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Decision 99-11-051 November 18, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific Bell (U 1001 C), a Corporation, for Authority for Pricing Flexibility and to Increase Prices of Certain Operator Services, to reduce the Number of Monthly Directory Assistance Call Allowances, and Adjust Prices for four Centrex Optional Features.

Application 98-05-038
(Filed May 5, 1998)

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parties.
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O P I N I O N

I. Summary

By this decision we authorize Pacific Bell to establish a Directory Assistance (DA) price floor of \$0.35 and to increase its DA tariff price and ceiling rate from \$0.25 to \$0.46. Pacific Bell's monthly DA call allowance for residential customers is decreased from five to three calls, for business customers is decreased from two to zero, and Centrex business customers is decreased from one to zero.

Pacific Bell's Busy Line Verification (BLV) and Emergency Interrupt (EI) service price floors are increased to cover costs as set forth in sealed Exhibit G. The tariff price is increased from \$0.50 to \$1.20 for BLV and from \$1.00 to \$1.25 for EI. The ceiling rate is capped at \$1.20 for BLV and at \$1.25 for EI.

Concurrent with the above mentioned changes, Pacific Bell is authorized to change its DA, BLV, EI, and four Centrex Optional Features resale prices to maintain a 17% margin between its retail and resale prices for these services.

II. Jurisdiction

Pacific Bell is a public utility telephone corporation, as defined in Pub. Util. Code § 234, subject to the jurisdiction of this Commission. Pacific Bell filed its application for pricing flexibility and proposed new price structure for certain Category II operator services, pursuant to Pub. Util. Code § 454 and the Commission's Rules of Practice and Procedure. Pacific Bell also requested authority to adjust its prices on four Category II Centrex optional features, pursuant to Resolution T-16102 and Decision (D.) 89-10-031.¹

¹ 33 CPUC2d 43 at 235 (1989).

The operator services that Pacific Bell requested pricing flexibility for are DA, BLV, and EI. The Centrex optional features that Pacific Bell requested price adjustments for are Directed Call Park (DCP), Call Park (CP), Exchange Toll Message Directory (ETMD), and Deluxe Queuing Record Announcement (DQRA).

III. Background

Telecommunication services are classified into three distinct categories: Category I for services deemed to be basic monopoly services; Category II for discretionary or partially competitive services for which the Local Exchange Carriers (LECs) retain significant, though perhaps a declining, market power; and, Category III for fully competitive services with upward and downward price flexibility.

The rates and charges for services classified as Category I and II can only be set or changed upon our approval. Category III provides Pacific Bell with upward and downward price flexibility provided that certain notice requirements have been met. The notice requirements for Category III price flexibility is set forth in Resolution T-15139, dated March 24, 1993.

Rate changes for Category II services generally occur by advice letter, and applicable price reductions at or above the price floor² become effective on five days' notice while price increases up to the approved ceiling rate become effective on 30 days' notice.³ The currently effective prices for Category II services were capped as price ceilings for calendar years 1996, 1997, and 1998

² Price floor is the lower of the long run incremental cost (LRIC) or direct embedded costs (DEC) for a specific rate element (56 CPUC2d 117 at 263).

³ 56 CPUC2d 117 at 264 (1994) and 65 CPUC2d 156 (1996).

with the exception of Z factor adjustments and Commission approved applications for increases above the rate caps.⁴ Subsequent to the filing of this application, Z-factor adjustments were scheduled to be phased-out.⁵ Hence, the Z-factor exception is no longer applicable.

IV. Proceeding Type

Pursuant to Rule 6(a)(1), Pacific Bell requested that this matter be classified as a ratesetting proceeding and that hearings not be held. This Commission preliminarily found in Resolution Administrative Law Judge (ALJ) 176-2994, dated June 4, 1998, that this proceeding is a ratesetting proceeding and that hearings may be held.

V. Prehearing Conferences

A Prehearing Conference (PHC) was held on Pacific Bell's application before assigned Commissioner Henry M. Duque and ALJ Galvin in San Francisco on August 11, 1998. Appearances were received from Pacific Bell (Applicant), the County of Los Angeles (County), The Utility Reform Network (TURN), and the Office of Ratepayer Advocates (ORA).

VI. Presiding Officer and Scope of Proceeding

A September 2, 1998, Scoping Memo and Ruling was issued by the assigned Commissioner that affirmed the preliminary ratesetting classification of this application, designated ALJ Galvin as the principal hearing officer, confirmed the need for evidentiary hearings, and determined the scope of the proceeding. The issues identified to be addressed in this proceeding were price

⁴ 63 CPUC 2d 377 at 406 (1995).

⁵ OIR into Third Triennial Review of the Regulatory Framework, D.98-10-026, mimeo., at 93.

floors; tariff prices; price ceilings; a reduction in the monthly DA call allowances; impact on Pacific Bell's basic service and the California High Cost Fund (CHFC); and, revenue neutrality.

VII. Customer Notice

Applicant notified its customers of this application and its request to raise certain rates through a bill insert notice in conformance with Rule 24 of the Commission's Rules. Pursuant to an ALJ ruling at the PHC, Applicant provided a second bill insert notice to its customers identifying the locations, dates, and times for Public Participation Hearings (PPHs). This second notice also notified customers that Pacific Bell was seeking an increase in its ceiling or maximum rate for its BLV service to \$3.00, EI to \$5.00, and DA to \$1.10.

VIII. Public Participation Hearings

PPHs were held in San Diego, Fresno, San Jose, Pasadena, Sacramento, and San Francisco on November 4, 17, 18, 24, 30, and December 3, 1998, respectively. The assigned Commissioner attended the Fresno, San Jose, and San Francisco PPHs. Commissioner Neepor attended the San Diego and Pasadena PPHs, and Commissioner Bilas attended the Sacramento PPH. The assigned ALJ attended all the PPHs.

Approximately 175 people spoke at the PPHs. Those that spoke in opposition to the application expressed their concerns with the magnitude of the requested price increase and lack of alternatives to local DA services. Those who spoke in favor of the application consisted of individuals, small businesses, organizations and former Pacific Bell employees. These individuals spoke of Pacific Bell's leadership in the industry, its status as a good corporate citizen, and its prerogative to increase charges for services that have not been changed since 1984. Prior Pacific Bell employees also spoke of concern with the loss of jobs and

further consolidation of Pacific Bell's operator service centers if the application is not approved.

IX. Public Correspondence

The Commission's Public Advisor's Office received over 34,000 comments on this application by the way of letters and electronic mail from the general public. Although some comments were in favor of the application, the majority of comments were in opposition to the application. Reasons for opposing the application included a lack of competition, substantial increase in proposed price changes and ceiling rates, lack of need to reduce the number of free DA calls, and service complaints.

These complaint letters and copies of electronic mail messages were placed in the correspondence file of this proceeding. However, those letters and electronic mail messages addressing multiple Pacific Bell proceedings were placed in the correspondence file of the oldest proceeding. For example, comments addressing this proceeding and Pacific Bell's business and residential inside wire proceedings that began before this proceeding were placed in the correspondence file for Application 98-02-017, the business inside wire proceeding.

X. Evidentiary Hearing

Evidentiary hearings were held on December 7, 9, and 10, of 1998. Evidence was received from Pacific Bell, County of LA, TURN, and ORA. Nine witnesses testified in this proceeding and 41 exhibits was received into evidence, of which 24 were placed under seal. Pacific Bell's witnesses were Southwest Bell Telephone Company's Operator Services Director of Product and Market Management Nelson W. Cain, Pacific Bell's Cost Manager Judith A. Timmermans, Economics Consultant Jerry A. Hausman, and Cost Analysis

Consultant Richard L. Scholl. The County of LA witnesses were Los Angeles Sheriff Department manager of FCC Communications and Telephone Operations Lieutenant Larry Schwartz, and Economist Consultant Patricia D. Kravtin. TURN's witness was Economist Consultant Terry L. Murray. ORA's witnesses were Regulatory Analyst IV Kelly E. Boyd, and Regulatory Analyst I William E. Johnston.

Pacific Bell, the County of LA, TURN, and ORA filed opening and reply briefs. This proceeding was submitted upon receipt of the February 3, 1999, reply briefs.

Altogether, the Commission held one PHC and nine days of hearings in this proceeding. The assigned ALJ and a Commissioner attended the PHC and hearings. Commissioner Duque, as the assigned Commissioner to this proceeding, attended the PHC and five of the nine hearing days. A proposed decision was issued for comment on August 17, 1999. The final decision is issued beyond the 18-month statutory time period set forth in SB 960 (Stats. 1996, Ch. 856, § 1). The final decision is also issued beyond the 60-day statutory time period after the issuance of a proposed decision set forth in Pub. Util. Code § 1701-3(c).

XI. Pending Motion

Subsequent to the conclusion of evidentiary hearings, TURN filed a September 7, 1999, motion for leave to submit under seal a non-redacted version of its comments to the proposed decision. The non-redacted version of TURN's comments contained information previously determined to be proprietary and placed under seal during the course of this proceeding.

There was no opposition to TURN's motion. Consistent with prior ALJ rulings in this proceeding, TURN's non-redacted comments to the proposed decision submitted under seal should remain sealed for a period of one year

from the date of this order. The sealed data should not be accessible or disclosed to anyone other than Commission staff during the one year time period except on the execution of a mutually acceptable nondisclosure agreement or on further order or ruling of the Commission or the ALJ then designated as the Law and Motion Judge, the assigned ALJ, or the assigned Commissioner.

XII. Directory Assistance Service

Directory Assistance (DA) service assists callers in securing information on published, new and changed telephone numbers. Callers can reach Pacific Bell's retail DA service from residence and business telephones receiving local service from Pacific Bell. DA allows customers to obtain the numbers of other telephone customers within their LATA. Inter-LATA and interstate information requests are not handled through this service⁶.

Customers may access Pacific Bell's DA through several dialing codes, including 411, 1-NPA-555-1212, where NPA is the area code where the desired number is located, and 0. Pacific Bell operators access the database containing telephone numbers to provide service to the caller. In most cases, the call can be relayed to an audio system for automated quotation of the requested number. Customers requesting non-published telephone numbers are informed that these numbers cannot be found. This is because non-published numbers are excluded from the DA database used by DA operators.

Residential customers currently receive a monthly allowance of five free DA calls. Business customers, including "PBX" service and Centrex dormitory lines, currently receive a monthly allowance of 2 free local DA calls. All other

⁶ The Commission recently approved a separate Pacific Bell nation-wide directory assistance service for which a fee is paid for each usage. Res. T-16288, dated April 22, 1999.

