

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division
Carrier Branch

RESOLUTION T-16081
September 3, 1997

R E S O L U T I O N

RESOLUTION T-16081. EVANS TELEPHONE COMPANY
(U-1008-C). REQUEST TO MAKE PERMANENT THE PROVISIONAL
PROMOTIONAL PRICING TARIFF.

BY ADVICE LETTER NO. 262, FILED ON JUNE 20, 1997.

SUMMARY

This Resolution authorizes Evans Telephone Company's (Evans) request in Advice Letter (AL) 262 for permanent promotional pricing authority.

BACKGROUND

Evans Telephone Company was granted provisional authority in Resolution T-14394, dated June 5, 1991, to offer new or optional services during promotional periods with waived or discounted tariffed non-recurring charges. This provisional authority expired 24-months from the effective date of Resolution T-14394. Evans is currently required to charge their subscribers the full tariffed rates and charges and are not allowed to offer their subscribers any discount for new or optional services.

In A.L. No. 262, filed June 20, 1997, Evans requests to introduce a permanent tariff that allows Evans to offer Promotional Offerings on selected network and exchange optional services at waived or reduced non-recurring tariff charges.

In Resolution T-14394, Evans agreed to the following conditions in obtaining the provisional authority:

1. "All services listed in Special Condition 6 are approved by Advice Letter filings."
2. "Promotional campaigns listed in Special Condition 6 are the subject of the Utility's Rules and offered only where facilities and operating conditions permit."
3. "The promotional campaign duration shall not exceed 120 days per offering. All promotional campaigns will be approved by Advice Letter filings, which shall include but not be limited to:

- service selection
 - non-recurring charges
 - promotional area
 - duration
 - customer notification plan
4. "The method of customer notification of the promotional campaign is at the option of the utility."
 5. "Customers may cancel the promotional offering at any time during or at the conclusion of the promotional period without penalty. Minimum billing as set forth in Rule No. 9 is applicable to a promotional offering."
 6. "Promotional campaigns shall be limited to serving central offices designated by the utility and include the following service."
 7. "During the "subscription" phase of each promotion, the customer will be fully informed of all the terms and conditions of the promotional offering, and the utility will contact the customer regarding the retention or discontinuance of the service prior to the end of the promotional period. This contact will inform the subscriber that if they wish to retain the promoted service, they need do nothing; and if they wish to discontinue it, they need to call the business office to do so. Minimum billing as set forth in Rule No. 9 is applicable to a promotional offering. Samples of the notification materials will be provided to the Telecommunications Division (TD) when proposing the promotion."
 8. "The post-implementation analysis on each promotion undertaken by the Utility will include customer response and the impact of the promotional scheme on the profitability of the promoted service as a whole, as well as actual revenues and expenses. All customer complaints or concerns will be identified and included in the analysis, which will be submitted to the TD within 60 days of the ending date of each promotion and receive TD approval before the next promotion commences."

In item No. 8, listed above, Evans Telephone Company was to provide specific information in their "Financial Impact Reports" to the Commission. Evans has been inconsistent with providing the information as required. The reports filed were of little value to Commission staff because the information provided was highly aggregated.

NOTICE/PROTESTS

Notice of this advice letter appeared in the Commission's Daily Calendar of June 25, 1997. The Telecommunications Division has received no protest to Advice Letter No. 262.

DISCUSSION

A. The Terms of Commission Authorization

Evans requests in Advice Letter No. 262 to establish a permanent promotional tariff platform under which specific promotional offerings may be offered. Similar authority has been granted to Pacific Bell in Resolution T-14174 (October 12, 1990) and Roseville Telephone in Resolution T-15955 (September 4, 1996). When a permanent promotional tariff is authorized, promotional offerings which meet the terms and conditions of that authorization may be filed by advice letter which would go into effect in no less than five days without a Commission resolution.

B. Definition of Legitimate Services/Offerings

In order to satisfy P.U. Code Section 453-C, promotional offerings should be made available to all customers using equivalent services and facilities, regardless of class or locale. Therefore, promotional offerings (reduced or waived non-recurring charges) are appropriate when offered to all customers or when a service is newly available, either throughout the utility's intrastate service territory or due to the upgrade of the utility's serving facilities. Public Utilities (P.U.) Code Section 453-C prohibits public utilities from "establish(ing) or maintain(ing) any unreasonable difference as to rates, charges, services, facilities, or in any other respect, either as between localities or as between classes of service."

Additionally, in considering whether a "service" is appropriate for promotion, we should consider the definition of "new service" which this Commission adopted in Decisions (D.)87-07-017, D.88-12-091, and D.90-11-029. Therein, we have agreed with AT&T's definition of new service as "an offering which customers perceive as a new service and which has a combination of technology, access, features or functions that distinguishes it from any existing services" (D.88-12-091 at p.53). The Commission adopted this definition with the qualifier that "repricing or repackaging of an existing service would not be considered a new service" and observed that "the definition does not classify an optional calling plan which discounts existing service as a new service" (Id. at pp. 53-54).

C. Conclusion

Authorizing Evans a permanent promotional tariff for new and optional services will allow its customers the benefit of making an informed decision based on personal use of the service during the promotional period. In addition, Evans anticipates a stimulation in the usage of optional services after the promotional period.

For each promotion-specific advice letter by Evans that meets the Special Conditions identified in Resolution T-14394, Evans shall also include the following information in order to avoid

discriminatory treatment and to mitigate any negative impacts on its subscribers or its general ratepayers:

1. The overall criteria for waiving or discounting the non-recurring charge during the promotional program and the financial impacts on the entire service to reflect the revenue required to recover the cost of the promotion.
2. The start and the end dates of the promotion(s).
3. The program for customer notification/participation.
4. Samples of the notification materials.
5. Any limitations or safeguards (e.g., customer selection, rate structure, and program monitoring).
6. The tracking (post-implementation analysis) plan.

In Resolution T-14394, when addressing Evan's request for promotional authority, it was indicated that Evans was unable to "predict the cost, revenue, or profitability of the promotional offerings". Due to this shortfall, the Commission agreed with Evans that the promotional offering should be authorized on a provisional basis. In addition, a financial impact report on each promotional offering was required. Evans did not indicate in Advice Letter No. 262, whether it now has the ability to predict the cost, revenue, or profitability of each promotional offering. Therefore, Evans should continue to provide the Telecommunications Division with a financial impact report on each of its promotional offerings. This report should separately identify the following details:

1. The non-recurring revenue loss from the promotion;
2. the non-recurring costs of the promotion;
3. the recurring revenue gain;
4. the recurring expenses;
5. the number of subscribing customers;
6. the record of any complaints;
7. the record of how long customers retain the service during the promotional period.

FINDINGS

1. The provisional authority granted Evans in Resolution T-14394 for promotional pricing, dated June 5, 1991, expired on June 5, 1993.
2. Evans Telephone Company's Advice Letter No. 262, a request for permanent status to offer promotional pricing programs, is generic and designed to provide the foundation for future promotional offerings of optional services which result from new utility serving facility technology or territory-wide offerings of new or existing optional services.

3. Once the Commission authorizes and adopts a promotional program by resolution (i.e., via Advice Letter 262), no further Commission resolutions should be required for promotional offerings which meet the terms and conditions of that authorization. Such subsequent filings can be made as advice letters which will go into effect on regular notice without a Commission resolution.

4. In order to satisfy P.U. Code Section 453-C, promotional offerings should be made available to all customers using equivalent services and facilities (i.e., the same or similarly equipped central offices), regardless of class or locale.

5. Promotional offerings (reduced or waived non-recurring charges) are appropriate when offered to all customers or when a service is newly available (but has passed the market trial and technology test stages) either throughout the utility's intrastate service territory or due to the upgrade of the utility's serving facilities.

6. In considering whether a "service" is appropriate for promotion, the definition used and adopted in D.87-07-017, D.88-12-091, and D.90-11-029 is to be used by Evans.

7. We adopted this definition with the qualifier that "repricing or repackaging of an existing service would not be considered a "new service" and observed that "the definition does not classify an optional calling plan which discounts existing service as a "new service" (Id. At pp.53-54).

8. Authorizing the promotional pricing of optional services will afford Evans customers the benefit of "trialing" the service and then to make an informed decision whether to continue the service on a permanent basis.

9. Evans Telephone Company anticipates a stimulation in the usage of optional services after the promotional period.

10. Each promotion-specific advice letter should include the following information:

- a. The overall criteria for waiving or discounting or the non-recurring charge during the promotional program and the financial impacts on the entire service to reflect the revenue required to recover the cost of the promotion.
- b. The start and end dates of the promotion(s).
- c. The program for customer notification/participation.
- d. Samples of customer and notification materials.

- e. Any limitations and safeguards.
- f. A tracking (post-implementation analysis) plan.

11. Advice letters which comply with the conditions enumerated in the Findings in this resolution should become effective on regular notice, which is no less than five days.

12. The Special Conditions identified in Resolution T-14394 will continue to be in effect for this Resolution.

13. The financial impact report required on each promotional offering should include the following details:

- a. The non-recurring revenue loss from the promotion;
- b. the non-recurring costs of the promotion;
- c. the recurring revenue gain;
- d. the recurring expenses;
- e. the number of subscribing customers;
- f. the record of any complaints;
- g. the record of how long customers retain the service during the promotional period.

Evans is put on notice that the Financial Impact Reports that it has submitted have been deficient with regard to the requirements set forth in Resolution T-14394. Evans should be required to receive Commission approval on all future "Financial Impact Reports" before an extension or introduction of a new promotion is allowed.

THEREFORE, IT IS ORDERED that:

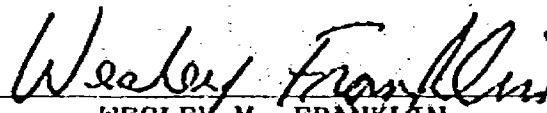
1. Evans Telephone Company's request in Advice Letter No. 262, to make permanent the promotional pricing tariffs with promotional periods with waived or discounted, tariffed, non-recurring charges is authorized.
2. Evans Telephone Company is authorized to promote only specific optional services which result from upgraded serving facilities, or territory-wide offerings of new (but beyond the market trial and technology test stages) or existing optional services.
3. Evans Telephone Company shall file advice letters for inclusion of specific optional services in Schedules CAL P.U.C. A-5 to become eligible for promotional pricing. Such advice letters shall include the elements specified in Finding 12.
4. The Financial Impact Reports that Evans Telephone Company files after each promotional offering shall include the details specified in Finding 14. The report on the last promotional offering shall be approved by the Telecommunications Division before the next promotional offering is made.

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5. The Special Conditions identified in Resolution T-14394, will continue to be in effect in this Resolution.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on September 3, 1997. The following Commissioners approved it:


WESLEY M. FRANKLIN
Executive Director

P. GREGORY CONLON
President
JESSIE J. KNIGHT, Jr.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners