

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-15658
Telecommunications Branch February 8, 1995

R E S O L U T I O N

RESOLUTION T-15658. PACIFIC BELL. REQUEST TO PROVIDE
CENTREX WITH DIRECT DIGITAL INTERFACE FOR THE
MANUFACTURERS BANK UNDER A CUSTOMER-SPECIFIC CONTRACT.

BY ADVICE LETTER NO. 17104 FILED SEPTEMBER 28, 1994.

SUMMARY

Pacific Bell (Pacific) requests authority under provisions of General Order No. 96-A (G.O. 96-A) and Decision Nos. (D.) 88-09-059, 91-01-018 and 94-09-065 to provide Centrex service with Direct Digital Interface (DDI) service for the Manufacturers Bank under a customer-specific contract. In compliance with D.94-09-065, Pacific filed Supplement A to Advice Letter 17104 on December 29, 1994, which demonstrated that the contract prices exceeded the statewide average price floors for the requested services.

Pacific also requests that modifications to the contract that do not materially change the service offering become effective upon Commission Advisory and Compliance Division (CACD) approval.

AT&T Communications of California, Inc. (AT&T) and MCI Telecommunications Corporation (MCI) submitted late-filed protests to Advice Letter No. (AL) 17104 on January 9, 1995. Pacific filed responses to the protest of AT&T on January 17, 1995 and MCI's on January 20, 1995. For reasons we will discuss in detail below, AT&T and MCI's protests are denied.

This Resolution authorizes Pacific's request. Pacific estimates the annual revenue impact for this filing to be a decrease of \$158,328.

BACKGROUND

In D.88-09-059 the Commission adopted a modified Phase I Settlement. Under the provisions of the Settlement, the Local Exchange Companies (LECs) are allowed to provide Centrex and DDI services 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 imputation, unbundling and nondiscriminatory access adopted in D.89-10-031 and that prices for monopoly utility services will be based on underlying costs. D.91-01-018 has relieved Pacific from meeting these requirements until a clarifying decision on this matter is issued. The Commission in D.94-09-065 clarified those principles and made other changes to the contracting requirements. The contract complies with the contracting requirements.

Centrex is a central office based communications system equipped with primary station lines capable of receiving direct in-dialed calls and capable of direct out-dialing of calls, with optional features. DDI service is a feature of Centrex which provides point-to-point, end-to-end digital connectivity from a Centrex to a distant end location.

Under the terms of the three-year contract, Pacific agrees to provide Centrex service with DDI for 760 stations and Trunking lines at cutover at a minimum monthly rate of \$15,960. Recurring and nonrecurring charges for lines or features in excess of those at cutover are per contract.

Pacific estimates the annual revenue impact for this filing to be a decrease of \$158,328.

NOTICE

Pacific has mailed a copy of Advice Letter No. 17104 and the related tariff sheets to competing and adjacent utilities and/or other utilities and to the customer named in the contract. Also, the Advice Letter was listed in the Commission's Daily Calendar of September 30, 1994.

PROTESTS

In their protests of AL 17104, AT&T and MCI strongly complain that Pacific is refusing to allow its customers to use two Centrex optional features, Automatic Route selection (ARS) or Flexible Route Selection (FRS), to route intraLATA toll calls to any intraLATA toll carrier other than Pacific. MCI requests that the Commission order Pacific to cease writing any further Centrex contracts and withhold approval of all pending Centrex contracts until the issues raised in the protests are resolved.

AT&T requests the Commission to withhold further approval of Pacific's Centrex contracts until Pacific amends its contracts to inform customers of all issues concerning ARS/FRS. AT&T also requests that the Commission require Pacific to notify existing and prospective Centrex contractual customers that as of January 1, 1995 they may choose a provider other than Pacific to provide intraLATA toll calls and that Pacific will restrict use of ARS/FRS to route intraLATA toll calls to any provider other than Pacific. The protests which have similar issues are summarized as follows:

- o Pacific is violating D.94-09-065 by refusing customer's requests to program Centrex routing features FRS and ARS to route intraLATA toll calls to intraLATA carriers other than Pacific.
- o This unlawful bundling of service and switching equipment, in which Pacific compels Centrex customers to use Pacific's intraLATA toll service, violates D.94-09-065, is anticompetitive and results in discrimination.

Pacific filed its response to the protest of AT&T on January 17, 1995, and MCI on January 20, 1995. Pacific says that it has not changed its policy on the use of ARS/FRS optional features and requests the Commission to deny the protests. In its response Pacific states:

- o The Centrex use restriction is not new. Pacific's policy has been that ARS/FRS features allow routing of intraLATA calls to its public switched network, to private customers' network, to a tie line/trunk that is not connected to a competing carrier POP, or for disaster recovery.

February 8, 1995

- o Centrex customers are not limited in their ability to choose an alternate intraLATA toll service provider. Centrex customers may manually dial 10xxx, use autodialers to dial 10XXX, use programmable phones or program the Centrex speed dialing with 10XXX.
- o The existing contract language, Pacific's ongoing discussion with our customers, and its letter describing our policy are more than adequate to ensure that customers understand Pacific's ARS/FRS routing practice.

