

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-15748*
Telecommunications Branch September 7, 1995

R E S O L U T I O N

RESOLUTION T-15748. PACIFIC BELL (U-1001-C). REQUEST TO INTRODUCE CUSTOM CALLING SERVICES-WHOLESALE (CCS-Ws) FOR AN EIGHTEEN MONTH PROVISIONAL PERIOD, TARIFF SCHEDULE CAL. P.U.C. NO. A5.4.T, NETWORK AND EXCHANGE SERVICES

BY ADVICE LETTER NO. 17326, FILED ON MARCH 7, 1995.

SUMMARY

This Resolution grants Pacific Bell's request to introduce Custom Calling Services-Wholesale for an eighteen month provisional period.

Pacific estimates that the first year annual revenue effect of this filing will be an increase of \$1.7 million.

BACKGROUND

On March 7, 1995, Pacific Bell (Pacific) filed Advice Letter No. (AL No.) 17326 to introduce Custom Calling Services-Wholesale (CCS-Ws) for an eighteen month provisional period. The Custom Calling features that Pacific requested to offer on a wholesale basis are Three-way Calling, Call Forwarding, Call Screen, Select Call Forwarding, Priority Ringing, Repeat Dialing and Call Return. Pacific requested that CCS-Ws be granted Category II treatment with pricing flexibility based on the price floors for Custom Calling Services-Wholesale established pursuant to the Implementation Rate Design (IRD) Decision, D.94-09-065.

Pacific estimates that the first year annual revenue effect of this filing will be an increase \$1.7 million.

PROTESTS

Pacific states that a copy of the Advice Letter was mailed to competing and adjacent utilities and/or other utilities and to interested parties as requested. The Advice Letter was listed on the Commission's Daily Calendar of March 10, 1995.

The Commission Advisory and Compliance Division (CACD) received a timely filed protest to AL No. 17326 from AT&T Communications of California, Inc. (AT&T). This protest shows merit and was considered by CACD. Pacific responded to AT&T's protest on

April 3, 1995. MCI Communications, Inc. (MCI), and Sprint Communications Company LP (Sprint) submitted late filed protests to Advice Letter No. 17326. Pacific responded to MCI's and Sprint's protests on April 14, 1995. The issues raised in MCI's and Sprint's protests show merit and were considered by CACD. A summary of the protests and of Pacific's response is presented below.

AT&T's protest objects to four aspects of Pacific filing:

- 1) CCS-Ws are Basic Service Elements (BSEs) and should be placed in Category I, priced at Direct Embedded Cost (DEC) and not in Category II as proposed by Pacific;
- 2) Pacific's proposed rates for CCS-Ws are unreasonable; they significantly exceed Pacific's retail rates for comparable services;
- 3) Pacific's limitation of CCS-Ws to seven out of the wide array of Pacific's tariffed Custom Calling Services is unreasonable and anti-competitive; and
- 4) Pacific's proposed use and user restriction which would prohibit the use of CCS-Ws in conjunction with Centrex and PBX trunks is unreasonable.

AT&T requests that the Commission order Pacific to modify AL No. 17326 to specify that CCS-Ws are Category I BSEs and that they should be priced at DEC. AT&T states that if CCS-Ws are determined to be BSEs priced as proposed by Pacific then of all Pacific's existing customer specific contract rates for similar service would fail to meet the Commission's imputation tests. AT&T also requests that the Commission direct Pacific to provide on a wholesale basis any existing custom calling services for which it receives a bona fide request. Finally, AT&T requests that Pacific be required to remove its proposed use and user restriction on the provision of CCS-Ws in conjunction with Centrex and PBX trunks.

Pacific responds to AT&T's first objection by stating that the IRD Decision placed Custom Calling Services in Category II and that AT&T is simply trying to relitigate this issue. Pacific states that AT&T offers no reason to justify revisiting the categorization of Custom Calling Services. Therefore, Pacific states that AT&T's arguments and the consequences which it claims to flow from these arguments should be rejected.

Pacific responds to AT&T's claims that the proposed rates for CCS-Ws are unreasonable by stating such rates are 25% to 55% below the retail (current tariff) rates. Pacific says that such rates reflect its efforts to achieve a wholesale price which attracts wholesale buyers without denigrating the retail offering.

Pacific also addresses AT&T's supporting claims that the pricing of CCS-Ws is unreasonable when compared to the pricing of

Centrex Optional Features and the contract pricing of Call Forwarding BSEs between Pacific and its enhanced service provider subsidiary Pacific Bell Information Services (PBIS). Pacific states that Centrex services are multiline administrative business systems with their own set of features which serve closed user groups. These services are different than Custom Calling Services which serve single line residence and business customers. Pacific notes that Centrex systems, normally sold on a contract basis, are a different product and are offered under a different tariff than Custom Calling Services. Therefore, Pacific states it is inappropriate to compare the prices for Custom Calling Services on either a retail or wholesale basis with the prices of Centrex Optional Features.