Centrex business lines receive a monthly allowance of one free local DA call. Other miscellaneous services, such as non-direct dialed toll stations and marine telephone service receive a monthly allowance of two free local DA calls. All customers may request up to three listings per DA call.

An exemption from DA charges is available in some cases pursuant to Pacific Bell's Tariff No. A5.7.2 B.1. For example, a residential service may be exempt from DA charges when a member of a household cannot use the telephone directory due to a certified visual or other physical impairment. An individual access line may be exempt when it is provided to a small business where all owners and employees of the business on the premises have a certified visual or other physical impairment. A business service may also be exempt when the service is provided to an organization established specifically for the purpose of assisting the visually impaired. Any certified physically impaired individual may make a DA call from any telephone and charge it to their exempt telephone number or credit card.

Although these DA service exemptions are available to Pacific Bell customers, it is apparent from customer letter protests and customer PPH comments that Pacific Bell's customers have not been informed of the current DA exemption. To ensure that Pacific Bell's customers are informed of the DA exemption, Pacific Bell should notify its customers of the DA exemption on a yearly basis through a bill insert.

DA was originally classified as a Category I service in 1989, pursuant to D.89-10-031.⁷ Subsequently, in 1996, DA service was found to be a discretionary

⁷ 33 CPUC2d 43 at 238 (1989).

or partially competitive service and was reclassified from Category I to Category II.⁸ DA is currently a Category II service.

The current tariff rate for each DA call in excess of the monthly free call allowance is \$0.25. The DA resale rate is set at a 17% discount off retail rates, pursuant to D.97-08-059.⁹ The same monthly DA call allowance is provided for DA resale customers. Pacific Bell proposed to increase the floor rate, ceiling rate, and current tariff rate for its DA service, and to maintain its currently authorized 17% discount off retail rates for resale DA services.¹⁰ It also proposed to reduce the monthly five free call DA allowance to 3 for residential customers and to eliminate the monthly free call DA allowance for all business customers.

The following tabulation compares the current authorized tariff rate, requested tariff rate, and requested ceiling rate for retail DA. The requested floor rate was placed under seal and is not disclosed in this order.

	<u>Current Tariff Rate</u>	<u>Requested Tariff Rate</u>	<u>Requested Ceiling Rate</u>
Residential Monthly Allowance	5 Free	3 Free	
Business Monthly Allowance	2 Free	0 Free	
Certain Centrex Monthly Allowance	1 Free	0 Free	
Per Call Above Monthly Allowance	\$.25	\$.50	\$ 1.10

⁸ D.96-03-020, Re Local Exchange Competition (Mar. 13, 1996), mimeo., pp. 5 (table 2), 110 (OP No. 15).

⁹ Mimeo., p. 78 (P.P. 1), Appendix A) (August 1, 1997).

¹⁰ Although Pacific Bell proposed no change in its 17% resale DA discount rate, resale prices are impacted because resale prices were placed in Category I with fixed prices, pursuant to D.96-03-020.

A. Party Position

1. Pacific Bell's Position

Pacific Bell proposed to increase its DA price floor, tariff rate, and price ceiling for several reasons. Its cost of providing DA service has been greater than the current retail price for at least the past 15 years. It has also experienced a 13.3% decline in its total retail DA traffic from 1990 to 1997 despite a 21.3% increase in total average access lines over the same time period.

Pacific Bell also proposed to raise its DA rates to maintain the correct price relationship between retail DA and DA offered as an Unbundled Network Element (UNE) which can be purchased by its competitors to use in competing for LEC service and telecommunications services generally. This is because the Open Access and Network Architecture Development (OANAD) pricing rules require the price for DA UNE to be set at its Total Element Long Range Incremental Cost (TELRIC) plus a mark up to cover shared and common costs and a reasonable profit.

Pacific Bell supported its DA request by identifying the DA prices of other states it considered to be comparable to its proposed DA changes. For example, the proposed \$0.50 DA rate equals the DA rate being charged by 10 other states. There are also at least 44 other states that have DA prices higher than Pacific Bell's current DA rate.

Additional support cited by Pacific Bell included a comparison of its current rates with the significantly higher market rates for alternative services identified by Pacific Bell to be direct substitutes for its DA services. For example, AT&T Directory Assistance charges \$1.10 for calls dialed to NPA-555-1212; MCI \$1.00; Sprint \$1.10; wireless DA calls in California typically charge \$0.75 plus the appropriate minutes of use charge; and CLCs charge up to \$2.00, nationally.

The reduced DA call allowance was proposed by Pacific Bell because of the existence of an increasing array of alternative DA listing information available to residential and business customers, and little practical effect on most of Pacific Bell's customers. Almost 80% of its residential customers make three and fewer DA calls in a given month, with the remaining 20% generating approximately 80% of all residential DA calls. Other factors considered by Pacific Bell were the elimination of residential DA call allowances in 18 other states and, the elimination of DA business call allowances in 30 other states. Alternative listing information identified by Pacific Bell included payphone service providers, wireless companies, Independent LECs and Competitive Local Carriers (CLCs). Pacific Bell also identified DA alternatives made possible through technological advances such as electronic personal organizers, CD-ROM products, and internet access to DA web sites.

Pacific Bell concluded that the high costs of alternative DA services and 15 years of maintaining the same below-cost price warrants a \$0.25 increase for DA service. Although Pacific Bell does not propose to raise its DA price up to its proposed ceiling rate, it wanted future DA price flexibility given that the time interval between approved price changes for its DA service has been as long as 15 years.

2. County of LA's Position

The County of LA objected to Pacific Bell's use of its OANAD cost studies to substantiate its proposed changes to the DA price floor, tariff rate, and ceiling rate contending that such cost studies are incomplete and outdated. The County of LA believes they are incomplete because the OANAD cost studies were based on 1994 business local DA service data instead of total DA services, including business and residential DA services, as required by Consensus

Costing Principle No. 8. This Consensus Costing principle is one of nine costing principles addressing the parameters of cost-of-service studies required of LECs for their basic network functions and viewed as the first step toward sound pricing of LEC services upon the introduction of competition.¹¹ The County of LA believes they are outdated because the cost studies did not reflect events relevant to the cost of DA services that have occurred since 1994, such as Express Call Completion¹² (ECC) and National Listing Services¹³ (NLS).

The County of LA also disagreed with Pacific Bell's representation that there are direct substitutes for Pacific Bell's DA service and that DA service should be priced comparably to such direct substitutes. This difference resulted from a comparison of the direct substitutes Pacific Bell identified to the County of LA's direct substitute criteria, which require that the direct substitute service must provide the same technical function as DA and that customers must perceive the direct substitute service to be similar or identical to Pacific Bell's DA. Based on these criteria, the County of LA concluded that the alternative services identified by Pacific Bell are not direct substitutes because they are not technically capable of providing the same function that DA service currently provides and are not likely to be perceived as similar or identical by Pacific Bell's customers.

¹¹ 62 CPUC2d 575 and 616 (1995).

¹² A tariff service which allows a Pacific Bell LEC customer, upon obtaining the requested telephone number, to have the call automatically dialed by Pacific Bell at the end of the local DA inquiry.

¹³ A new service from Pacific Bell offering nationwide DA service.

The County of LA also opposed Pacific Bell's proposed change in the DA ceiling rate because the proposed change is not cost-based and because Pacific Bell failed to provide any justification for a change in the DA ceiling rate. Subsequently, in its comment to the proposed decision, the County of LA recommended that Pacific Bell's DA price ceiling should be limited to \$0.40.

3. TURN's Position

Although the cost studies relied on by Pacific Bell were submitted as part of the OANAD proceeding, TURN placed no reliance on the cost studies. They were not scrutinized by TURN or any other interested parties during the OANAD proceeding because the interested parties didn't have sufficient resources to engage in any substantive analysis of those studies. Hence, TURN concluded that there is no basis for the Commission to rely on the accuracy of such studies.

In addition, TURN opposed reliance on the results of those cost studies because they ignored cost reductions and efficiency gains since 1994, making such studies outdated. Omitted cost reductions identified by TURN were reduced labor cost and equipment costs. The efficiency gains identified by TURN included in the cost studies consisted of a forward look at investments due to the consolidation of DA service centers and modernization of DA service, and economies of scale from new services such as ECC. TURN also disputed Pacific Bell's reliance on alternative DA service, contending that such services have no direct bearing on DA pricing. TURN took this position because Category II prices are based on shared costs, common costs, and a reasonable profit.

TURN also opposed the proposed reduction in residential and business DA call allowances because Pacific Bell failed to provide any cost justification for decreasing the call allowances.

If the Commission does determine that DA services are priced below-cost, TURN does not object to increasing rates to prevent anticompetitive pricing. However, any such price increases should be limited to the adopted TSLRIC plus a mark up no greater than the amount that would allow each service to recover an equiproportional share of Pacific Bell's shared and common costs, a range from 13% to 22%.

4. ORA's Position

ORA placed no reliance on Pacific Bell's DA cost studies. This was because the cost studies reflected 1994 data and failed to reflect a forward look at DA costs to include post-1994 efficiencies. Forward looking efficiencies should have included office consolidations and closures, fewer DA operators, increased operator efficiency, new services, and efficiencies derived from the 1997 Southwest Bell Telephone Company (SBC) merger.

ORA differed with Pacific Bell on the issue of whether direct substitutes exist for DA. ORA contends that Pacific Bell must demonstrate that it meets the direct substitute criteria identified by the County of LA. ORA's analysis of these alternative services found that DA service is unique in terms of completeness, accuracy, access and expense. It concluded that the alternative products and services identified by Pacific Bell were incomplete, inaccurate, inaccessible, or prohibitively expensive to a majority of Pacific Bell's customers. For example, CD-ROMs requiring a substantial capital investment can not compare to DA, an element of basic telephone service, and wholesale providers of directory listing information do not provide local exchange service in Pacific Bell's service territory. In addition, retail providers of directory listing

information reached by dialing patterns other than 4-1-1 provide different services with broader service areas.

ORA also contended that Pacific Bell retains a monopoly over DA because its customers have had access to the 4-1-1 dialing pattern for decades, prior to the divestiture of American Telephone and Telegraph's national telephone network. Absent the existence of competitive DA providers, ORA concluded that Pacific Bell's customers have no choice as to which company can provide them with DA service via a digit dialing pattern.

