

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-15756
Telecommunications Branch July 19, 1995

R E S O L U T I O N

RESOLUTION T-15756. PACIFIC BELL. REQUEST TO PROVIDE
DS3 HIGH CAPACITY DIGITAL SERVICE FOR ADOBE SYSTEMS,
INC. UNDER A CUSTOMER-SPECIFIC CONTRACT.

BY ADVICE LETTER NO. 17496 FILED MAY 24, 1995.

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 deviate from filed tariff schedules in order to provide DS3 High Capacity Digital Service (HCDS) for Adobe Systems, Inc. under a customer-specific contract.

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.

This Resolution authorizes Pacific's request. Pacific estimates that the annual revenue impact of this filing will be a decrease of \$33,540. No protest to the Advice Letter was filed.

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 HCDS under contract. 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 private line service contracts are provided in D.89-10-031.

D.90-04-031 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 be based on their underlying costs. The Commission by D.94-09-065 clarified those principles and adopted other changes to the contracting requirements. The proposed contract complies with the contracting requirements.

Pacific filed Supplement A to Advice letter No. 17496 on June 2, 1995. The Supplement clarified that the contract is based on Direct Embedded Costs (DEC) not Long Run Incremental Costs (LRIC).

DS3 HCDS is a dedicated private line channel service suitable for the transmission of digital signals at a speed of up to 44.736 Mbps (megabits per second). DS3 is provisioned with fiber optics.

Under the terms of the 2 year contract, Pacific agrees to provide 1 DS3 circuit with 2 Channel Terminations at a monthly rate of \$3,900. Recurring and nonrecurring charges for additional circuits and terminations are per contract.

Pacific estimates the annual impact of this filing will be a decrease in revenue of \$33,540.

NOTICE/PROTESTS

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. 17496 was listed in the Commission's Daily Calendar of May 30, 1995.

No protest to the Advice Letter was filed.

DISCUSSION

In reviewing Advice letter No. 17496, we note the following:

- a. Pacific requests confidential treatment of workpapers and supporting documentation.

- b. The rates and charges set forth in the contract cover the Direct Embedded Costs of providing each service 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 requests that contract modifications that do not materially change the service offerings 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 decisions 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. However, we must emphasize that our approval is based on the specifics of the Advice Letter and the associated contract and does not establish a precedent for the contents of future filings or for Commission approval of similar requests.

FINDINGS

1. Pacific filed Advice Letter No. 17496 requesting Commission authorization to provide DS3 service under a customer-specific contract.
2. The Advice Letter and the contract conform to the requirements of Decision Nos. 88-09-059 and 94-09-065, Resolution Nos. T-13069 and T-13091; and G.O. 96-A.
3. Pacific states that authorization of this contract will result in an estimated annual revenue decrease of \$33,540.
4. 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.

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5. Commission authorization of the Advice Letter 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.

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

THEREFORE, IT IS ORDERED that:

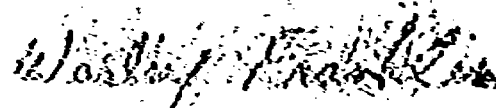
1. Authority is granted to make Pacific Bell's Advice Letter No. 17496, Supplement A and the contract effective on July 20, 1995.

2. Contract modifications that do not materially change the service offering 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 approval.

3. The Advice Letter and contract the shall be marked to show that they were authorized by Resolution T-15756.

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 July 19, 1995. The following Commissioners approved it:



WESLEY M. FRANKLIN
Acting Executive Director

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

I abstain.
/s/ HENRY M. DUQUE
Commissioner