Regarding the pricing of BSEs between Pacific and PBIS, Pacific assumes that AT&T's protest is referring to the BSEs Call Forwarding-Busy Line and Call Forwarding-No Answer, which Pacific notes are not part of its CCS-Ws proposal. Pacific does note that such BSEs are contracted to PBIS at tariffed rates and that these BSEs are available on a non-discriminatory basis to any Enhanced Service Provider (ESP) who chooses to purchase such BSEs out of the intrastate ONA tariff, including AT&T.

With regard to AT&T's third objection, Pacific responds that its selection of less than all of its Custom Calling Services for inclusion in its first wholesale tariff filing represents a legitimate exercise of the discretion which the Commission granted the Pacific in the IRD Decision, D.94-09-065, page 136.

Pacific responds to AT&T's final objection concerning the use and user restriction which would prohibit the use of CCS-Ws in conjunction with Centrex and PBX trunks. Pacific states that such restriction is consistent with existing restrictions for Custom Calling Services which are due to certain incompatibilities between Custom Calling Services and Centrex access lines and PBX trunks. Hence, Pacific states that this restriction is neither new nor the kind of restrictions that were removed in the IRD Decision, D.94-09-065.

MCI and Sprint oppose Pacific's filing on the basis of the fraud implications associated with the call forwarding services being offered in AL No. 17326. Both companies detailed the existing risks and revenue losses that occur with Pacific's call forwarding services. They also show how they are "double charged" when interexchange carriers (IECs) attempt to protect themselves from fraudulent use of call forwarding services. The double charge occurs because the IECs pays normal access charges to setup a fraudulent call. In addition, IECs must pay Line Item Data Base (LIDB) charges. LIDB is Pacific's database that IECs use to detect and deter fraud. Both companies cite how this double charge provides a disincentive for local exchange carriers to rectify fraud abuses associated with call forwarding services. In summary, MCI and Sprint are concerned that stimulation of Pacific's call forwarding service will result in increased fraud in the telecommunication industry as well as

fraud detection and protection costs for themselves. MCI and Sprint recommend that the Commission withhold approval of authority to wholesale call forwarding services until Pacific demonstrates that it has implemented appropriate fraud prevention procedures.

Pacific responds to MCI's and Sprint's concerns regarding fraud by stating that the wholesale offering of call forwarding will not expand the fraud opportunities which exist today with respect to Pacific's retail offering of Call Forwarding. Pacific states that it will require the third party ordering a Custom Calling Service to be placed on an end-user's line to both subscribe to the service as an wholesale customer and successfully demonstrate its ability to use Pacific's electronic ordering system. Pacific states that these requirements will eliminate the anonymity desired by fraud perpetrators and, therefore, not increase the possibility of fraud.

Pacific states that the argument that it will not act to eliminate fraud because Pacific will benefit financially from such fraud is specious. Pacific states that it has taken a proactive approach to detecting and eliminating fraud. Pacific cites the upgrading of its switches to detect international call fraud and its efforts to protect against order abuse as part of this proactive approach. Pacific also states is it willing to work with MCI, Sprint, and other wholesale customers to continually increase the protections against the fraudulent use of the telecommunications network.

In its protest, MCI also concurs with the issues AT&T raised in its protest to Pacific's AL No. 17326. Pacific responds to MCI's concerns by attaching its response to the AT&T protest and incorporating such response into its response to MCI's protest.

DISCUSSION

CACD reviewed Pacific AL No. 17326 and AT&T's, MCI's and Sprint's protests to that filing. CACD finds that the central issue to resolving this filing is the categorization of Custom Calling Services-Wholesale. Once the categorization is established, the pricing and price flexibility for these services should flow from existing New Regulatory Framework (NRF) policies. In the NRF Phase II Decision, D.89-10-031, and reaffirmed in the IRD Decision, D94-09-065, the Commission placed all Custom Calling Services in Category II on the basis that these services are discretionary. At the time that this categorization was made there was no contemplation of a wholesale tariff for Custom Calling Services.

However, the discussion of retail versus wholesale is ill-placed. The question is still whether the services are discretionary. Nothing has changed in California's telecommunications industry to suggest that custom calling services offered on a wholesale basis are not discretionary.

Based on this analysis, CACD recommends that Pacific's CCS-Ws offering be placed in Category II.

