

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
TELECOMMUNICATIONS DIVISION

RESOLUTION T-15818*
November 26, 1996

R E S O L U T I O N

RESOLUTION T-15818. PACIFIC BELL. REQUEST TO OPEN A
CENTRAL OFFICE CODE FOR THE EXCLUSIVE USE OF PARAMOUNT
PICTURES CORPORATION UNDER A CUSTOMER-SPECIFIC CONTRACT.

BY ADVICE LETTER NO. 17842 FILED ON NOVEMBER 2, 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 open a central office code (213-862-XXXX), commonly referred to as a prefix, under a customer-specific contract for the exclusive use of Paramount Pictures Corporation. The opening of a prefix is a non-tariffed service.

Pacific also requests that future contract modifications that do not materially change the service offering become effective upon Telecommunications Division (TD) approval.

Pac-West Telecom, Inc. (Pac-West) filed a protest to Advice Letter No. (AL) 17842 on November 20, 1995 and Pacific filed its response on November 29, 1995. Based on a review of the allegations cited in the protest and Pacific's response, the protest is denied.

This Resolution authorizes Pacific's request. Pacific indicates that the revenue impact of this filing will be a one-time increase of \$29,800.

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 central office codes for the exclusive use of a customer under the terms of contracts between LECs and customers. The Settlement provides that such contracts become effective upon authorization by the Commission.

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 their underlying costs. The Commission by D.94-09-065 clarified these principles and adopted other changes to the contracting requirements. The proposed contract complies with the contracting requirements.

Pacific filed Supplement A to AL 17842 on December 29, 1995 to make a minor modification to the filing.

An essential element of modern telephony is a numbering system wherein each station (telephone) has a unique number. With this numbering system, called destination code routing, callers may use the unique number to reach the desired station wherever the telephone may be.

The routing codes for dialing consist of two basic parts: a three-digit NPA (Numbering Plan Area) code used for toll calls, and a seven-digit telephone number used for toll calls or local calls. The seven-digit number is made up of a three-digit central office code plus a four-digit station number.

The three-digit central office code (prefix) designates the assigned serving office or end office that provides dial tone to the subscriber. Up to 10,000 station numbers per prefix may be available for use depending on the amount of numbers reserved for administrative spare terminals (codes reserved for special functions, etc.).

The customer requested that Pacific open a central office code for its exclusive use. To meet the request, Pacific offered the customer a G.O. 96-A contract. Under this contract, Pacific agrees to open a new prefix for the customer's exclusive use at the utility's 213 HLWDCA01 central office located in Hollywood for a one-time non-recurring charge of \$29,800.

Pacific indicates that the revenue impact of this filing will result in a one-time increase of \$29,800.

NOTICE

Pacific has mailed a copy of the Advice Letter and the 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 November 6, 1995.

PROTESTS

Pac-West in its protest of AL 17842 states that the contract grants an unlawful preference to a corporation in violation of PU Code 453(a) which provides:

"No public utility shall, as to rates, charges, services, facilities, or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage."

Pac-West says if Pacific believes that number scarcity requires that Pacific limit orders for future usage, Pacific must do so in a uniform fashion. Pac-West requests that the Commission reject AL 17842 and similar proposals until Pacific affirms that other customers are entitled to order numbers and codes for future use on the same basis as set forth in Para. 12 of the Paramount contract as follows:

"Usage of Code

Customer shall utilize at least seventy percent (70%) of the code capacity provided hereunder within three years of the cutover of such code. In the event customer does not utilize seventy percent of the code capacity, Pacific reserves the right to regain access to the unused numbers, and no refund of any monies will be made to customer."

Pac-West states that if it were only required to meet the usage terms of the Paramount contract, the rates charged would be much lower than the rates charged using tariff A2.1.11,A.9. Such discriminatory treatment is unlawful.

In summary, Pacific states that the essence of the protest is the assertion that it has unlawfully denied Pac-West's request for DID service and NXX code assignments. Pacific denied Pac-West's request for DID service based on Tariff Schedule No. A2.1.11,A.9 which states:

"9. Service not to be Immediately Used

The Utility may refuse the installation of service that is not to be used within a reasonable period after installation."

