

PUBLIC UTILITIES COMMISSION505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

June 24, 2003

Agenda ID #2411

TO: PARTIES OF RECORD IN APPLICATION 01-02-024 ET AL.

This is the draft decision of Administrative Law Judge (ALJ) Duda. It will appear on the Commission's July 10, 2003 agenda. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Pursuant to Rule 77.7(f)(9), comments on the draft decision must be filed within seven days of its mailing and no reply comments will be accepted.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. In addition to service by mail, parties should send comments in electronic form to those appearances and the state service list that provided an electronic mail address to the Commission, including ALJ Duda at dot@cpuc.ca.gov. Finally, comments must be served separately on the Assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious methods of service.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

ANG:tcg

Attachment

Decision **DRAFT DECISION OF ALJ DUDA** (Mailed 6/24/2003)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of AT&T Communications of California, Inc. (U 5002 C) and WorldCom, Inc. for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Switching in Its First Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 01-02-024
(Filed February 21, 2001)

Application of AT&T Communications of California, Inc. (U 5002 C) and WorldCom, Inc. for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Loops in Its First Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 01-02-035
(Filed February 28, 2001)

Application of The Telephone Connection Local Services, LLC (U 5522 C) for the Commission to Reexamine the Recurring Costs and Prices of the DS-3 Entrance Facility Without Equipment in Its Second Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 02-02-031
(Filed February 28, 2002)

Application of AT&T Communications of California, Inc. (U 5002 C) and WorldCom, Inc. for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Interoffice Transmission Facilities and Signaling Networks and Call-Related Databases in Its Second Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 02-02-032
(Filed February 28, 2002)

Application of Pacific Bell Telephone Company (U 1001 C) for the Commission to Reexamine the Costs and Prices of the Expanded Interconnection Service Cross-Connect Network Element in the Second Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 02-02-034
(Filed February 28, 2002)

Application of XO California, Inc. (U 5553 C) for the Commission to Reexamine the Recurring Costs of DS1 and DS3 Unbundled Network Element Loops in Its Second Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 02-03-002
(Filed March 1, 2002)

OPINION IMPLEMENTING REVISED UNBUNDLED NETWORK ELEMENT RATES BASED ON DECISION 02-09-049

I. Summary

This decision implements the rate changes adopted by the Commission in Decision (D.) 02-09-049. In that order, the Commission made two changes to the methodology for calculating the unbundled network element (UNE) rates that

Pacific Bell Telephone Company (Pacific, d/b/a SBC California) charges competing local telephone carriers for use of its network. First, the Commission increased the shared and common cost markup percentage, which is a component of UNE prices, from 19% to 21%. Second, the Commission ordered Pacific to remove 13% from the expense portion of its UNE monthly recurring costs.¹ The rate changes resulting from these two modifications were effective on the date that D.02-09-049 became effective, September 19, 2002. The Commission ordered Pacific to submit a compliance filing identifying the net effect of these two changes. Today's decision approves the undisputed rate changes identified by Pacific in its compliance filings so that the rate changes can be implemented and appropriate adjustments made for UNEs purchased as of September 19, 2002.

II. Pacific's Compliance Filings

In compliance with D.02-09-049, Pacific submitted its recalculation of UNE rates on December 18, 2002. On January 21, 2003, AT&T Communications of California (AT&T) and WorldCom Inc. (WorldCom) (collectively "Joint Applicants") filed comments alleging that Pacific's filing was incomplete. They argued that the filing did not adequately comply with Ordering Paragraph 3 of D.02-09-049, which ordered Pacific to calculate "the net impact on all of its UNE prices of the markup and recurring cost changes ordered herein." Joint Applicants did not dispute the calculations contained in Pacific's compliance

¹ The Commission adopted these changes as a result of a remand ordered by the U.S. District Court for the Northern District of California. (*See AT&T Communications of California Inc. et al., v. Pacific Bell Telephone Company et al.*, Order on Cross Motions for Summary Judgment, No. C01-02517 (N.D. Cal. August 6, 2002.)

filing, only that it was incomplete because new rates were not calculated for all of Pacific's UNEs.