ORA also opposed Pacific Bell's proposal to reduce residential and business DA call allowances contending that basic telephone service would be compromised and that the universal support policies announced in Pub. Util. Code § 709 would be violated. Basic telephone service would be compromised because D.96-10-066 identified DA as an element of basic residential service and required Pac Bell to continue providing the same number of DA call allowances as set forth in its current tariff.

ORA concluded that the Commission's basic service definition applicable to Pacific Bell as adopted in D.96-10-066 requires it to provide DA access and five monthly DA call allowances. Indeed, Pacific Bell's proposal may violate Pub. Util. Code § 709 which sets forth California's universal service goals, including the continued affordability of high-quality telecommunications service to all Californians, and promotes lower prices, broader consumer choice, and avoidance of anti-competitive conduct. Subsequently, in its comment to the proposed decision, ORA recommended that Pacific Bell's DA price ceiling should be limited to \$0.35.

B. Discussion

1. Price Floor

Category II price floors are set at or above costs to prevent LECs from pricing below cost and engaging in price squeezes against their competitors.¹⁴ These price floors are based on the volume sensitive Total Service Long Run Incremental Cost (TSLRIC) for each service, consisting of variable or avoidable costs that exclude common overhead costs and a profit factor. The purpose of this principle is to preclude the possibility of cross subsidization by ensuring that LRIC estimates include all costs necessary to provide a telecommunications service. Any change in the price floor requires a new cost study.¹⁵

Consistent with the TSLRIC requirement for setting Category II price floors, Pacific Bell relied on its TSLRIC studies approved in the OANAD proceeding to support its contention that its DA cost exceeds its current DA price floor of \$0.25. Although the DA cost was claimed to be proprietary by Pacific Bell and placed under seal, Pacific Bell identified its incremental volume sensitive DA cost to be approximately \$0.33 in several PPH's and in the evidentiary record. Hence, the \$0.33 DA cost is a matter of public record.

The County of LA claimed that Pacific Bell's TSLRIC studies for DA are not applicable to residential DA service because the studies were based only on business DA. However, Pacific Bell's witness clarified that the costing protocol for DA resulting from the TSLRIC workshops was a study of all

¹⁴ 65 CPUC2d 156 at 208 (1996).

¹⁵ 56 CPUC2d 117 at 263 and 264 (1994).

DA calls, regardless of class of service, on the assumption that call time for calls made to DA from residences and businesses were essentially identical.

The County of LA's claim for separate TSLRIC studies for DA residential service is without merit for several reasons, Pacific Bell's DA TSLRIC studies were approved without distinction between residential and business service. DA was re-categorized from Category I to Category II without distinction between residential and business service pursuant to D.96-03-020. The tariff rates for residential and business DA service have consistently been the same rate, except for the free call allowance.

Although the County of LA, TURN, and ORA asserted that Pacific Bell's TSLRIC studies approved in the OANAD proceeding could not be relied upon in this proceeding because the studies were never subjected to meaningful scrutiny in the OANAD proceeding, the ALJ twice ruled that such cost studies shall not be re-litigated in this proceeding.¹⁶ The cost studies were previously approved and, without good cause, will not be verified here. Consistent with the ALJ rulings and our policy objective of maintaining consistency in how costs are handled among proceedings, we will not reconsider here the validity of Pacific Bell's approved TSLRIC studies and \$0.33 incremental volume sensitive DA cost.

Our acceptance of the validity of Pacific Bell's DA cost in the OANAD proceeding does not necessarily mean that such studies should not be updated to reflect a current and more forward look at DA costs. All parties were provided an opportunity to update the previously approved DA cost studies using the same methodology to the extent that such updates were completed

¹⁶ ALJ Rulings of October 23, 1998 and November 9, 1998.

prior to the tendering of testimony, pursuant to the ALJ's November 9, 1998 ruling.

Pacific Bell undertook a re-look of its OANAD TSLRIC for DA in response to the County of LA's, TURN's, and ORA's contention that the approved TSLIRC studies were outdated. Not only did the cost studies reflect 1994 data, they failed to reflect reduced labor, equipment costs, and efficiency gains from the consolidation and modernization of DA services. Although this re-look confirmed that its TSLRIC cost for DA has changed, the changes would increase the volume sensitive TSLRIC for DA by less than one percent.

Pacific Bell confirmed that the total volume of DA calls decreased by approximately 25% from 1994 to 1997. This decrease in DA calls resulted in a corresponding decrease in the number of DA operators. However, it had no effect on the average time an operator took to respond to a DA call.

The modernization of DA equipment had two effects on the TSLRIC of a DA call. Although the TSLRIC studies used a forward-look at investment costs in calculating costs of a new DA system, it did not reflect a decrease in land and building costs impacted by the consolidation and closing of DA offices. The consolidation of DA offices impacted the TSLRIC by less than five percent because land and building costs are a nominal cost component of DA costs. The primary cost component of DA service is labor. The consolidation in DA offices and operators had no impact on the time an operator spent on a DA call.

Although the total DA operator labor rate decreased from 1994 to 1997 by six percent, this decrease in cost was offset by a projected 1999 labor rate increase and the effects of a new labor contract. There was no reduction in the average time that an operator took to handle a DA call.

Even though interested parties asserted that Pacific Bell's DA cost should be adjusted for the impact of new services, Pacific Bell substantiated that an adjustment to its DA cost was not warranted at this time for its new ECC service and proposed NLS. With ECC service, the DA service is completed prior to the DA caller being asked if the caller would like to be connected to the requested number. The DA service does not include any activity that takes place following completion of the DA activity. Even if ECC service were discontinued, none of the incremental DA costs would be avoided. Hence, ECC service does not impact the cost of DA service. NLS is a new Pacific Bell service that was recently approved in another proceeding. No party provided us with evidence to enable us to determine whether the proposed service would impact the cost of DA service. Hence, a finding can not be made that NLS would impact Pacific Bell's DA incremental DA cost.

Although Pacific Bell did not update its OANAD TSLRIC studies for DA, it undertook a re-look of these studies to determine the impact, if any, of changes that took place subsequent to the OANAD proceeding and changes expected to take place in the near future. This re-look substantiated that Pacific Bell's DA costs have not materially changed since approved in OANAD proceeding in 1996. These studies adequately conform to the TSLRIC principles adopted in D.95-12-016. Based on Pacific Bell's re-look at its DA cost studies, such studies should continue to be used as the basis for revising the DA price floor.

Consistent with D.94-09-065, the general price floor for all Category II services should be set at or above cost based on the LRIC, unless the direct embedded cost is lower. Based on the re-look at Pacific Bell's DA TSLRIC studies, the DA price floor should be increased by \$0.10 from \$0.25 to \$0.35 so that Pacific Bell may have an opportunity to recover its Category II DA costs.

2. Tariff Price

Above-cost pricing for Category II services occurs only with explicit Commission review and approval in order to protect adequately the interest of the largely captive ratepayers.¹⁷ Hence, any change to Category II prices must be found to be just and reasonable.

An appropriate DA tariff price should be equal to Pacific Bell's TSLRIC studies plus a markup for shared and common costs and a profit factor commensurate with a partially competitive service. Given that the DA price floor being approved by this order is higher than Pacific Bell's current tariff price for this service, the current tariff price cannot be considered a just and reasonable rate because it is below cost.

Pacific Bell has proposed a \$0.50 tariff rate for its DA service, approximately \$0.15 above its DA cost found reasonable in this proceeding. The evidence shows that significantly higher prices are being charged for similar DA service by Pacific Bell's competitors. For example AT&T and MCI charge \$1.10 and MCI \$1.00. Any attempt to keep Pacific Bell's partially competitive DA service artificially low will only stifle competition in the DA market.

Based on informed judgement and a review of sealed cost data and testimony presented in this proceeding, we conclude that Pacific Bell's \$0.50 requested DA tariff rate reduced by \$0.04 to \$0.46 would provide Pacific Bell with recovery of its DA costs and a reasonable profit.

The \$0.46 rate is deemed reasonable when compared to the \$0.394 non-disputed DA UNE wholesale rate being addressed in a pending

¹⁷ 33 CPUC2d 43 at 125 (1989).

OANAD decision.¹⁸ This is because when adding in the 17% differential between wholesale and retail prices that the Commission has commonly used in setting the wholesale prices of resold service this result in a \$0.46 DA retail rate. This 17% differential is the figure commonly used by the Commission to cover retail costs such as billing, advertising, and marketing. This rate would also enable Pacific Bell to recover its \$0.35 incremental TSLRIC DA cost, shared and common costs, and a reasonable margin consistent with a partially competitive service and prices in other states. It is further deemed reasonable because the \$0.46 is below the medium price charged by ILECs. Pacific Bell should therefore be authorized to raise its DA tariff price from \$0.25 to \$0.46.

3. Price Ceiling

Category II price ceilings were capped for calendar years 1996, 1997, and 1998 pending a final decision in the then-anticipated triennial review of the incentive-based regulatory framework, expected to be undertaken in 1998, pursuant to D.95-12-052. Although this triennial review began as anticipated, we deferred addressing Category II ceiling rate changes to a later phase of our triennial review. Subsequently, we ordered that any change to Category II rate floors or ceilings shall continue to require Commission approval pursuant to applicable rules and procedures.¹⁹

At the time a moratorium on the Category II ceiling rate was imposed, Pacific Bell was provided with two options to seek a change in its

¹⁸ See, R.93-04-003, I93-04-002, Proposed Decision of ALJ McKenzie (mailed May 10, 1999).

¹⁹ D.98-10-026, Re Rulemaking on Third Triennial Review of the Regulatory Framework, (October 8, 1998), mimeo., pp. 93, (OP No. 3).

Category II ceiling rates.²⁰ Pacific Bell opted to exercise the application exemption to seek a ceiling rate change for its Category II DA service with the filing of this application. A PHC was held, a scoping memo was issued, PPHs were held, and an evidentiary hearing took place. Hence, Pacific Bell's application has been approved by the Commission and it is appropriate to address Pacific Bell's requested ceiling rate changes for its Category II DA service in this decision.

Even though Pacific Bell proposed a \$1.10 DA ceiling rate, it states that it does not plan to raise its DA rate up to the ceiling rate in the near term, but only to its requested \$0.50 tariff rate. Pacific Bell representatives at the PPHs and evidentiary hearings confirmed this position. For example, Pacific Bell's witness stated at the November 24, 1998, PPH in Pasadena that Pacific Bell is "only proposing to raise the price of directory assistance to \$0.50, and that's all."²¹ Pacific Bell's witness subsequently testified at the December 7, 1998, evidentiary hearing "Well, to clarify, we've proposed that the \$1.10 is an appropriate benchmark as a ceiling or a cap, if you will. That's certainly not Pacific Bell's intent to charge \$1.10. We're only proposing \$0.50 in this application."²²

Pacific Bell's witness stated that it picked the \$1.10 DA ceiling rate specifically because it knew that there were carriers in the market who were charging \$1.10 for access to local information. However, the witness was not

²⁰ 63 CPUC2d 377 at 406 (1995).

²¹ Reporters Transcript, Volume 4: 215.

²² Reporters Transcript, Volume 7: 486.

aware of any other Bell Operating Company charging a \$1.10 rate for DA service. The witness also provided a list of what other states were charging for DA service, which ranged from Tennessee charging nothing to Wisconsin charging \$0.75 for a DA call. Another Pacific Bell witness testified that a Category II price cap should be based on cost and that, according to his calculation, the price cap for DA should be around \$0.49, not based on the price other carriers may charge.²³

By D.89-10-031, LECs were notified that we are not willing to allow them discretion to raise Category II rates above levels found reasonable by the Commission and that above-cost pricing should occur only with explicit Commission review and approval. The New Regulatory Framework (NRF) principles require that Category II services are priced above cost. However, in the case of Pacific Bell's request to raise its Category II DA ceiling rate, it has provided no cost-based data to support its proposed DA ceiling rate at this time. The mere statement that there are carriers in the market who charge \$1.10 for access to local information is not sufficient reason to conclude that Pacific Bell's Category II DA ceiling rate should be increased to a rate charged by other carriers.

Absent an affirmative showing by Pacific Bell to substantiate a need to increase the ceiling rate for its partially competitive DA service, its DA ceiling rate should be equal to the tariff rate being approved in this decision. If Pacific Bell wants flexibility to increase its ceiling rate to a level comparable to competitors, it needs to demonstrate that DA competition has increased to the extent that Pacific Bell no longer maintains significant DA market power. It

²³ Reporters Transcript, Volume 8: 618.

should also seek to reclassify its DA service from Category II, a partially competitive service, to Category III, a fully competitive service. This denial does not preclude Pacific Bell from seeking future approval to increase its DA ceiling rate through the application process, as set forth in D.95-12-051.

4. Free Call Allowance

A reduction in the monthly residential and business DA call allowance was requested by Pacific Bell because it contends the service is priced below cost and there is a wide array of direct substitutes and equivalent services available. They also contend only 20% of all residential accounts generate the majority of residential DA calls in a given month. Similar action has been taken in other states in providing residential and business DA call allowances.

Although Pacific Bell experienced a 13.3% decline in DA retail traffic from 1990 to 1997 despite a 21.3% increase in total average access lines over the same time period, it acknowledged that this decline in DA traffic did not necessarily result from the existence of competitive substitutes and equivalent services.²⁴

Irrespective of the cause of this downward use of DA service, no party disputed the fact that Pacific Bell's DA service declined while its number of access lines has grown at approximately three percent a year since 1990. With a declining use of DA service and increased access line growth, we can only conclude that a majority of Pacific Bell's customers rely less on Pacific Bell's DA services than they did in 1990. For example, we know that almost 80% of all residential accounts make no more than three DA calls in a given month, leaving the remaining 20% of residential accounts to generate approximately 80%

²⁴ Reporter's Transcript, Volume 7: 547.

of all residential DA calls. Over half of the residential DA calls incurred by these 20% of residential accounts are not being billed because of the monthly DA call allowance. Hence, any approval of Pacific Bell's proposed reduction in residential DA call allowance would maintain the status quo of a majority of residential customers. It would also shift the cost of DA service to the few heavy users of DA service who are not exempt from paying for DA services due to visual or other physical limitations.²⁵

There are 39 other states that provide three or less monthly DA call allowances for residential and 30 other states that provide no monthly DA call allowances for business customers. Although the level of residential and business DA call allowances in other states is not a basis to determine the appropriate level of DA call allowances in California, the trend of these other states indicate that market conditions in other states no longer warrant a substantial monthly DA call allowance. The three or less DA call allowance trend in other states is consistent with the Division of Ratepayer Advocates (DRA), ORA's predecessor, prior IRD Phase III recommendation. At that time, DRA recommended that the free DA call allowance except for the residential allowance of three calls per month be eliminated.²⁶ However, we chose to continue with five calls per month as a convenience to all of Pacific Bell's customers and continued to classify DA service as a Category I service. Subsequently, in 1994, DA service was reclassified to a Category II service.

²⁵ Pacific Bell was not able to identify the number of customers or calls exempt from DA charges.

²⁶ 56 CPUC2d 117 at 164 (1994).

Parties also opposed any change to the free DA call allowances because of recent and up-coming area code splits and overlays. However, in D.96-10-066, we found that the number of DA calls due to area code splits and overlays should be curtailed. This was because of our adoption of the requirement that customers be provided with a local telephone directory and a notification process that is put in place before an area code split or overlay is implemented.²⁷ No evidence was presented to justify a re-look of DA impacts from area code splits and overlays.

The current below cost pricing of DA service, the fact that 20% of residential accounts make 80% of all residential DA calls, and declining use of Pacific Bell's DA service support the need to reduce the number of monthly DA call allowances. It also happens to be consistent with the DA call allowance identified in other states. Hence, the monthly residential DA call allowance should be reduced from five to three calls, and the monthly business DA call allowance should be reduced from two or one to zero calls.

5. Basic Telephone Service Impact

In 1994, Category I DA service was found to be a fundamental but not a required service for access to the LECs switched network and designated as a non-basic monopoly service.²⁸ This monopoly label remained with DA service until 1996, when DA service was reclassified from Category I to Category II in the Local Competition proceeding.

²⁷ 68 CPUC2d 524 at 553 (1996).

²⁸ 56 CPUC2d 117 at 164 (1994).

The elements of today's basic residential telephone service were established in D.96-10-066 to be consistent with Pub. Util. Code § 709.²⁹ The term "basic service" for residential customers was defined to be a minimum level of telecommunications service which each LEC carrier is required to provide to all of its residential customers who request local exchange service. This uniform definition of basic service was adopted so that all residential telephone customers in California, regardless of their location or income, can expect a certain minimum level of service. The specific service elements of basic service included "access to local directory assistance," as identified in Appendix B to D.96-10-066. Hence, all carriers that provide local exchange residential service must offer, among other elements, access to local directory assistance.

There is no dispute that DA access is being provided at a cost. However, there is a dispute as to whether the DA access cost being paid as part of the bundled basic service package for which customers pay a monthly charge includes five free monthly DA call allowances. ORA represented that because D.96-10-066 required all LECs to continue providing the same number of DA call allowances as provided in their tariffs, consistent with the five monthly DA call allowances offered by Pacific Bell, that the basic service definition applicable to Pacific Bell required Pacific Bell to provide access to DA and to provide five monthly DA call allowances at no additional cost.

Interested parties to R.95-01-020/I.95-01-021, the proceeding that resulted in D.96-10-066, including TURN and the Division of Ratepayer

²⁹ 68 CPUC2d 524 (1996).

Advocates (DRA) ³⁰, proposed that the basic service definition include free access to DA for the first five calls per month. We specifically adopted free access in D.96-10-066 for certain basic service elements, such as free and unlimited access to 911 and to 800 numbers. However, we declined to adopt the interested parties' recommendation of free DA access for the first five calls per month. Instead, we only adopted access to DA services as a component of basic service. Hence, D.96-10-066 does not confirm ORA's position that residential basic service includes five monthly DA call allowances.

The use of "free" in the basic service rules recognizes that as part of the bundled basic service package there are no additional charges incurred by the customer when that service element is used by a customer. Although the incumbent LECs, including Pacific Bell, were required to continue to offer the same number of DA calls as contained in their tariffs, that requirement was conditioned until otherwise ordered by the Commission. The order did not provide for free DA access. Hence, contrary to the County of LA's, TURN's and ORA's contention, a reduction in the monthly DA call allowance should not be considered a reduction in basic telephone service or contrary to Pub. Util. Code § 709.

6. California High Cost Fund

The California High Cost Fund (CHCF) was established by D.85-06-115 as a means of ensuring, by means of a subsidy, reasonable basic exchange rates for the customers of small LECs that concurred in statewide

³⁰ By action of the Executive Director, the Commission's Division of Ratepayer Advocates ceased to exist as a staff unit on September 10, 1996. The functions it performed now reside with the Commission's ORA.

average toll, private line, and access rates. The smaller LECs are typically higher cost than Pacific Bell, so that rates set at Pacific Bell's levels are insufficient to generate the smaller LECs' revenue requirement. The rationale provided for the introduction of the CHCF was to provide customers of small independent LECs with the system-wide rate averaging benefits afforded to Pacific Bell's rural customers by virtue of Pacific Bell having the same rates system-wide.

Subsequently, §§ 728 and 739.3 were added to the Public Utilities Code. These required that in setting rates for telephone corporations, consideration is given to the rates for comparable service charged by telephone corporations in adjacent territories. They required establishment of a program to provide a fair and equitable local rate structure, aided by transfer payments to small independent telephone corporations serving rural and small metropolitan areas, to promote the goals of universal telephone service and to reduce any disparity in the rates charged by those companies.

Prior to the issuance of D.94-09-065, the CHCF was funded by an increment in the Carrier Common Line Charge (CCLC)³¹ of Pacific Bell and the small and mid-size LECs which concurred in their access service tariffs and participated in the associated revenue pools. However, with the elimination of the CCLC by D.94-09-065, a surcharge on all end-users was established as an alternative funding mechanism for the CHCF. Subsequently, D.96-10-066 (R.95-01-020/I.95-01-021, the Universal Service proceeding) changed the name of the CHCF to CHCF-A ; established a CHCF-B for the large LECs, included the

³¹ An access charge initially designed and imposed to recover a portion of the non-traffic sensitive costs of the local loop, the drop, and associated equipment between the end office and the end user.

mid-size LECs in the CHCF-B for the purpose of determining universal service subsidy support, and maintained the CHCF-A for the small LECs.

