already installed and operating, and a far lower percentage of new installations. In most cases, where there is need for payphone service, a payphone can be operated profitably without any need for public or private subsidy.

That said, CPA responds to the Commission's requests for comment as follows: Yes, it is in the public interest to provide for the maintenance of payphones serving public policy objectives in some locations that are not otherwise profitable to serve. CPA believes the appropriate role of the Commission in this regard is the middle option -- to set national guidelines, while leaving implementation as a responsibility of state authorities and those companies under state jurisdiction.

CPA believes the proposed definition is just about right, although it may be reasonable to recognize an exception permitting a public interest payphone at a location owned by a person who has a contract with a payphone provider so long as no compensation, commission, or favorable rates are provided for under that contract. CPA also suggests that two very important further limitations be added to the definition: a public interest payphone should be no closer than fifty (50) yards from any other operating payphone, and should not be located indoors unless unrestricted access to the indoor location is allowed at least twelve (12) hours a day and clear exterior signage is provided to indicate the availability of the payphone to passersby.

These modifications to the proposed definition are consistent with the definition of a "public policy payphone" adopted in California in the context of extensive consideration of the relevant issues in proceedings before the CPUC.

Experience in California has demonstrated that the support obligations for public interest payphones need not be great, because the number of truly uneconomic pay stations serving public needs is small. In California, where the LECs operate well over 200,000 public and semi-public telephones, the CPUC addressed the issue of supporting public interest payphones through a rulemaking opened in 1988. Initial estimates offered by Pacific Bell and other LECs indicated that "uneconomic" payphones numbered in the tens of thousands, but once the CPUC had established appropriate criteria for defining public interest payphones, the number of stations so identified for all of California's LECs shrank to fewer than 2,000 stations.[22/]

Key factors that led to this winnowing of the list of stations eligible for subsidy support were requirements that the station not be on premises of a person receiving compensation under a contract for the placement of other payphones, that access to the payphone be unrestricted, and that the station be at least a specified distance away from any other payphone.[23/] The increase in California in the number of competitive payphones and in the number of LEC payphones under contract with location owners also contributed toward diminishing the number of qualifying public interest payphones.[24/]

The result in California was a subsidy support obligation, imposed equally on all payphone providers in proportion to the number of payphones they operate, that requires COPT providers to contribute only about $0.20 per COPT per month to support the LECs' public interest payphones. Because the CPUC defined a strict review procedure to govern eligibility of new payphone installations for subsidy

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22/ See, California Public Utilities Commission, Workshop Report on Customer Owned Pay Telephone Service in Response to Commission Decision 90-06-018, December 21, 1993, at 29-30, relevant excerpts from which are attached hereto as Exhibit 6.

23/ Id. at D-6 (Criteria for Category A Public Pay Phones).

24/ Id. at 31.

support, only a handful of new stations have even been proposed for "public policy" status over the past six years.

The California experience demonstrates that the problem of supporting payphones placed for public policy reasons is not a serious one, so long as the category of stations entitled to such support is narrowly defined and limited to those which truly require subsidy support to meet public policy needs. However, the California solution -- requiring COPT providers to subsidize the LECs' provision of public policy stations -- is not the only feasible approach. CPA suggests that the Commission consider an alternative procedure whereby, if a payphone provider, whether an LEC or a competitor, seeks subsidy support for a particular payphone, there would first be a determination whether the payphone meets an appropriately narrow definition of a "public interest payphone" and, if so, the right to receive subsidy support for operating a payphone at that location would be subject to auction -- with the right and obligation to serve for the next five-year period assigned to the lowest bidder.

III.

CONCLUSION

California Payphone Association respectfully urges the Commission to resolve the many important issues presented for comment in the NPRM in a manner consistent with the foregoing comments.

Respectfully submitted,

GRAHAM & JAMES

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July 1, 1996

EXHIBIT 1

C-1

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission Advisory and Compliance Division **RESOLUTION T-15782**
Telecommunications Branch March 13 1996

R E S O L U T I O N

RESOLUTION T-15782 CONCERNING REQUEST OF PACIFIC BELL (U-1001-C) TO CLARIFY THE TYPES OF CALLS TO WHICH THE $0.25 PAY STATION SERVICE CHARGE (PSSC) APPLIES.

BY ADVICE LETTER No. 17014, FILED ON JUNE 23, 1994, SUPPLEMENTED JULY 19, 1994, AND AUGUST 22, 1994.

