

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND COMPLIANCE DIVISION RESOLUTION T-15882
Telecommunications Branch June 6, 1996

R E S O L U T I O N

RESOLUTION T-15882. PACIFIC BELL. REQUEST TO PROVIDE
CELL RELAY SERVICE FOR A CUSTOMER (IDENTITY
CONFIDENTIAL) UNDER A CUSTOMER-SPECIFIC CONTRACT.

BY ADVICE LETTER NO. 18125 FILED MARCH 25, 1996.

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 provide Cell Relay Service, a non-tariffed service, for a customer (identity confidential) under a customer-specific contract.

Pacific also requests that future 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 an increase of \$384,000. 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 non-tariffed services under contract. The Settlement provides that the contract becomes 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 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 AL 18125 on May 2, 1996 to clarify and make minor changes to the contract.

Cell Relay Service (CRS) is a cell based, broadband communication technology which uses 53-byte cells to transport data, video traffic and voice. CRS uses flexible bandwidth interconnections to combine the statistical efficiencies of packet switching with the low delays of circuit switching and may carry a wide range of services.

Under the terms of the 3 year contract, Pacific agrees to provide CRS to the customer at a monthly rate of \$32,000. Recurring and nonrecurring charges for additional CRS are per contract.

Pacific estimates that the annual impact of this filing will be an increase in revenue of \$384,000.

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. 18125 was listed in the Commission's Daily Calendar of March 28, 1996.

No protest to the Advice Letter was filed.

DISCUSSION

Pacific now provides CRS to this customer through its ATM/Cell Relay Market Trail which may be withdrawn at Pacific's discretion. The Commission has under consideration a proposal by

Pacific to provide Cell Relay Service under tariff. The proposed tariff service, if authorized, may contain rates and terms that would have an impact on the contract (e.g., if a provisional CRS tariff is authorized for one year, it would be imprudent to authorize a three year contract for a service that may be withdrawn in a year).

In reviewing Advice Letter No. 18125 as supplemented, CACD notes the following:

- a. Pacific requests confidential treatment of workpapers and supporting documentation.
- b. The customer requests that its identity be kept confidential and not be publicly disclosed. In D.94-09-065, the Commission permits utilities at the customer's request to file contracts with the customer's name omitted in order to honor the customer's request for privacy.
- c. Each service category offered under the terms of the contract covers its Long Run Incremental Costs (LRICs). The contract rates equal or exceed the LRICs of each rate element of the contract services.
- d. The Advice Letter indicates that the costs and revenues associated with the contract will be tracked.
- e. Pacific requests that contract modifications that do not materially change the service offering 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 "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.

CACD concludes that the Advice Letter as supplemented meets the requirements set forth in the Commission Orders and G.O. 96-A and recommends that the Commission approve the filing. CACD also recommends that the rates, charges, terms and conditions of the contractual CRS approved herein be subject to modification if they are found to be inconsistent with the approved version of Pacific's proposed tariffed Cell Relay Service. Commission approval is based on the specifics of the Advice Letter and contract and does not establish a precedent for the contents of future filings or for the Commission approval of similar requests.

FINDINGS

1. Pacific filed Advice Letter No. 18125 as supplemented requesting Commission authorization to provide Cell Relay Service 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, 94-09-065 and G.O. 96-A.
3. Pacific states that authorization of this contract will result in an estimated annual revenue increase of \$384,000.
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. 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.

THEREFORE, IT IS ORDERED that:

1. Authority is granted to make Pacific Bell's Advice Letter No. 18125 as supplemented and the contract effective on June 7, 1996.
2. The rates, charges, terms and conditions of the contractual Cell Relay Service approved herein are subject to modification if they are found to be inconsistent with the approved version of Pacific's proposed tariffed Cell Relay Service.

June 6, 1996

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 Commission Advisory and Compliance Division approval.

4. The Advice Letter and the contract shall be marked to show that they were authorized by Resolution T-15882.

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 June 6, 1996. The following Commissioners approved it:

Wesley Franklin

WESLEY M. FRANKLIN
Executive Director

P. GREGORY CONLON
President

JESSIE J. KNIGHT, Jr.

HENRY M. DUQUE

JOSIAH L. NEEPER
Commissioners

Commissioner Daniel Wm.
Fessler being necessarily
absent did not participate.