applications or service options that provide potential customer benefit in a limited marketplace to determine end user willingness to pay, end user demand, and various service provisioning processes.

TECHNOLOGY TEST - The testing of hardware, software, systems and other facilities in a controlled environment to determine one or more of the following:

- Functionality
- Technical quality (i.e. reliability)
- Compatibility with network
- Provisioning, installation and maintenance processes
- Cost
- Efficiencies of various configurations

NOTE: Marketing information may be a by-product of technology tests. Examples include:

- Usage patterns
- Desirability of features and applications
- Compatibility with customers' other services
- User friendliness

MANUFACTURES - Owners, providers and developers of hardware, software or systems.

END USER PARTICIPANTS - The individuals or groups for whom a potential service offering is intended. This category includes residence customers, businesses, employees at their homes, Local Exchange Carriers, Interexchange Carriers, and Enhanced Service Providers who knowingly and actively participate in a Market Trial or who experience an obvious change in service as a result of the Market Trial.

BLANKET DEVIATION - A one-time authorization issued by a Resolution by the Commission providing Pacific Bell with the authority to conduct Market Trials under the guidelines set forth in the Guidelines for Conducting Market Trials. The authorization will require that a specific Market Trial Description be submitted for CACD and DRA information and review when a Market Trial is conducted using End User participants.

FYI LETTER - When testing to upgrade the network or when research and development activities represent a significant technological breakthrough and pose the potential for significant customer impact, Pacific Bell will provide CACD with an advisory FYI Letter. This FYI Letter will briefly detail the nature of the testing.

MARKET TRIAL DESCRIPTION - A package submitted to CACD and DRA which includes the following documents:

1. Market Trial Description Letter, which provides the name of the Market Trial, the location of the Market Trial, the Market Trial dates, the estimated number of participants and a description of the activity undertaken.
2. Inquiry Response Information, including any generic information that may be disclosed by the CACD and DRA in the event of inquiries from the Public.

TEST DESCRIPTION PACKAGE - A brief package submitted to the CACD Staff to include the following documents:

1. Test Description Letter outlining the parameters of the test (1-2 pages):
 - Name of project or service
 - Brief description of service
 - Test Objectives
 - Timeframe
 - Number of Participants
 - Location of Test
 - Statement of cost, if "significant"
 - Success criteria

2. Copy of Test Participant Notification (approximately 1 page) to include:
 - Test description and test period dates
 - Acknowledgement that the service may be withdrawn at any time during the test period and will be withdrawn at the conclusion of the test.
 - Clear acknowledgement of any services provided at no charge
 - Itemization of any applicable rates and charges

3. Inquiry Response Information to include:
 - any generic information that may be disclosed by the Staff in the event of inquiries from the Public
 - The following statement "If the Test is successful and Pacific Bell elects to make a product or service offering, as an interested party you may obtain a copy of the Advice Letter, when it is filed, by writing to the Regulatory Vice President, 140 New Montgomery Street, San Francisco, CA 94105. Should you wish to intervene in the process, you may do so in accordance with General Order 96-A, Section III.H."

The Letter requires Commission Advisory and Compliance Division (CACD) Staff review and approval before Pacific Bell can move forward. The CACD Staff will respond within ten working days of receipt. The Letter and Test Participant Notification are protected from public disclosure under General Order 66-C.