Although Pacific Bell did not propose any adjustment to the CHCF-B in its application, The County of LA, TURN, and ORA argued that the CHCF-B must be adjusted if the monthly residential DA call allowance is reduced. The interested parties took this position because the proposed reduction in the call allowance would reduce the number of unbilled calls per line and generate additional DA revenue for Pacific Bell. Absent an adjustment to the CHCF-B, Pacific Bell would stand to double recover DA service revenues: Pacific Bell would receive subsidy support for the difference between its basic flat rate service charge and the \$20.30 calculated statewide average cost to serve a residential line, based on five monthly DA call allowances from the CHCF-B fund. Pacific Bell would also recover the tariff rate for those DA calls no longer satisfying the call allowance.

Interested parties presented no evidence to substantiate that the CHCF-B was based on five monthly DA calls. Although Pacific Bell requested in the Universal Service proceeding the use of a three call monthly DA allowance per residential access line, the Commission authorized a decrease to two, not an increase to five calls per residential access line.³² TURN subsequently confirmed in its brief that the Commission only funded two DA calls through the Universal Service fund. Therefore, a decrease in the monthly residential DA call allowance from five to three would not decrease Pacific Bell's average cost per residence access line for DA because its OANAD residence access line TSLRIC reflects three DA calls. Hence, Pacific Bell would continue to be under-

³² Reporters Transcript, Volume 8: 784-785.

compensated for DA calls even if the allowance is reduced to three monthly DA calls. Consequently, a reduction in the monthly residential DA call allowance from five to three would not impact the CHCF-B.

C. Conclusion

Pacific Bell should be authorized to increase its DA price floor from \$0.25 to \$0.35, tariff price from \$0.25 to \$0.46, and ceiling rate to \$0.46. The monthly residential DA call allowance should be decreased from five to three calls. Pacific Bell's monthly business DA call allowance should be decreased from two to zero and its monthly Centrex business DA call allowance should be decreased from one to zero calls.

Resale prices for DA services should also be changed to maintain a 17% margin between retail and resale prices for these services. Our approval of maintaining a 17% margin between retail and resale prices should not affect the issue of resale prices subject to an OANAD proceeding.³³ Upon issuance of a decision in the OANAD proceeding changing the 17% resale margin, Pacific Bell should file revised tariffs to conform with resale margin in that decision.

XIII. Busy Line Verification and Emergency Interrupt

Upon a customer's specific request Pacific Bell provides Busy Line Verification (BLV). BLV requires Pacific Bell's operator to determine whether a conversation is in progress on a particular telephone line. For example, a caller

³³ Re: Open Access and Network Architecture Development, R.93-04-002 and I.93-04-003 (APR. 8, 1993.)

attempts to place a local or intra-Local Access and Transport Area (LATA)³⁴ call on a direct dialed basis and repeatedly reaches a busy signal. The caller dials "O" and ask that the operator check the line to determine if the line is busy. The operator first dials the number and, if the line is clear, the call is completed. However, if the operator also reaches a busy condition, the operator will access the verification equipment. The calling customer is on the line but can not hear the verification process. When the operator accesses the verification network, a scrambler attaches to the line. This allows the operator to determine if conversation exists on the line without interrupting the conversation and without being able to understand what is being said. The scrambler protects the customer's privacy. The operator reports the result of the verification attempt to the calling customer.

Emergency Interrupt (EI) service is provided by Pacific Bell after a BLV service has been completed. If the BLV finds that there is a conversation on the line, the caller may request that the operator perform an EI of that conversation. The caller is placed on hold. The operator can then interrupt the conversation in progress. The operator can hear what is being said, and the parties on the call will at the same time be able to hear the operator. To notify the parties that someone has accessed the line, an alerting tone will immediately sound. The operator will advise that "calling party name" has requested that the line be interrupted and ask if the line will be released. The operator will report the result to the calling party and, if appropriate, complete the call.

³⁴ California is divided into ten Local Access and Transport Areas (LATAs) of various sizes, each containing numerous local telephone exchanges. "IntraLATA" describes services, revenues, and functions that relate to telecommunications originating and terminating within a single LATA.

BLV and EI services were classified as Category I service in 1989, pursuant to D.89-10-031. Subsequently, in 1994, these services were found to be discretionary or partially competitive and reclassified from Category I to Category II.³⁵ BLV and EI services are currently classified as Category II.

The current tariff rate for each BLV request is \$.50. However, if the operator finds that the called telephone line is out of order, there is no charge. The current tariff rate for each EI request is \$1.00. The resale rate for BLV and EI is set at a 17% discount off retail rates, the same discount rate provided for DA resale charges. Pacific Bell proposed to increase the price floors, prices, and ceiling rates for its BLV and EI services and to maintain the currently authorized 17% discount off retail rates for resale service.

The following tabulation compares the currently authorized tariff rate, requested tariff rate, and requested ceiling rate for retail BLV and EI services. The requested floor rates for these services are under seal and, as such, are not disclosed in this order.

	<u>Current Tariff Rate</u>	<u>Requested Tariff Rate</u>	<u>Requested Ceiling Rate</u>
BLV	\$.50	\$ 2.00	\$ 3.00
EI	1.00	4.00	5.00

³⁵ 56 CPUC2d 117 at 286 (1994).

A. Party Position

1. Pacific Bell's Position

Pacific Bell proposed new price floors, prices, and price ceilings for BLV and EI because it contends its cost of providing these services are considerably greater than the current retail prices established in June 1984³⁶ and has experienced a 29% decrease in revenue from these services. This decrease in revenue is allegedly due to new communications alternatives and increased competition from other telecommunications carriers. Pacific Bell identified the new communications' alternatives as pagers, wireless phones, answering machines, facsimile machines, voice mail, electronic mail, additional phone lines, Caller ID, Call Waiting and Call Return services. Pacific Bell identified the increased competition to be coming from other telecommunication providers such as AT&T and Sprint. For example, AT&T charges \$6.75 for both BLV and EI and Sprint charges \$6.50 for BLV and \$13.00 for EI.

2. County of LA's Position

The County of LA opposed the proposed BLV and EI price increases because these services are important tools for law enforcement and because the assessment of fees for such services hampers the efforts of public safety agencies to efficiently perform their duties. For example, the County of LA Sheriff's Department uses these services periodically when a need exists to contact a party who may be using their telephone. However, it contends that approval of the proposed increase in these charges would reduce the number of such contacts by the County of LA because of cost.

³⁶ 15 CPUC2d 232 at 344 (1984).

3. TURN's Position

TURN opposed Pacific Bell's request to increase BLV and EI rates because it believes Pacific Bell failed to justify its costs for these services. TURN disputed the results of Pacific Bell's BLV and EI cost studies contending the results overstated costs. This was due to a basic methodological error of combining the initial call setup cost in the average cost per Operator Work Second (OWS) for all operator-handled calls, regardless of their time duration, and failure to reflect a 35% reduction in operator related expenses Pacific Bell achieved between 1994 and 1996.

TURN conceded that Pacific Bell's TSLRIC cost studies produced reasonably accurate costs estimates for operator-handled calls that are at or near the average call duration. According to TURN, Pacific Bell's inclusion of its OWS costs in its BLV and EI cost studies overstated BLV and EI costs because it erroneously spread the high operator call set up cost over services requiring significantly more operator time than the average length of operator-handled service calls.

TURN concluded that Pacific Bell should be held to its obligation as a utility that has elected NRF regulation to increase its return from BLV and EI services through control of its associated costs instead of by applying for rate increases.

4. ORA's Position

ORA opposed Pacific Bell's request to increase BLV and EI rates contending Pacific Bell failed to substantiate its cost for providing these services and failed to demonstrate a need to raise the rates and ceiling for these services. Specifically, the cost work-papers reflect 1996 data and failed to reflect forward-looking costs. For example, the work-papers did not reflect any impact from the closures of Traffic Operator Position Service (TOPS) offices since 1996 or

projected 1999 office closures which have reduced or will reduce the secondary investments of land and building cost component of Pacific Bell's TSLRIC studies. The work-papers also failed to reflect an overall reduction in TOPS labor rates since 1996.

ORA further opposed any change to Pacific Bell's BLV and EI rates alleging that there is no competition in providing these services. ORA contended that a large segment of telecommunications end-users do not have access to many of the BLV and EI alternative services identified by Pacific Bell, the services are prohibitively expensive, and require equipment beyond basic access to the public switched network. Irrespective of the cost for these alleged alternative services, ORA disputed Pacific Bell's contention that the services it identified as alternative services are direct substitutes for BLV and EI.

B. Discussion

1. Public Safety Issue

No party disputed the County of LA's argument that Pacific Bell's BLV and EI services are an important tool for public safety agencies or that an increase in rates for these services may hamper the efforts of public safety agencies to efficiently perform their duties due to budget restraints. However, the County of LA is not required to pay for BLV and EI services used to provide or render emergency aid. Public agencies whose responsibility it is to provide or render emergency aid are exempt from being charged for BLV and EI services pursuant to Pacific Bell's Tariff Schedule 5.8.1, approved by Resolution T-10914, dated March 4, 1985. Pacific Bell has not proposed any change to this exemption. Hence, the County of LA's opposition to Pacific Bell's request to raise BLV and EI rates is without merit.

2. Price Floors

As addressed in the DA price floor discussion, Category II price floors are set at or above costs based on the volume sensitive TSLRIC for each service. Pacific Bell submitted BLV and EI LRIC cost studies with its application to substantiate a need to raise its BLV and EI price floors. These cost studies were accepted under seal, consistent with D.94-09-065, which authorized LECs to request confidential treatment of Category II price floors.³⁷ Pacific Bell used components of the new TSLRIC incremental cost studies approved in the OANAD proceeding to develop its BLV and EI costs because it had not previously presented a TSLRIC study for these services.

Because TURN and ORA objected to the results of these cost studies on the basis that the results failed to reflect costs, Pacific Bell undertook a re-look at its cost studies. The overall effects of this re-look resulted in changes to Pacific Bell's BLV and EI volume sensitive³⁸ cost by approximately 20 percent.

The changes to Pacific Bell's cost studies resulted from a re-look at the methodology used in the studies, operator setup costs, and land and building investments dedicated to BLV and EI activities. For example, Pacific Bell confirmed and corrected the methodological error that TURN identified by recalculating the operator setup TSLRIC costs to reflect the longer time duration (approximately 60%) of a BLV and EI call relative to a standard operator call. This re-look also confirmed that Pacific Bell experienced a decrease in operator expenses and a decrease in the number of operators. However, this decrease reflected reduced call volumes, not a decrease in the time required for

³⁷ 56 CPUC2d 117 at 285 (1994).

