

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-15785
Telecommunications Branch November 21, 1995

R E S O L U T I O N

RESOLUTION T-15785. PACIFIC BELL. REQUEST TO MODIFY A VENDOR-SPECIFIC CONTRACT WHICH AUTHORIZES INTEL MARKET DEVELOPMENT, INC. TO PROMOTE THE SALE OF AND SOLICIT ORDERS FOR PACIFIC'S ISDN AND MTS SERVICES.

BY ADVICE LETTER NO. 17658 FILED AUGUST 21, 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 and 94-09-065 to modify a vendor-specific contract which authorizes Intel Market Development, Inc. (Intel) to act as a Sales Agency to promote PRI (Primary Rate Interface ISDN (Integrated Service Digital Network) service), BRI (Basic Rate Interface ISDN service) and MTS (Message Telephone Service) services.

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

This Resolution authorizes Pacific's request. Pacific estimates that the revenue impact of this filing will be an annual cost saving of \$310,910.

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 deviate from the tariff under customer-specific contracts between LECs and customers. The Settlement provides that such contracts become effective upon authorization by the Commission.

The Pacific Bell Sales Agency Program allows vendors to become Pacific's Authorized Sale Representatives to market, on a sales commission, certain designated Pacific products. Intel Market Development, Inc. in Resolution T-15499 was granted authority to promote the sale of and solicit orders for Pacific's ISDN and MTS at commissions which deviated from those of the tariffed Sales Agency Program.

A provision in the contract authorized in Resolution T-15499 allows Pacific to request a reduction in the commission or terminate the contract if the usage revenue is substantially below Intel's forecast. Under the modified agreement, Pacific will reduce the commission paid to Intel and eliminate usage tracking.

Pacific indicates that Commission authorization of the contract will result in an annual decrease in cost of \$310,910.

NOTICE/PROTESTS

Pacific has mailed a copy of the Advice Letter and contract to competing and adjacent utilities and/or other utilities, and interested parties. The Advice Letter was listed in the Commission's Daily Calendar of August 23, 1995.

No protest to the Advice Letter was filed.

DISCUSSION

Pacific has a clause in its Sales Agency contract with Intel to renegotiate the terms and conditions after 18 months if the revenue forecast did not meet certain contract minimums. The proposed amended contract reduces the commission paid to Intel and eliminates usage tracking. All other terms of the contract remain the same.

Pacific also requests that contract modifications that do not materially change the service offerings and are of a ministerial nature 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 the "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 the Commission.

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CACD concludes that the proposed contract meets the requirements set forth in the previously mentioned orders and G.O. 96-A and recommends that the Commission approve this filing. CACD also notes that Commission 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 Bell filed Advice Letter No. 17658 requesting Commission authorization to amend a contract for Intel Market Development, Inc. Sales Agency Service for PRI, BRI and MTS services.
2. The Advice Letter and the contract conform to the requirements of Commission Decisions and of G.O. 96-A.
3. Pacific states that authorization of the amended contract will result in an estimated annual decrease in its sales commission expense of \$310,910.
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.
5. The rates, charges, terms and conditions of the contractual service approved in this Resolution are just and reasonable.
6. Authorization of the Advice Letter and the contract does not establish a precedent for the contents of these filings, or the Commission approval of similar requests. Commission approval is based on the specifics of the contract.

THEREFORE, IT IS ORDERED that:

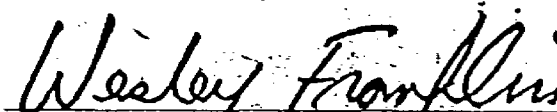
1. Authority is granted to make Advice Letter No. 17658 and the amended contract effective on November 22, 1995.
2. Contract modifications that do not materially change the service offering may become effective on no less than the 40 day regular notice period required by G.O. 96-A and with Commission Advisory and Compliance Division approval.

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3. The Advice Letter and Amendment No. 1 to the contract shall be marked to show that they were authorized by Resolution No. T-15785.

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 November 21, 1995. The following Commissioners approved it:



WESLEY M. FRANKLIN
Executive Director

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, Jr.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners