

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division

RESOLUTION T-16012
Date March 18, 1997

R E S O L U T I O N

RESOLUTION T-16012 CONCERNING REQUEST OF PACIFIC BELL (U-1001-C) TO DISCONTINUE THE SCANNING AND REJECTION OF CUSTOMER OWNED PAY TELEPHONE (COPT) INTRASTATE ORIGINATED NON-SENT PAID MESSAGES.

BY ADVICE LETTER NO. 18625, FILED ON DECEMBER 23, 1996, AND SUPPLEMENTED JANUARY 31, 1997.

I. SUMMARY

On December 23, 1997, Pacific Bell (Pacific) filed Advice Letter No. (AL) 18625 requesting authority to discontinue a billing edit function which scans Customer Owned Pay Telephone (COPT) non-sent paid intrastate calls billed by Pacific and rejects those messages exceeding the maximum rate allowed by the Commission.

II. BACKGROUND

The Commission issued Decision No. (D) 90-06-018 on June 6, 1990, in its investigation into pay telephones (I. 88-04-029). The Commission by Ordering Paragraph No. 2 in this decision authorized a COPT enforcement program. As part of this program, Pacific and GTE California, Inc. (GTE) were requested to develop a scan and reject edit (edit) for non-sent paid intrastate calls from COPTs that did not meet the rate caps established by the Commission for these calls. The rate caps for intrastate non-sent paid calls were based on AT&T-C's rates for interLATA calls and Pacific's rates for intralATA calls.

Pacific submitted AL 15824, effective November 1, 1990, to establish an edit which became a part of Pacific's billing service for customers.

GTE has not implemented an edit.

During the last quarter of 1994, industry representatives (Pacific, California Payphone Association, billing companies, long distance carriers and Consumer Action) met several times

with the Commission Advisory and Compliance Division (CACD)-now Telecommunications Division-to discuss the edit. The consensus was that the edit provided a valuable safeguard, but the current edit was not working and should be redesigned.

Pacific did the rating of calls for AT&T-C when the edit was introduced. This meant that Pacific had any rate changes from AT&T-C in its billing system before any calls from pay telephones were subjected to the edit. Now AT&T-C does the rating of these calls. Pacific is required to make changes to its edit from the tariffs of AT&T-C after AT&T-C's rate changes are made. Numerous AT&T-C rate changes in a short time frame made it difficult for Pacific to incorporate the correct rates into its edit before checking billing tapes submitted to Pacific. This caused calls to be rejected which were based on approved tariff rates. Additionally Pacific did not always know how an AT&T-C rate was applied such as the new "correctional facilities" surcharge used only in special situations.

Pacific filed AL 17207 to suspend the edit effective February 7, 1995.

During 1995 the Industry representatives had meetings with Pacific to identify the criteria, parameters and principles to be used to redesign the edit function.

Pacific filed AL 17801 to be effective December 1, 1995, for a new edit which established rate levels which were not capped at either Pacific's or AT&T-C's rates but rather at a level to provide a sufficient "cushion" to allow for rate changes within the first 14 month period. This level was based on the billable call time plus an appropriate surcharge for the non-coin intrastate COPT call. Pacific was authorized to make changes to the edit annually by February 1 of each year.

In April 1996 to avoid rejecting completed calls with carrier approved rates, Pacific made modifications to the rate levels of the edit to accommodate approved surcharge levels that affected intrastate rate caps for calls from COPTs.

In December 1996, Pacific modified the rate levels of the edit so that properly charged calls would not be rejected by the edit function.

On December 23, 1996, Pacific filed AL 18625 to discontinue the edit effective February 1, 1997.

On January 31, 1997, Pacific filed AL 18625A to change the effective date to discontinue the edit to March 13, 1997.

PROTEST

A timely protest was filed by the California Payphone Association (CPA). A summary of the protest and Pacific's responses is as follows:

1. CPA states that now is not the time to be eliminating an important consumer safeguard established by the 1990 COPT Settlement.

Pacific replies that while the edit may have been justified when originally adopted, the changing telecommunications environment and the apparent lack of pay telephone price abuse now justify its discontinuance.

2. CPA states that the Commission will need to review its own regulations of pay telephone services pursuant to the Federal Communications Commission (FCC) recently adopted rules and policies to implement the pay telephone service provisions of Section 276 of the Telecommunications Act of 1996 (Act). The edit should continue until the Commission (California) has completed its review of pay telephone service regarding the Act. Pacific remains by far the dominant local exchange carrier in California and the preferred provider of billing services for the "casual calling" traffic from COPTs provided through small operator service providers (OSPs). CPA urges that the knowledge that Pacific has been applying its edit creates a powerful incentive for such OSPs to abide by the rate caps for all such calls in California. CPA is concerned that to abandon the edit would be an invitation to unscrupulous OSPs to adopt a "get rich quick" approach.

Pacific replies as follows:

*Even if the Commission addresses COPT non-sent paid rate levels, the withdrawal of the edit now does not foreclose any future Commission action.

*The edit applies only to COPT non-sent paid calls to Pacific end users.

*The edit has proved inconsistent with the carrier's ability to charge and collect their tariffed rates.

*To the best of Pacific's knowledge, California end users who are not Pacific customers and therefore whose COPT non-sent paid calls are not subject to the edit have not experienced abusive prices for these calls.

*In the increasingly competitive telecommunications market of today, Pacific raises competitive concerns about the edit. Pacific claims that it is awkward for one competitor to act as the enforcer of other competitor's legal and regulatory obligations. Because only Pacific requires an edit function with its billing services, this may detract from its competitiveness with companies that do not provide an edit.

3. CPA states that an FCC decision will be issued shortly in FCC Docket No. 92-77, Re, Billed Party Preference for interLATA 0+ Calls, which is likely to impose mandatory quotes or a combination of rate caps and rate quotes as a means of addressing overcharging on such calls. The current Pacific edit should not be abandoned before the FCC decision mentioned above is effective.

Pacific replies that this proceeding has been pending at the FCC since 1992, and there is no certainty regarding either the release date or the contents of the decision. In light of this uncertainty, the pendency of the FCC's decision is no basis for continuing the edit.

DISCUSSION

After review of the advice letter, the protest filed and Pacific's response to the protest, Telecommunications Division (TD) recommends that this advice letter be approved as requested by Pacific.

Although CPA contends that now is not the time to eliminate the edit, TD agrees with Pacific that the reasons cited in the protest are not compelling to force Pacific to continue the edit as part of its billing service. The FCC Docket No. 92-77 has been pending before the FCC since 1992. There is no way of knowing either when the FCC will render a decision to establish a new set of national awareness safeguards or the effective date of the decision. When the California Commission reviews its pay telephone regulations in regard to Section 276 of the Act, the edit issue may or may not be reviewed. TD believes that these uncertainties are not good reasons to determine that the Pacific edit should continue.

CPA states that the edit is an important consumer safeguard. To abandon this edit would be an invitation to unscrupulous OSPs to adopt a "get rich quick" approach.

During the time that the edit was discontinued (February through November 1995), Pacific and TD were unaware of any pay telephone price abuse different than when the edit was in use. The edit is a deterrent for "excessive" overcharging, but the current edit has a built-in "cushion" above the Commission's authorized rate caps.

Many calls from pay telephones avoid the billing edit function today. At one time, equal access calls placed through 950-XXXX, 1-800, 1-888 and 10XXX from pay telephones were subject to a rate cap and edit, but these types of calls today are no longer subject to a rate cap and edit. Debit card calls are not subject to a rate cap. Carriers who do their own billing are not subject to Pacific's edit. Because of these exceptions, TD agrees with Pacific that the effectiveness of its edit has diminished.

There are other safeguards for the consumer besides the edit on non-sent paid intrastate calls from pay telephones. Carriers offer consumers a number of services to place telephone calls from pay telephones that provides the consumer with the ability to obtain the rates to be charged before making calls, such as "equal access" and "debit card" calls. Pay telephone owners are required to provide consumers, before a call and upon request of the consumer, with a rate quote for a telephone call.

Today Pacific is in competition with other companies to provide telecommunication services within the LATA including long distance and local dial tone services. The edit, required with Pacific's billing service, places Pacific in the unusual role of enforcing regulatory obligations of its competitors. This places Pacific in a possible anti-competitive position and subject to consumer complaints not imposed upon competitors of Pacific. TD agrees with Pacific that now is an appropriate time to alleviate this situation.

Based on the discussion above, TD recommends that Pacific should be permitted to discontinue the edit as requested.

FINDINGS

1. The current edit is not a deterrent for every level of overcharge for calls from pay telephones.
2. At one time, equal access calls such as 1-800, 1-888, 1-950-XXXX and 10XXX from pay telephones were subject to a rate cap and edit, but these types of calls today are no longer subject to a rate cap and edit.
3. Several types of calls are not subject to the edit such as debit card calls and calls from pay telephones not billed by Pacific.
4. In the competitive telecommunications market of today, it is unusual for one competitor to act as an enforcer of other competitor's regulatory obligations.
5. It is reasonable at this time to permit Pacific to discontinue the edit.

March 18, 1997

THEREFORE, IT IS ORDERED that:

1. Pacific Bell Advice Letter No. 18625 is approved.
2. Pacific shall file tariff sheets to discontinue the billing edit function for Customer Owned Pay Telephone non-sent paid intrastate calls. These tariff sheets shall become effective one day after filing.
3. The California Payphone Association protest of Advice Letter No. 18625 is 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 March 18, 1997. 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. NEPPER
RICHARD A. BILAS
Commissioners