³⁸ Expense categories impacted by usage of a particular service.

operator handling of BLV and EI calls as asserted by TURN. Hence, a change in operator expenses, the primary cost component for these services, was not warranted.

The closure of some TOPS offices decreased the square footage of TOPS locations for 1999 by about 65%, as alleged by ORA. Irrespective of this 65% decrease in TOPS land and building costs for a BLV and EI call, the overall costs for these services decreased by less than 4% because land and building costs were not a primary cost component.

BLV and EI cost studies submitted with the application, adjusted to correct a methodological error in calculating initial call setup costs and a forward look at land and building costs substantiate that Pacific Bell's BLV and EI floor rates are below cost. If the price floors are left unchanged, the D.94-09-065 principal that Category II price floors should be set at or above cost would be violated.

The BLV and EI price floors should be changed to reflect cost. Although the BLV and EI cost re-look does not materially change the cost to provide BLV and EI services, it reflects a more recent forward look at costs and corrects a methodological error in the initial BLV and EI TSLRIC studies. Hence, Pacific Bell's BLV and EI price floors should be changed to reflect its BLV and EI cost re-look as set forth in sealed Exhibit G.

3. Tariff Prices

Given that the BLV and EI price floors being approved by this order are higher than Pacific Bell's tariff prices for these services, the current tariff prices are below costs and should be increased to just and reasonable rates.

Pacific Bell proposed changes to its BLV and EI tariff prices based on several representations. This included what telecommunication carriers charge for a variety of different products and what other

telecommunications carriers charge for BLV and EI. It also claimed its cost of providing these services is greater than its current tariff prices and that it experienced a 29% decrease in revenue for these services between 1995 and 1997 due to competition from new communication alternatives and increased competition from telecommunications carriers.

However, the only evidence provided by Pacific Bell to support its BLV and EI tariff prices, other than cost data used to substantiate that the price floors are below costs, is alleged competition. Pacific Bell offered no studies or evidence to substantiate that it experienced a decrease in its BLV and EI revenue due to competition from other carriers or alternative products. Instead, it identified products it claimed to be alternative products and asserted there was increased competition.

Each of the products identified by Pacific Bell require customer subscription, the payment of a monthly charge for such services and, at times, additional costs. For example, the use of electronic mail requires that both the parties sending and receiving an emergency message have a computer, subscribe to an internet service, and be online at the time the message is sent to receive an audio or visual notification of the emergency message. However, if the party receiving the message is not hooked up to the internet at the time the emergency message is sent, the receiving party does not receive any notification until after the customer's internet link has been activated.

Uncertainties also exist with the other communications alternatives identified by Pacific Bell, such as Caller-ID, Call Waiting, Call Return, and Repeat Dialing. None of these services can be obtained from an alternative provider. Inter-exchange providers such as AT&T, Sprint, and Competitive Local Carriers (CLCs) cannot perform BLV or EI services on a telephone line of a Pacific Bell customer. Such carriers must contact a Pacific Bell

operator to perform the verification or interrupt service and it is only available to those inter-exchange and CLC carriers that subscribe to BLV and EI access, as an option in their interconnection agreement with Pacific Bell.

In addition, there is no evidence that these alternative products and competitors can immediately determine whether a conversation is in progress (BLV) on a particular telephone line or can immediately interrupt a conversation in progress (EI) on a particular telephone line of a Pacific Bell customer. Pacific Bell has not substantiated that any of the alternatives it identified can provide a service comparable to its BLV and EI services.

Given that Pacific Bell has not substantiated that it lost BLV and EI market share to alternative products or competitive telecommunications carriers, there is no basis to raise its BLV and EI tariff prices to its requested rates. However, an increase in the tariff prices is warranted because the price floors being adopted by this decision are above current tariff prices.

No party suggested alternative tariff prices for Pacific Bell's BLV and EI services. However, TURN proposed, as part of its testimony, that price ceilings should equal Pacific Bell's TSLRICs plus a shared and common cost markup no greater than the amount that would allow each service to recover an equiproportional share of Pacific Bell's shared and common costs if Pacific Bell's asserted TSLRICs were adopted. This markup was defined to be as low as 13% and as high as 22%.

Pacific Bell provided no analysis of its asserted 46% shared and common costs or profit factor applicable to its retail BLV and EI services or justification for acceptance of a 13% to 22% markup to recover such costs. The 13% to 22% range of cost prevents below-cost pricing and provides for recovery of some shared and common costs. Hence, Pacific Bell should be authorized to raise its tariff prices for BLV from \$.50 to \$1.20 and its EI from \$1.00 to \$1.25.

This approval of increased BLV and EI tariff prices does not preclude Pacific Bell from seeking a further increase in its tariff prices at a later date. However, any such request should include a basis for including associated shared and common costs and a reasonable profit margin.

4. Price Ceilings

As addressed in our DA ceiling rate discussion, Pacific Bell has effectively exercised its option of seeking a ceiling rate change for its Category II service in this decision. Hence, it is appropriate to address Pacific Bell's request to change its BLV and EI ceiling rates. The only evidence provided by Pacific Bell supporting its need to increase its BLV and EI ceiling rates is its unsupported claim of a need to remain competitive and testimony that its proposed BLV and EI tariff rates are only \$1.00 above its current tariff prices for these services.

BLV and EI services are Category II services requiring tariff rates to be cost-based and set above relevant cost measures. This ensures a reasonable overall revenue level to protect the interest of the largely captive ratepayers.³⁹ Absent any substantive reason for increasing the BLV and EI ceiling rates above the tariff rates for such services, the ceiling rates should be equal to the tariff rates. Hence, Pacific Bell's request for a \$3.00 BLV and \$5.00 EI ceiling rates should be denied.

C. Conclusion

Pacific Bell substantiated that its BLV and EI floor rates are priced below cost and that its requested floor rates for these services should be

³⁹ 33 CPUC2d 43 at 125 (1989).

changed. The BLV and EI price floors should be set at the requested rate set forth in Sealed Exhibit G.

Because Pacific Bell has not met its burden of proof that its BLV and EI tariff prices and ceiling rates should be based on or comparable to the prices charged by other telecommunications carriers, its BLV tariff price and ceiling rate should be increased not to the levels sought by Pacific Bell, but to just and reasonable rates that afford Pacific Bell the opportunity to recover its cost plus some profit. The just and reasonable rate for Pacific Bell's BLV tariff price and ceiling rate is \$1.20 and its EI tariff price and ceiling rate is \$1.25.

BLV and EI resale prices should also be changed to maintain a 17% margin between retail and resale prices for these services. Our approval of a 17% margin between retail and resale prices should not affect the issue of resale prices subject to a forthcoming decision in the OANAD proceeding.

XIV. Centrex Optional Features

Pacific Bell explained in its application that its "DCP service allows Centrex stations to park a call against another Centrex station within a group. CP allows a Centrex station to park or place on hold against its own directory number. ETMD allows a Centrex customer to control a station access to toll or message unit calling. DQRA permits Centrex station users to be placed in a queue whenever the first choice of route for a particular call is already in use."

Similar to BLV and EI, the Centrex optional features obtained Category II status in 1994 because they were found to be discretionary or partially competitive services. The Centrex optional features are currently Category II services.

The current tariff rates for DCP, CP, ETMD, and DQRA are \$.75, \$.75, \$.50, and \$17.50, respectively. The resale rate is set at a 17% discount off retail rates, the same discount rate provided for DA resale charges. Although Pacific

Bell did not propose any changes to the price floors of the four Centrex optional features, it did propose to increase the current tariff rates and ceiling rates for four Centrex optional features. Pacific Bell also proposed to adjust its retail rates to maintain the currently authorized 17% discount rate off retail rates.

The following tabulation compares the current tariff rate, requested tariff rate, and requested ceiling rate at the retail level for the Centrex optional features subject to this application.

	<u>Current Tariff Rate</u>	<u>Requested Tariff Rate</u>	<u>Requested Ceiling Rate</u>
DCP	\$.75	\$.82	\$.82
CP	.75	.77	.77
ETMD	.50	.52	.52
DQRA	17.50	17.64	17.64

A. Party Position

1. Pacific Bell's Position

Pacific Bell included the Centrex optional features in its application because their price ceilings dropped below their floors through the operation of the NRF inflation index mechanisms used to maintain prices at a constant level in real terms. Although Pacific Bell is seeking to raise the proposed tariff rate and ceiling rate for these optional features, it limited its retail price request to the minimum amount necessary to reach the price floor for each of the Centrex optional features, consistent with the requirements of D.89-10-031. Pacific Bell also proposed to change the applicable resale prices in order to maintain a 17% margin between retail and resale prices subject to a revisit of resale prices as a result of the OANAD proceeding.

Pacific Bell concluded that its price requests for Centrex optional features is essentially a compliance filing with Resolution T-16102, dated December 16, 1997, and the NRF decisions. Hence, it attached the results of its cost studies on the Centrex optional features to its application without any direct testimony on the issue of Centrex optional feature price changes.

2. County of LA's Position

The County of LA took no position with respect to Pacific Bell's request to increase the rates for its four Centrex optional features subject to this application.

3. TURN's Position

TURN opposed Pacific Bell's request to change rates for the four Centrex optional features because Pacific Bell relied on outdated costs and because the requested increases would open the door to similar rate increase requests based solely on automatic inflation adjustments to Pacific Bell's price floors.

4. ORA's Position

ORA took no position with respect to Pacific Bell's request to increase the rates for its four Centrex optional features subject to this application.

B. Discussion

We recognized in D.94-09-065 that price floors would become stale over time, and that unadjusted price floors could result in authorized rates that are less than the actual costs of the LECs, contradicting our goals in setting price floors. Hence, we authorized the LECs in that decision to adjust price floors for all Category II services by an inflation index used in their price cap filings, beginning with 1996. If the adjusted price floor for a particular service exceeds the current rate as a result of the inflation adjustment, the LECs may either raise the rate or revise the price floor for that service, consistent with the

procedure set forth in D.89-10-031.⁴⁰ That procedure is to either lower the floor if the LECs achieve cost reductions for the service and believe that the floor should be lowered, or to raise the Category II service rate equal to the updated rate.⁴¹

LECs opting to lower the floor have the burden to produce new cost studies justifying any changes in the floor. However, LECs opting to raise the rate cap are not required to submit new cost studies. This is because we concluded that such a result would be nonsensical at the time we recognized that updating rate caps and rate floors by an indexing method may cause rate floors to actually exceed the ceilings. At the time such an event occurred, the rate at issue simply should be set equal to the updated rate cap, and pricing flexibility for that rate element should be suspended to guard against below-cost pricing.⁴²

Pacific Bell utilized the application process to adjust its ceiling rates for the Centrex optional features pursuant to Resolution T-16102, which required Pacific Bell to file an application for price cap changes in those specific instances involving categories whose floors exceed the ceiling rate.

