

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Pac-West Telecomm, Inc.,

Complainant,

vs.

Pacific Bell Telephone Company,

Defendant.

Case 02-03-011
(Filed April 19, 2002)

ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO

Summary

Pursuant to Rules 6(b)(3) and 6.3 of the Rules of Practice and Procedure, this Ruling sets forth the procedural schedule, assigns a presiding officer, and addresses the scope of the proceeding after the May 14, 2002, prehearing conference (PHC).

Background

Pac-West Telecomm, Inc. (Pac-West) alleges that Pacific Bell Telephone Company (Pacific) overcharges it for 1.544Mbps/DS-1 circuits, special access circuits used to connect Pac-West switch locations with other Pac-West and Pacific facilities in order to provide competitive telecommunications services. Since April 2001, Pacific has refused to charge Pac-West the rate for circuits terminating at interexchange carrier points of termination (TMEPS rate) and instead has charged the higher rate for circuits terminating to end-user locations

(TMECS rate). Pac-West requests a refund of and credit for the excess charges and an order directing Pacific to correctly charge Pac-West for special access circuits.

Pacific answers that the TMECS rate is the applicable rate for the 1.544Mbps/DS-1 circuits ordered by Pac-West. Pacific denies that those circuits terminate at locations that are entitled to the TMEPS rate and that Pac-West is entitled to the requested relief.

Scope of the Proceeding

In the filed pleadings and at the PHC, the parties define their dispute as centering on one issue, whether the 1.544 Mbps/DS-1 circuits ordered by Pac-West should be priced at Pacific's TMEPS or TMECS tariffed rate.

Schedule

The schedule for this proceeding is as follows:

July 26, 2002	Complainant and Defendant serve testimony
August 5 and 6, 2002	Evidentiary hearings at 10:00 a.m., Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California
....	Concurrent briefs filed, per schedule to be set by later ruling
....	Concurrent reply briefs filed per schedule to be set/Projected submission date
....	Presiding officer's decision filed within 60 days of submission
....	Presiding officer's decision becomes effective (unless appeal filed within 30 days per Pub. Util. Code § 1701.2(a) and Rule 8.2)

Discovery

At the PHC, the parties agreed to cut off discovery on July 12, 2002.

Category of Proceeding and Need for Hearing

This ruling confirms this case as an adjudication scheduled for hearing, as preliminarily determined in the Instructions to Answer.

Designation of Presiding Officer

Administrative Law Judge Janice Grau will be the presiding officer.

Ex Parte Rules

Ex parte communications are prohibited in adjudicatory proceedings under Pub. Util. Code § 1701.2(b) and Rule 7 of the Commission's Rules of Practice and Procedure.

IT IS RULED that:

1. The scope of the proceeding is as set forth herein.
2. The schedule for this proceeding is as set forth herein.
3. The presiding officer will be Administrative Law Judge Grau.
4. This ruling confirms that this proceeding is an adjudication scheduled for hearing.
5. Ex parte communications are prohibited under Pub. Util. Code § 1701.2(b) and Rule 7 of the Rules of Practice and Procedure.

Dated June 3, 2002, at San Francisco, California.

/s/ CARL WOOD

Carl Wood
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner's Ruling and Scoping Memo on all parties of record in this proceeding or their attorneys of record.

Dated June 3, 2002, at San Francisco, California.

 /s/ FANNIE SID
Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.