Pac-West has stated verbally to Pacific and within its protest that the codes being requested and denied by Pacific are not going to be used within the next 6 months. The usage provision in the contract (par. 12) cited in the protest is speaking of a case where a code is being underutilized, not being held in reserve to be used at a future date.

Pacific concludes that Pac-West's protest is misleading and speaks to issues unrelated to this AL filing. Pac-West is using the protest process inappropriately and the protest should be disregarded.

DISCUSSION

Pac-West ordered DID blocks and NPA NXX codes prior to August 1, 1995 with requested due dates over a two year period. Pacific refused Pac-West's request for most of the DID blocks and all of the orders for new NXX codes.

When customers requesting DID service under tariff, they must adhere to Tariff Schedule No. A2.1.11,A.9 which states:

"9. Service not to be Immediately Used

The Utility may refuse the installation of service that is not to be used within a reasonable period after installation."

Pacific determined that some of the DID blocks¹ were not going to be used within 6 months and denied Pac-West's request for DID blocks.

Customers requesting codes under contract must meet two criteria:

1. Place the assigned codes in service within 6 months after it is assigned.
2. Utilize at least 70% of the code capacity within 3 years.

The assignment of codes is governed by the North American Number Plan (NANP) Guidelines. Section 6.3.3 of the NANP Guidelines which states that a code assigned to an entity should be placed in service within 6 months after the initially published effective date. Pacific denied Pac-West's request because Pac-West stated that the requested codes were not going to be used within 6 months.

1 Pacific did assign Pac-West 57,800 new DID numbers that are for immediate use.

After codes are assigned, customers must also meet the Utilization Guidelines contained in Para. 12 of Paramount Pictures code opening contract which states:

"customers shall utilize at least seventy (70%) of the Code capacity provided hereunder within three years of the cutover of such code. In the event customer does not utilize seventy percent of the Code capacity, Pacific reserves the right to regain access to the unused numbers, and no refund of any monies will be made to the customer."

Pacific's decision to deny Pac-West's request for DID blocks and NXX codes is in accordance with Pacific's Tariff Schedule A2.1.11, A9 and NANP Guidelines respectively cited above. Paragraph 12 of the Paramount contract has nothing to do with the assignment of DID blocks and NXX codes. Its main purpose is to allow Pacific to reclaim assigned NXX codes under contracts that were later found to be underutilized.

Pacific also requests that contract modifications that do not materially change the service offering and are of a ministerial nature become effective upon TD 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.

Telecommunications Division concludes that the proposed service meets the requirements set forth in the previously mentioned orders and G.O. 96-A and recommends that the Commission approve the filing and deny Pac-West's protest. Commission approval is based on the specifics of this Advice Letter and 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. 17842 as supplemented requesting Commission authorization to provide a new prefix under a customer-specific contract.
2. The Advice Letter as supplemented and the contract conform to the requirements of Commission decisions and of G.O. 96-A.
3. Pac-West's protest of AL 17842 has no merit.
4. Pacific indicates that the revenue impact of this filing will be a one-time increase of \$29,800.
5. It is reasonable for contract modifications to become effective upon TD 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.
6. The rates and charges set forth in the contract cover the Direct Embedded Costs of providing the service offered under the terms and conditions of the contract.
7. The rates, charges, terms and conditions of the contractual service approved in this Resolution are just and reasonable.
8. Authorization of the Advice Letter as supplemented and the contract does not establish a precedent for the contents of the filing, 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. 17842 as supplemented and the associated contract effective on November 27, 1996.
2. Pac-West Telecom, Inc.'s protest of Advice Letter No. 17842 is denied.
3. 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 Telecommunications Division approval.
4. The Advice Letter as supplemented and contract shall be marked to show that they were authorized by Resolution No. T-15818.

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 26, 1996. The following Commissioners approved it:


WESLEY M. FRANKLIN
Executive Director

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

HENRY M. DUQUE, being necessarily absent, did not participate.