There is no dispute that the price ceiling for Pacific Bell's four Centrex optional features dropped below their floors through operation of the inflation index. Because Pacific Bell opted to set the Category II rate equal to the updated rate cap and not to change the floor for these Centrex optional features, Pacific Bell is not required to submit new cost studies. Hence, TURN's objection to Pacific Bell not submitting new cost studies is rejected. Pacific Bell followed the procedure set forth in D.89-10-031, to which TURN was an interested party.

⁴⁰ 56 CPUC2d 117 at 264 and 290 (1994).

⁴¹ 33 CPUC2d 43 at 142-143 (1989).

⁴² Id 143.

C. Conclusion

Pacific Bell's request to raise the current and ceiling tariff rate the minimum amount necessary to reach the price floor for DCP, CP, ETMD, and DQRA Centrex optional features should be granted. Resale prices for these Centrex optional features should also be changed to maintain a 17% margin between retail and resale prices for these services. Our approval of maintaining a 17% margin between retail and resale prices should not affect the issue of resale prices, subject to changes as a result of the OANAD proceeding.

XV. Revenue Neutrality

Both TURN and ORA argued that revenues from any rate change approved in this order must be re-balanced against other rates. TURN represented that a revenue neutrality requirement would be consistent with the NRF decisions because it would preserve Pacific Bell's overall incentives to control its costs without forcing Pacific Bell to price any service below cost, and would mitigate harm to ratepayers. ORA argued that, for the purpose of basic telephone service, Pacific Bell is a revenue neutral company under NRF, as set forth in the Implementation Rate Design (IRD) D.94-09-065.

D.94-09-065 established intraLATA pricing policies intended to avoid a wind-fall to the NRF utilities (including Pacific Bell) without depriving them of a fair opportunity to earn a competitive rate of return. To accomplish this, every rate change ordered by the initial NRF order which resulted in a revenue increase or decrease was offset by countervailing rate changes or revenue adjustments so that the cumulative effect of all revenue changes would be zero, i.e., revenue neutral.⁴³ This revenue neutrality policy was further defined in our

⁴³ 56 CPUC2d 117 at 137 (1994).

discussion of rate design goals intended to shift revenues between services and customer classes without any change in the 1989 base year revenue requirement for Pacific Bell, except as modified by subsequent Commission decisions.⁴⁴

More recently, in the 1998 Third Triennial Review of the New Regulatory Framework, we recognized that California telecommunications markets are much different now than they were at the time we adopted an incentive-based regulatory framework, with its earnings sharing mechanism. This is due to the dramatic changes resulting from passage of the Telecommunications Act of 1996, our opening of local exchange markets to facilities-based and resale competition, our granting certificates of public convenience and necessity to over 150 competitive local carriers, our approving over 100 interconnection agreements, and rapid changes in technology.⁴⁵ California telecommunications markets are poised for competition and dramatic change. However, that competition and change has yet to fully materialize.

In recognition of the potential for Pacific Bell's competitors ability to make operating and investment decisions without profit constraints, the NRF earnings sharing mechanism was temporary suspended effective January 1, 1999, and is scheduled to be revisited in the next or a future NRF review. This temporary suspension occurred in order to give Pacific Bell the same incentives to reduce costs, introduce new services, and invest in new infrastructure, services and technologies already experienced by other California telecommunications firms.

Although the goal of Category II price floors is to prevent monopoly abuses by cross-subsidization and predatory pricing, the imposition of revenue

⁴⁴ Id 142.

⁴⁵ D.98-10-026, Re Rulemaking on Third Triennial Review of the Regulatory Framework, (October 8, 1998), mimeo., pp. 31.

neutrality for the Category II services in this proceeding would effectively do the opposite. It would shift the additional revenues from these Category II service to other services, thereby reducing the revenue requirement needs for other services and result in a step-back toward rate of return regulation. It should also be noted that the NRF orders recognized and provided the possibility of an exception to revenue neutrality by subsequent Commission decisions.

Rate re-balancing would also hinder the incentives provided to Pacific Bell for promoting competition and change in the California telecommunications market, e.g., the temporary suspension of the earnings sharing mechanism.

Absent evidence to the opposite, the imposition of revenue neutrality for the Category II changes being approved in this order would be counter-productive and conflict with both the pricing goal of Category II price floors and the incentives which we gave Pacific Bell at the time the sharing mechanism was temporary suspended. Hence, the additional revenues resulting from rate changes being approved in this order should not be re-balanced to provide revenue neutrality.

XVI. Proposed Decision Comments

The assigned ALJ's proposed decision on this matter was filed with the Docket Office and mailed to all parties of record on August 17, 1999, in accordance with Pub. Util. Code § 311 and Rule 77.1 of the Rules of Practice and Procedure. Comments and reply comments to the proposed decision were timely filed by Pacific Bell, TURN, and ORA. Comments to the proposed decision was also timely filed by the County of LA.

Rule 77.3 of the Commission's Rules of Practice and Procedure specifically requires Section 311 comments to focus on factual, legal, or technical errors in the proposed decision and in citing such errors requires the party to make specific references to the record. Comments that merely reargue positions taken in briefs

are accorded no weight and should not be filed. Rule 77.4 further requires that comments proposing specific changes to the proposed decision include supporting findings of fact and conclusions of law.

The comments filed by the parties to this proceeding have been carefully reviewed and considered. To the extent that such comments required discussion or changes to the proposed decision, the discussion or changes have been incorporated into the body of this order. Comments, which have not complied with Rule 77.3, were not considered.

Findings of Fact

1. Pacific Bell is a public utility telephone corporation, as defined in Pub. Util. Code § 234, subject to the jurisdiction of this Commission.

2. Pacific Bell filed its applications for authority to adjust its prices for Category II services, pursuant to Rule 42 of the Commission's Rules of Practice and Procedure.

3. Pacific Bell requested authority to adjust its prices on four Category II Centrex optional features, pursuant to Resolution T-16102 and D.89-10-031.

4. Telecommunication services are classified into three distinct categories: Category I for services deemed to be basic monopoly services; Category II for discretionary or partially competitive services; and, Category III for fully competitive services.

5. The currently effective prices for Category II services are capped as price ceilings for calendar years 1996, 1997, and 1998, except for Z factor adjustments and Commission approved applications for increases above the rate caps.

6. The final categorization of this consolidated proceeding is rate setting as defined in Rule 5(c) of the Commission's Rules.

7. A TURN motion for authority to file a non-redacted version of its comments on the proposed decision is pending.

8. Pacific Bell, County of LA, TURN, and ORA were the only parties participating in this proceeding.

9. An exemption from DA charges is available pursuant to Pacific Bell's Tariff No. A5.7.2 B.1.

10. Category II price floors are set at cost to prevent LECs from pricing below cost and engaging in price squeezes against their competitors.

11. Category II price floors are based on the volume sensitive TSLRIC for each service consisting of variable or avoidable costs that excludes common overhead costs and a profit factor.

12. Pacific Bell identified its DA cost to be approximately \$0.33 prior to its re-look at DA costs.

13. Pacific Bell's DA service is classified as a Category II, partially competitive service.

14. AT&T and Sprint charge \$1.10 for DA calls and MCI charges \$1.00.

15. California wireless companies charge \$0.75 plus the appropriate minutes of use charge for DA service.

16. Pacific Bell maintains a 17% differential between its wholesale and retail Category II services.

17. Pacific Bell's re-look at its DA volume sensitive TSLRIC study shows that the results of its initial study would increase by less than one percent.

18. The costing protocol for DA resulting from the TSLRIC workshops was a study of all DA calls, regardless of class of service.

19. Pacific Bell's DA TSLRIC studies were approved without distinction between residential and business service.

20. DA was re-categorized from Category I to Category II without distinction between residential and business service.

21. Pacific Bell's TSLRIC studies were approved in the OANAD proceeding.

22. All parties were provided an opportunity to update the previously approved DA cost studies.

23. A 25% decrease in DA calls from 1994 to 1997 resulted in a corresponding decrease in the number of DA operators.

24. The consolidation of DA offices impacted the TSLRIC by less than five percent.

25. The primary cost component of DA service is labor.

26. With ECC service, the DA service is completed prior to the DA caller being asked if the caller would like to be connected to the requested number.

27. Pacific Bell does not plan to increase its DA rate up to its requested \$1.10 ceiling rate.

28. The NRF principal requires that Category II services are priced above cost.

29. Pacific Bell experienced a 13.3% decline in DA retail traffic from 1990 to 1997 despite a 21.3% increase in total average access lines over the same time period.

30. Almost 80% of all residential accounts make no more than three DA calls in a given month.

31. Approximately 20% of all residential accounts generate 80% of all residential DA calls.

32. There are 30 other states that provide three or less DA call allowances for residential customers and 30 states that provide no monthly DA call allowance for business customers.

33. Basic service for residential customers was defined to be a minimum level of telecommunications service which each carrier of last resort is required to provide to all of its residential customers who request local exchange service.

34. The specific service elements of basic service include access to local directory assistance.

35. Although we specifically adopted free access for certain basic service elements, we declined to adopt free DA access for the first five calls per month.

36. The CHCF was established as a means of subsidizing reasonable basic exchange rates for the customers of small LECs that concurred in statewide average toll, private line, and access rates.

37. D.96-10-066 changed the name of the CHCF to CHCF-A, established a CHCF-B for the large LECs, and included the mid-size LECs in the CHCF-B for the purpose of determining universal service subsidy support.

38. The proposed reduction in the DA call allowance would reduce the number of unbilled calls per line and generate additional DA revenue for Pacific Bell.

39. The Commission only funded two residential monthly DA call allowances through the Universal Service fund.

40. The NRF order provided for an exception to the revenue neutrality policy by subsequent Commission decisions.

41. The California telecommunications markets are now much different than they were at the time an incentive-based regulatory framework with an earnings sharing mechanism was adopted.

42. The earnings sharing mechanism was temporarily suspended and scheduled to be re-visited in the next or future NRF review.