DISCUSSION

The protesters are concerned that existing or prospective Centrex contractual customers may be unaware that Pacific restricts its ARS/FRS features to route intraLATA toll calls to any intraLATA toll carrier other than Pacific. The protesters argue that this policy violates the IRD Decision (D.94-09-065) and is anticompetitive.

On December 30, 1994, MCI filed a formal complaint with the Commission accusing Pacific of implementing a policy that is anticompetitive and violates D.94-09-065. The Commission ordered Pacific to respond to MCI's complaint and set a hearing on the complaint for January 20, 1995.

In a Letter dated January 19, 1995, Manufacturers Bank states that the Bank is losing the opportunity for substantial savings each day approval of this contract is delayed. The letter further indicates that the Bank "understands the issues raised by AT&T and MCI regarding Flexible Route Selection and Automatic Route Selection offered as features of Pacific Bell's Centrex service. Manufacturers Bank requests that its contract with Pacific Bell not be further delayed due to the issues raised by AT&T and MCI in the protest letters filed with your office."

Since the customer is aware of the issues surrounding ARS/FRS and requests the contract to be approved, we see no reason to delay the approval of the Manufacturers Bank Centrex contract. However, we note that our approval of this contract should not be viewed as concurrence with, or approval of the limitations placed by Pacific on the ARS/FRS features included in the contract. This matter is currently under consideration in C.94-12-032. Any conditions placed on the use of ARS/FRS in this contract are subject to modification pending the outcome of that complaint proceeding.

In reviewing Advice Letter No. 17104 as supplemented, we also note the following:

- a. Pacific requests in the Advice Letter that the workpapers and supporting cost documentation associated with the contract be treated as confidential.

- b. The rates and charges set forth in the contract cover the statewide average price floors of providing the services offered under the terms of the contract.
- c. The Advice Letter indicates that the costs and revenues associated with the contract will be tracked.
- d. Pacific also requests that contract modifications that do not materially change the service offering become effective upon CACD approval. The request is a reasonable one; however, we note that such non-material change advice letter requests can not become effective on less than the 40 day regular notice period required by G.O. 96-A. Also, the exceptions from "material change" are limited to the following: (a) modifications which do not result in a reduction of the revenue to cost ratio (R/C), (b) the inclusion of services from the same tariff schedule as the schedule which offers the original contract service, or (c) non-material changes that do not violate or change any other applicable Commission decision and/or resolutions. Specifically, modifications that result in a decrease in the R/C, or changes in the price per line, are material changes and may be authorized only by Commission resolution.

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.

FINDINGS

1. Pacific filed Advice Letter No. 17104 and Supplement requesting Commission authorization to provide Centrex and DDI services for the Manufacturers Bank under a customer-specific contract.
2. The Advice Letter and the contract conform to the requirements of Decision Nos. 88-09-059, 89-10-031, 91-01-018 and 94-09-065; Resolution Nos. T-13069 and T-13091, and G.O. 96-A.
3. The issues raised by AT&T and MCI in their protest of Pacific's ARS/FRS policy are under consideration in Case No. 94-12-032.
4. Manufacturers Bank is aware of Pacific's ARS/FRS policy and requests approval of its contract with Pacific.
5. Pacific states that authorization of this contract will result in an estimated annual revenue decrease of \$158,328.
6. It is reasonable for contract modifications to become effective upon CACD approval but no sooner than the 40 day regular notice period required by G.O. 96-A and so long as they do not materially change the service offering, consistent with the definition of "material change", above.

February 8, 1995

7. Commission authorization of the Advice Letter as supplemented and the contract does not establish a precedent for the contents of future filings or for Commission approval of similar requests. Commission approval is based on the specifics of the contract.

8. The rates, charges, terms and conditions of the contractual services approved in this Resolution are just and reasonable.

THEREFORE, IT IS ORDERED that:

1. Authority is granted to make Pacific Bell's Advice Letter No. 17104 and Supplement A, the corresponding tariff sheets and the contract effective on February 9, 1995.

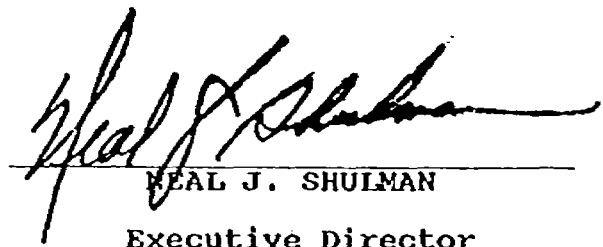
2. AT&T Communications of California, Inc. and MCI Telecommunications Corporation's protests are denied.

3. Modifications to this contract that do not materially change the service may become effective on no less than the 40 day regular notice period required by G.O. 96-A and with Commission Advisory and Compliance Division approval.

4. The Advice Letter and contract shall be marked to show that they were authorized by Resolution T-15658.

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 February 8, 1995. The following Commissioners approved it:


NEAL J. SHULMAN
Executive Director

DANIEL WM. FESSLER
President
NORMAN D. SHUMWAY
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
Commissioners