Furthermore, CACD recommends that these services be granted full Category II treatment. This means that Pacific should be given the authority to set the original price for these service. CCS-Ws should be granted pricing flexibility and contracting authority as long as such flexibility and authority meets the competitive safeguards as defined in the NRF and IRD Decisions. CACD has previously reviewed the price floor for Custom Calling Services as part of the IRD Compliance filing. CACD found those price floors to be reasonable for the retail Custom Calling Services. CACD also has reviewed the initial prices of CCS-Ws and finds that both the initial prices and price floors are reasonable for Pacific's CCS-Ws offering.

The issue raised by AT&T that the pricing of CCS-Ws should be based upon other tariff services, specifically Centrex Optional Features and Basic Service Elements is not an issue for the advice letter process, but should be fully addressed in the Commission's OANAD docket, R.93-04-003/I.93-04-002. The unbundling of Pacific's network elements as well as the costing and pricing of those elements is a primary issue in that docket. It would be inappropriate to override an existing Commission NRF policy and set policy for the OANAD docket through an advice letter and resolution process.

However, the issue of the number and choice of Custom Calling Services Pacific offers in its CCS-Ws tariff can be addressed in this Resolution. Pacific's choice is consistent with the Commission's NRF Policy which established that Pacific has discretion in determining which new services it will offer.

Regarding AT&T's concern about the use and user restriction, CACD concurs with Pacific. AL No. 17474 is not adding a new use and user restriction. The restriction on Custom Calling Services presently in Pacific's tariff should be extended for CCS-Ws. If AT&T is concerned over the use and user restriction on existing Custom Calling Services, it should file a complaint stating its objection to the current tariff.

In their protests, MCI and Sprint raise the concern that selling Call Forwarding on a wholesale basis would lead to additional fraud in California's telecommunications industry. These companies recommend that the Commission withhold approval of Pacific's request to offer Call Forwarding on a wholesale basis until Pacific demonstrates that it has implemented appropriate fraud prevention procedures.

Such claims by these companies would lead one to believe that this is the first time that toll fraud has been an issue before this Commission. However, MCI and Sprint are well aware that the Commission has addressed and is continuing to address the issue of toll fraud through Commission Resolutions T-15182 and T-15585. If these companies have concerns about how the Commission has addressed toll fraud, they should Petition to

Modify these Resolutions. It would also be inappropriate to set a toll fraud policy just for Call Forwarding-Wholesale through this Resolution and ignore the current fraud policy for Pacific by the Commission.

Because Pacific is requesting provisional authority for CCS-Ws, it must notify any potential CCS-Ws customers that it contracts with that these services are provisional and that pending further Commission action the terms and rates of such a contract may change substantially. This is consistent with the Commission policy on contracting for provisionally tariffed services.

In summary, CACD recommends the approval of Pacific's Advice Letter No. 17326 and denial of AT&T's, MCI's and Sprint's protests to this filing.

FINDINGS


1. Pacific's Advice Letter No. 17326 requests authority to introduce Custom Calling Services-Wholesale for an eighteen month provisional period.
2. Pacific's Advice Letter No. 17326 was protested by AT&T in a timely manner. MCI and Sprint filed late protests. All protests showed merit and, therefore, are being considered.
3. Custom Calling Services are discretionary whether they are offered on a retail basis or on a wholesale basis.
4. Custom Calling Services were placed in Category II in the NRF Decision, D.89-10-031, and reaffirmed as Category II in the IRD Decision, D94-09-065.
5. The initial prices and price floors for Pacific's Custom Calling Services-Wholesale offering are reasonable.
6. The Commission's OANAD docket, R.93-04-003/I.93-04-002, will address the issue of unbundling Pacific's network elements as well as the costing and pricing of those unbundled elements.
7. The Commission's NRF Policy established that Pacific has discretion in determining which new services it chooses to offer.
8. Commission Resolutions T-15182 and T-15585 have addressed the issue of toll fraud.
9. CACD recommends the approval of Pacific Advice Letter No. 17326.
10. The estimated annual revenue effect of this filing will be an increase of \$1.7 million.

THEREFORE, IT IS ORDERED that:

1. Pacific Bell (Pacific) is authorized to introduce Custom Calling Services-Wholesale for an eighteen month provisional period.
2. The provisional authority granted herein will expire on March 7, 1997, unless extended or made permanent by order this Commission.
3. Pacific Bell Advice Letter No. 17326 and its associated tariff sheets shall be marked to show that they are authorized by Resolution T-15478 of the California Public Utilities Commission and that their effective date is today.
4. The protest of AT&T Communications of California, Inc., MCI Communications, Inc. and Sprint Communications Company LP to Pacific Bell's Advice Letter No. 17326 are denied.

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 September 7, 1995. The following Commissioners approved it:


WESLEY FRANKLIN
Acting Executive Director

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
Commissioners