43. BLV and EI services are classified as Category II, discretionary or partially competitive services.

44. The resale rate for BLV and EI is set at a 17% discount rate.

45. Pacific Bell does not propose to change the BLV and EI exemption for public agencies whose responsibility it is to provide or render emergency aid.

46. If the adjusted price floor for a particular service exceeds the current rate as a result of the inflation adjustment, Pacific Bell may either raise the rate or revise the price floor for that service.

47. The price ceilings for Pacific Bell's four Centrex optional features dropped below their floors through operation of the inflation index.

Conclusions of Law

1. TURN's motion to submit a non-redacted version of its comments to the proposed decision under seal should be granted.

2. Pacific Bell should notify its customers of the requirements and procedures to obtain an exemption from DA charges.

3. The consolidation in DA offices and operators had no impact on the time an operator spent on a DA call.

4. The DA price floor should be increased to enable Pacific Bell to recover its cost for that service.

5. An appropriate DA tariff price should be equal to Pacific Bell's TSLRIC studies plus a mark up for shared and common costs and a profit factor commensurated with a partially competitive service.

6. Pacific Bell's DA ceiling rate should be equal to the tariff rate being approved in this order.

7. The monthly residential and business DA call allowance should be reduced.

8. A reduction in the monthly DA call allowance would not impact basic telephone service and would not be contrary to Pub. Util. Code § 709.

9. A decrease in the monthly residential DA call allowance from five to three would not decrease Pacific Bell's average cost per residential access line or impact the CHCF-B.

10. The additional revenues resulting from rate changes being approved in this order should not be re-balanced against rates of other services.

11. DA service resale prices should be maintained at a 17% margin between retail and resale prices.

12. The BLV and EI price floors should be increased to reflect cost and the tariff prices for these services should be increased to reflect cost plus a reasonable profit factor.

13. The BLV and EI ceiling rates should be equal to the respective tariff rates being approved in this order.

14. BLV and EI resale prices should be changed to maintain a 17% margin between retail and resale prices for these services.

15. Pacific Bell should be authorized to raise its current tariff and ceiling rates of four Centrex optional features the minimum amount necessary to reach their price floor.

16. DCP, CP, ETMD, and DQRA resale prices should be changed to maintain a 17% margin between retail and resale prices for these services.

17. The 17% margin between retail and resale prices for the services subject to this proceeding should be reinstated to conform with the OANAD decision addressing wholesale rates when issued.

O R D E R

IT IS ORDERED that:

1. All data placed under seal in the proceeding shall remain sealed for a period of one year from the date of this order. The sealed data should not be made accessible or disclosed to anyone other than Commission staff during the one-year time period except on the execution of a mutually acceptable

nondisclosure agreement or on further order or ruling of the Commission or the Administrative Law Judge then designated as the Law and Motion Judge.

2. Pacific Bell shall notify its customers of the requirements and procedures to obtain an exemption from being charged for Directory Assistance (DA) through a yearly bill insert notice. The bill insert should notify customers that if they qualify for the exemption, DA charges are waived. It should also notify customers that if they don't qualify for the exemption, that they can still reduce their DA costs by asking for up to three numbers for each DA call. The first bill insert notice shall be completed within four months after the effective date of this order. Each customer bill insert notice shall be submitted to the Public Advisor's office for review and approval prior to mailing.

3. Pacific Bell is authorized to establish a DA price floor of \$0.35, and to increase its tariff price and ceiling rate to \$0.46. Its monthly DA call allowance for residential service shall be reduced from five to three calls, its monthly DA call allowance for business customers reduced from two to zero and Centrex business customers shall be reduced from one to zero.

4. Pacific Bell's Busy Line Verification (BLV) and Emergency Interrupt (EI) service price floors may be increased to cover costs as set forth in sealed Exhibit G. The BLV tariff price and ceiling rate may be increased to \$1.20. The EI tariff price and ceiling rate may be increased to \$1.25.

5. Pacific Bell is authorized to increase the tariff rate and ceiling rate for its Directed Call Park (DCP) service to \$0.82, Call Park (CP) service to \$0.77, Exchange Toll Message Directory (ETMD) service to \$0.52, and its Deluxe Queuing Record Announcement (DQRA) service to \$17.64.

6. Pacific Bell's DA, BLV, EI, DCP, CP, ETMD, and DQRA resale prices may be changed to maintain a 17% margin between retail and resale prices for these services. Upon issuance of the pending Open Access and Network Architectural

Development decision, Pacific Bell shall submit revised tariffs to conform with that decision.

7. Pacific Bell is authorized to file revised tariffs with the Commission's Telecommunications Division to incorporate the changes authorized by this order. The revised tariffs shall become effective when authorized by the Commission's Telecommunications Division, but not less than 5 days after filing.

8. The authority granted in this order will expire if not exercised within 12 months after the effective date of this order.

9. The application is granted to the extent set forth above.

10. Application (A.) 98-05-038 is closed.

This order is effective today.

Dated November 18, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

We will file a written dissent.

/s/ JOEL Z. HYATT
Commissioner

/s/ CARL W. WOOD
Commissioner

APPENDIX A

TABLE OF ACRONYMS AND ABBREVIATIONS

ALJ	Administrative Law Judge
Applicant	Pacific Bell
BLV	Busy Line Verification
CCLC	Carrier Common Line Charge
CHFC	California High Cost Fund
CLC	Competitive Local Carriers (CLCs)
County of LA	County of Los Angeles
CP	Call Park
D	Decision
DA	Directory Assistance
DCP	Directed Call Park
DRA	Division of Ratepayer Advocates
DQRA	Deluxe Queuing Record Announcement
ECC	Express Call Completion
ETMD	Exchange Toll Message Directory
IRD	Implementation Rate Design
Intra-LATA	Intra-Local Access and Transport Area
LECs	Local Exchange Carriers
LRIC	Long Run Incremental Cost
NLS	National Listing Service
NRF	New Regulatory Framework
OANAD	Open Access and Network Architecture Development
ORA	Office of Ratepayer Advocates

OWS	Operator Work Second
PHC	Prehearing Conference
PPHs	Public Participation Hearings
SBC	Southwest Bell Telephone Company
TOPS	Traffic Operator Position Service
TELRIC	Total Element Long Range Incremental Cost
TSLRIC	Total Service Long Run Incremental Cost
UNE	Unbundled Network Element

(END OF APPENDIX A)

Commissioner Hyatt and Commissioner Wood dissenting:

We respectfully dissent from the majority's opinion today, which grants a substantial increase to directory assistance rates. Granting Pacific's request for an increase to its directory assistance rates is unfair and unwarranted. It will saddle the most vulnerable of Pacific's customers with much higher rates for a service that many customers rely on and for which many customers have no alternatives.

The Commission received nearly 42,000 letters and cards from customers who object to the proposed increase. From these communications and the arguments of some parties, the Commission can reasonably assume that DA rate increases may cause hardship for some. Low-income customers and those with limited English will be disproportionately affected by the increase. Customers rely on DA services to reach individuals who have moved in our highly mobile society and to supplant telephone books that provide less and less information because of area code splits. DA also makes communication easier for those facing language barriers or who have poor vision.

For customers who rely on DA services, a rate increase from \$.25 to \$.46, and a reduction in the free call allowance from five to three, represents far more than a doubling in price. The monthly bill of a customer who makes 8 DA calls a month, for example, would increase from \$.75 to \$2.40. That's an increase of 320%. Such a price increase is outrageous. Customers who can afford Internet service may be able to avoid these rate impacts by using online services at no incremental cost. Customers who cannot afford computer services, however, will be saddled with much higher rates.

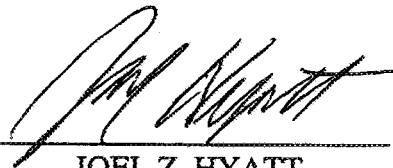
Increasing DA rates is especially egregious because of the regulatory regime the Commission has in place. Ten years ago, the Commission, at Pacific's request, adopted the New Regulatory Framework in D.89-10-031. Although no longer new, this regulatory framework simplified regulation and created improved incentives for Pacific to innovate and manage its operations more efficiently. The Commission changed regulation recognizing that Pacific would increasingly face competitive pressures in some markets while many customers would nevertheless continue to rely on Pacific as the sole provider of basic local services. Since the issuance of D.89-10-031, the Commission has modified the framework in various aspects but retained the original fundamental elements. Specifically, Pacific faces no cost-based audits of its operations in general rate cases and it may pursue earnings that might exceed those allowed under stricter regulation. At the same time, Pacific may price competitive services according to the dictates of the marketplace, a privilege that we have promoted. The quid pro quo for these opportunities for higher earnings has been an expectation that Pacific would not increase the rates set for basic local exchange services even if those services are priced below cost without lowering other rates. After adopting this regulatory program, the Commission set rates initially in a way that gave Pacific ample opportunity to realize healthy profits even assuming local services were priced below cost.

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D.96-10-066, the Universal Service rulemaking, found that basic local service included access to DA calls. Under the existing regulatory framework, therefore, the Commission should logically refuse to increase DA rates. In its application here, Pacific seeks to overcome the implications of this finding by arguing that DA is competitive. It is true that other carriers offer DA service at a much higher price, but none offer it separately for local areas. Although other carriers offer DA as part of a package of local services, the Commission has yet to find that local service is workably competitive. It is incontrovertible that, for most residential and small business customers, Pacific's DA offerings are the only option for inquiries about local numbers.

Because DA calls are part of a package of basic local service for residential and small business customers, the proposed rate increase unfairly compromises the regulatory compact the Commission established in D.89-10-031 and modified over the years. That is, Pacific seeks the privilege of increasing the rates of basic services for which its customers have no meaningful alternatives and yet never faces an obligation to decrease rates that are set above costs. The Commission's order today picks apart the regulatory framework in ways that serve Pacific's business interests while ignoring the interests of Pacific's customers. Our colleagues suggest they never understood their regulatory regime to preclude increases to local service rates. However, the implication of their action today – in combination with the fact that the Commission provides no forum to consider reductions to Pacific's overpriced services – is that the Commission's only role is to *increase* the rates for basic telephone services.

The Commission should have followed its own regulatory compact rather than grant a rate increase, inviting a flurry of rate increase requests for other services without providing a corresponding opportunity to review whether other rates should be reduced because they are set above cost. By its action today, the Commission fails to live up to its responsibility to protect California consumers. We strongly dissent.



JOEL Z. HYATT
Commissioner



CARL W. WOOD
Commissioner

San Francisco, California
November 18, 1999