In a ruling dated February 25, 2003, the assigned ALJ directed Pacific to supplement its compliance filing with further rate recalculations for additional UNEs. Pacific submitted a supplemental compliance filing on March 21, 2003. On April 11, 2003, Joint Applicants, TRI-M Communications Inc., Anew Telecommunications Corporation and Sage Telecom, Inc. joined together to protest Pacific's supplemental filing as incomplete. These parties again claimed that Pacific failed to recalculate rates for all of its UNEs, particularly several adopted through negotiated interconnection agreements. Once again, the protest did not dispute the calculations for the rates contained in the supplemental filing, only the completeness of the filing.

III. Discussion

In compliance with D.02-09-049, Pacific has calculated the net effect of the two cost methodology changes ordered therein for many of its UNEs. While there is still a dispute among the parties over whether Pacific has adequately updated all of its UNE prices, Pacific's December 18, 2002 and March 21, 2003 filings have removed 13% from the expense portion of its UNE recurring costs and recalculated Pacific's UNE prices by substituting a new shared and common cost markup of 21% for the previously adopted 19% markup. There were no protests to Pacific's calculations in either of these filings. Therefore, the Commission should approve the rates shown in Pacific's two compliance filings so that the rates can be implemented and any adjustments can be made for UNEs purchased as of the September 19, 2002 effective date of the rate changes. These rates are shown in Appendix A of this order.

Because the rates in Appendix A actually took effect on September 19, 2002, Pacific must now calculate any adjustments that it may owe to interconnecting carriers for UNEs purchased on or after that date if the rates in Appendix A are lower than the amount Pacific had previously billed. Likewise, Pacific should calculate whether it is owed money by interconnecting carriers for UNEs purchased on or after September 19, 2003, if the rates in Appendix A are higher than the amount Pacific had previously billed. Within 60 days of this order, Pacific should calculate any such adjustments and reflect the adjustments in its bills to interconnecting carriers for their monthly UNE recurring charges.

The only remaining issue with regard to D.02-09-049 is whether Pacific's compliance filings are complete and whether additional UNE rates, other than those listed in Appendix A, should be adjusted. This order does not resolve that issue at this time. Rather, the assigned ALJ shall continue to review that matter and if further UNE rate changes are necessary, the Commission may consider them in a further order.

According to Rule 77.7(f)(2) of the Commission's Rules of Practice and Procedure, this decision is an uncontested matter where the decision grants the relief requested. The decision adopts the undisputed rates set forth in Pacific's two compliance filings to D.02-09-049. Although comments are not required, we will also allow parties to file comments on the draft decision within seven days of the mailing of the draft.

IV. Assignment of Proceeding

Carl W. Wood is the Assigned Commissioner and Dorothy Duda is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. In D.02-09-049, the Commission increased Pacific's shared and common cost markup from 19% to 21% and ordered Pacific to remove 13% from the expense portion of its UNE recurring costs.
2. The rate changes ordered in D.02-09-049 were effective September 19, 2002, but the implementation of the rate changes was stayed pending resolution of the actual adjustment amount.
3. Pacific submitted recalculations of its UNE recurring costs in compliance with D.02-09-049 and there were no protests to the accuracy of Pacific's calculations.
4. Some parties have challenged the completeness of Pacific's calculations, contending the rate adjustments are applicable to other UNEs.

Conclusions of Law

1. The Commission should approve the recalculation of Pacific's UNE recurring costs, contained in Appendix A of this order, and the rates should be implemented as of the date of this order.
2. Pacific should calculate any adjustments that it may owe to interconnecting carriers for UNEs purchased on or after September 19, 2003 if the rates in Appendix A are lower than the amount Pacific had previously billed.
3. Pacific should calculate whether it is owed money by interconnecting carriers for UNEs purchased on or after September 19, 2003, if the rates in Appendix A are higher than the amount Pacific had previously billed.
4. Within 60 days of this order, Pacific should ensure that billing adjustments to reflect monies owed to or by interconnecting carriers for UNEs purchased at the rates in Appendix A on or after September 19, 2002 are properly reflected in its bills for UNE monthly recurring charges.

O R D E R**IT IS ORDERED** that:

1. The monthly recurring prices for unbundled network elements (UNEs) offered by Pacific Bell Telephone Company (Pacific) that are set forth in Appendix A to this decision are approved.
2. Pursuant to Commission Resolution ALJ-181 (adopted October 5, 2000), Pacific shall prepare amendments to all interconnection agreements between itself and other carriers. Such amendments shall substitute the monthly recurring UNE prices set forth in Appendix A, for the UNE prices set forth in such interconnection agreements. Such amendments shall be filed with the Commission's Telecommunications Division, pursuant to the advice letter process set forth in Rules 6.1 and 6.2 of Resolution ALJ-181, within 30 days after the effective date of this order. The amendments do not require a signature of the carriers involved as long as the amendments are limited to substituting the UNE rates adopted in today's order. Unless protested, such amendments shall become effective 30 days after filing.
3. Within 60 days of the effective date of this order, Pacific shall calculate any billing adjustments owed to or by interconnecting carriers based on the implementation of the rates in Appendix A and ensure that these adjustments are reflected in its bills for monthly recurring UNE prices.

This order is effective today.

Dated _____, San Francisco, California.

APPENDIX A

Appendix A

Adopted Rates

<u>Link</u>	<u>Adopted UNE</u> <u>Price</u> ¹	<u>Interim</u> <u>Discount</u> ²	<u>Interim</u> <u>UNE Price</u>
Basic or Assured Link (2-wire)	\$ 11.57	15.1%	\$ 9.82
Zone 1	\$ 9.71	15.1%	\$ 8.24
Zone 2	\$ 13.17	15.1%	\$ 11.19
Zone 3	\$ 23.19	15.1%	\$ 19.69
PBX Trunk Option	\$ 2.21		
Zone 1	\$ 2.26		
Zone 2	\$ 2.19		
Zone 3	\$ 1.89		
Coin Option	\$ 2.98		
Zone 1	\$ 3.04		
Zone 2	\$ 2.95		
Zone 3	\$ 2.54		
ISDN Option	\$ 4.51		
Zone 1	\$ 4.37		
Zone 2	\$ 4.73		
Zone 3	\$ 5.05		
Digital - 1.544 Mbps (DS1)	\$ 93.91		
Zone 1	\$ 89.68		
Zone 2	\$ 97.78		
Zone 3	\$ 119.40		
4-Wire - Link	\$ 36.27		
Zone 1	\$ 32.62		
Zone 2	\$ 39.46		
Zone 3	\$ 58.93		
4-Wire - CO Facility Interface Connection	\$ 15.15		
 <u>Entrance Facilities</u>			
Voice Grade (2W)	\$ 22.75		
Voice Grade (4W)	\$ 45.49		
DS1	\$ 152.57		
DS3	\$ 1,865.32		
DS3 (w/o equip)	\$ 733.47		
 <u>Multiplexing</u>			
DS0/DS1	\$ 259.83		
DS1/DS3	\$ 292.69		
 <u>Digital Cross Connect System (DCS) - Multiplexing</u>			
DS0/DS1 per channel	\$ 10.83		
DS1/DS3 per channel	\$ 10.45		

¹ These prices reflect a 21% shared and common cost markup and a 13% decrease in the expense portion of the recurring cost, in compliance with D.02-09-049.

² Interim Discounts as adopted in D.02-05-042 and D.02-09-052, where applicable

	<u>Adopted UNE</u> <u>Price</u> ¹	<u>Interim</u> <u>Discount</u> ²	<u>Interim</u> <u>UNE Price</u>
Switching			
Ports			
2-Wire Port	\$ 2.72	69.4%	\$ 0.83
Coin Port	\$ 3.66	69.4%	\$ 1.12
Centrex Port	\$ 4.21	69.4%	\$ 1.29
DID Port	\$ 4.11	69.4%	\$ 1.26
DID Number Block	\$ 0.96	69.4%	\$ 0.29
ISDN Port	\$ 13.93	69.4%	\$ 4.26
DS1	\$ 20.63		
Switch Features			
Call Forwarding Variable	\$ 0.52	69.4%	\$ 0.16
Busy Call Forwarding	\$ 0.51	69.4%	\$ 0.16
Delayed Call Forwarding	\$ 0.51	69.4%	\$ 0.16
Call Waiting	\$ 0.51	69.4%	\$ 0.16
Three Way Calling	\$ 0.52	69.4%	\$ 0.16
Call Screen	\$ 0.58	69.4%	\$ 0.18
Message Waiting Indicator	\$ 0.51	69.4%	\$ 0.16
Repeat Dialing	\$ 0.61	69.4%	\$ 0.19
Call Return	\$ 0.61	69.4%	\$ 0.19
Call Forward Busy/Delay	\$ 0.51	69.4%	\$ 0.16
Speed Calling 8	\$ 0.51	69.4%	\$ 0.16
Speed Calling 30	\$ 0.51	69.4%	\$ 0.16
Intercom	\$ 0.57	69.4%	\$ 0.17
Intercom Plus	\$ 0.57	69.4%	\$ 0.17
Remote Access to Call Forwarding	\$ 0.54	69.4%	\$ 0.17
Direct Connect - Shared	\$ 0.51	69.4%	\$ 0.16
Direct Connect - Unshared	\$ 0.51	69.4%	\$ 0.16
Select Call Forwarding	\$ 0.54	69.4%	\$ 0.17
Call Trace	\$ 0.52	69.4%	\$ 0.16
Speed Call 6	\$ 0.51	69.4%	\$ 0.16
Call Restriction	\$ 0.84	69.4%	\$ 0.26
Distinctive Ringing	\$ 0.51	69.4%	\$ 0.16
Directed Call Pickup	\$ 0.52	69.4%	\$ 0.16
WATS Access per Port	\$ 0.51	69.4%	\$ 0.16
WATS Access per Group	\$ 1.69	69.4%	\$ 0.52
Caller I. D.	\$ 0.68	69.4%	\$ 0.21
Caller I. D. Blocking	\$ 0.53	69.4%	\$ 0.16
Call Hold	\$ 0.51	69.4%	\$ 0.16
Remote Call Forwarding	\$ 0.92	69.4%	\$ 0.28
Hunting	\$ 0.26	69.4%	\$ 0.08
DNCF	\$ 0.95	69.4%	\$ 0.29
Switch Usage			
Interoffice - Originating			
Setup per Attempt	\$ 0.00572	69.4%	\$ 0.00175
Holding Time Per MOU	\$ 0.00179	69.4%	\$ 0.00055
Interoffice - Terminating			
Setup per Call	\$ 0.00678	69.4%	\$ 0.00208
Holding Time Per MOU	\$ 0.00181	69.4%	\$ 0.00055

	<u>Adopted UNE Price</u> ¹	<u>Interim Discount</u> ²	<u>Interim UNE Price</u>
Intraoffice			
Setup per Call	\$ 0.01299	69.4%	\$ 0.00397
Holding Time Per MOU	\$ 0.00350	69.4%	\$ 0.00107
Tandem Switching (associated with Shared Transport)			
Setup per Attempt	\$ 0.00074	79.3%	\$ 0.00015
Setup per Completed Message	\$ 0.00112	79.3%	\$ 0.00023
Holding Time Per MOU	\$ 0.00065	79.3%	\$ 0.00013
Tandem Switching (originally called "Overflow")			
Setup per Attempt	\$ 0.00546	79.3%	\$ 0.00113
Setup per Completed Message	\$ 0.00941	79.3%	\$ 0.00195
Holding Time Per MOU	\$ 0.00553	79.3%	\$ 0.00114
Trunk Port Termination			
End Office Termination	\$ 20.63	69.4%	\$ 6.31
Tandem Termination	\$ 140.03	79.3%	\$ 28.99
<u>Interoffice Transmission Facilities</u>			
Switched Transport - Shared			
Fixed Mileage per MOU	\$ 0.00120		
Variable Mileage per MOU per Mile	\$ 0.00002		
Switched Transport - Shared - Overflow			
Fixed Mileage per MOU	\$ 0.01084		
Variable Mileage per MOU per Mile	\$ 0.00002		
Switched Transport - Common			
Fixed Mileage per MOU	\$ 0.00127		
Variable Mileage per MOU per Mile	\$ 0.00002		
Dedicated Transport - Voice Grade			
Fixed Mileage	\$ 3.05		
Variable Mileage per Mile	\$ 0.19		
Dedicated Transport - DS1			
Fixed Mileage	\$ 32.15		
Variable Mileage per Mile	\$ 1.87		
Dedicated Transport - DS 3			
Fixed Mileage	\$ 375.36		
Variable Mileage per Mile	\$ 36.32		
<u>Expanded Interconnection Service Cross Connect (EISCC)</u>			
Voice Grade/ISDN			
EISCC	\$ 0.40		
Jack Panel	\$ 1.68		
DS0			
EISCC	\$ 25.20		
Jack Panel	\$ 5.41		
DS1			
EISCC	\$ 16.29		
Jack Panel	\$ 2.35		
Repeater	\$ 23.87		
DS3			
EISCC	\$ 46.44		
Jack Panel	\$ 26.20		
Repeater	\$ 102.89		

	<u>Adopted UNE Price</u> ¹	<u>Interim Discount</u> ²	<u>Interim UNE Price</u>
<u>White Page Listings</u>			
CLEC Listing	\$		0.36
<u>Operator Services</u>			
Directory Assistance per call	\$		0.36
Operator Services per Work Second	\$		0.03
<u>SS7</u>			
STP Port	\$		266.11
<u>SS7 Links</u>			
<u>Voice Grade</u>			
Fixed Mileage	\$		3.05
Variable Mileage per Mile	\$		0.19
<u>DS1</u>			
Fixed Mileage	\$		32.15
Variable Mileage per Mile	\$		1.87
<u>Unbundled Loops provided over DLC to an Entrant as a Digital Facility</u>			
per Digital Facility	\$		24.28
per Voice Line Activated	\$		5.65
<u>Data Base Query</u>			
800 Database - per Query	\$		0.00213
Line Identifier Database (LIDB) - per Query	\$		0.00252
<u>Dark Fiber</u>			
Dark Fiber -Interoffice per strand	\$		11.10
Dark Fiber - Interoffice per foot	\$		0.00017
Dark Fiber Loop - CO to Customer Prem-per strand	\$		10.98
Dark Fiber Loop - CO to Customer, per foot	\$		0.00011
Dark Fiber Subloop - CO to CEV/Hut/RT-per strand	\$		10.98
Dark Fiber Subloop - CO to CEV/Hut/RT per foot	\$		0.00011
Dark Fiber Subloop - CEV/Hut/RT to EU Prem per strand	\$		10.98
Dark Fiber Subloop - CEV/Hut/RT to EU Prem per foot	\$		0.00011
Dark Fiber Cross Connect - Interoffice	\$		6.85
Dark Fiber Cross Connect - Loop/Subloop	\$		6.85
Dark Fiber Cross Connect - Subloop	\$		6.85