I. SUMMARY OF ACTION

On June 23, 1994, Pacific Bell (Pacific) filed Advice Letter No. 17014 requesting authority to apply the Pay Station Service Charge (PSSC) of 25 cents to each intraLATA non-coin call made from a pay telephone. The effect of the advice letter would be to require InterExchange Carriers (IECs) to collect and remit the PSSC to the pay telephone owner for intraLATA non-coin calls carried by IECs, except for calls made using a debit card. Pacific's request is granted. However, based upon the results of a CACD-sponsored workshop, only AT&T, MCI, and Sprint would be required to collect and remit the PSSC to pay station owners.

II. BACKGROUND

A. THE PAY STATION SERVICE CHARGE

The PSSC (adopted in D.90-06-018), provides compensation in the amount of 25 cents per call to owners of pay telephones in the case of intraLATA non-coin calls.[1] When coins are used, the instrument may collect a surcharge for its owner, but in the case of non-sent-paid (i.e., calling card, operator assisted, or collect) calls made over the pay telephone, the owner would receive no compensation for the use of the instrument absent the PSSC.

Historically, Pacific Bell (PacBell) and GTEC California, Inc. (GTEC) were required to offer to bill, collect, and remit to pay telephone owners the 25 cent PSSC. Thus, in addition to

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1 An interLATA telephone call originating from a payphone is automatically routed to an IEC who, by prior arrangement, has agreed to compensate the payphone owner for the use of the instrument.

otherwise applicable toll rates, the LEC must charge the caller the 25 cent PSSC. Most of the PSSC is remitted to the owner of the pay telphone instrument; Pacific retains a small billing fee and revenues from the application of the PSSC to its own instruments. However, those revenues were offset by revenue reductions in other rates to ensure that the PSSC did not increase Pacific's revenues. The PSSC is "revenue neutral" to Pacific.

Due to technological advancements, a caller may now "dial around" the pay telephone operator and reach a preferred IEC. This bypass of the COPT's prearranged IEC means that the COPT owner is not compensated for the use of its equipment. The percentage of calls that are dialed around the pay telephone operator is potentially greater now that IECS are authorized to carry intraLATA as well as interLATA calls[2]. In the last several years the IECs have introduced a variety of non PSSC carrier access calling programs including 1-800-Call AT&T, 1-800-Collect and 1-800-Operator. These new calling programs have significantly reduced the calls to which the PSSC is applicable.

B. Justification for Advice Letter Filing

Pacific states that there is a $2.9 million revenue loss to which it otherwise would have been entitled from application of the PSSC to these intraLATA carrier access calls. The $2.9 million refers only to PSSC revenue and not to operator service charges or intraLATA message toll rates.

Pacific expects that by applying the PSSC to all intraLATA calls, regardless of whether the call carrier is a LEC or an IEC, it would be able to earn revenues needed to ensure revenue neutrality. Pacific would notify end-users of the application of the PSSC to all non-coin dialed intraLATA calls (except for debit card calls) through instruction cards on pay telephones. On July 19, 1994, Pacific supplemented the advice letter by proposing postponement of the effective date from August 2, 1994, to September 2, 1994. On August 22, 1994, Pacific supplemented the advice letter by proposing an effective date of October 1, 1994. By letter dated September 6, 1994, Pacific extended the effective date of its advice letter to October 27, 1994.

The Commission Advisory and Compliance Division (CACD), Telecommunications Branch, subsequently informed Pacific that the advice letter would not become effective until approved by an order of the Commission

2 IntraLATA competition was authorized by Decision (D.) 94-09-065, the Impelemention Rate Design (IRD) decision in the Commission's investigation into alternative regulatory frameworks for local exchange carriers.

C. Decision Expanding Application of PSSC

In the Implementation Rate Design Decision (D.94-09-065), the Commission found: "It is fair to require IECs carrying intraLATA traiffic to collect and remit to pay telephone providers the PSSC for intraLATA pay telephone noncoin calls completed using the IEC's facilities." (Conclusion of Law 132.)

CACD was directed to convene a workshop on the methods and practices for IECs carrying intraLATA traffic to charge, collect, and remit the pay station service charges for pay telephone calls completed within the LATA and through the IECs' facilities. The workshop report, which contained CACD's recommendations was filed on June 1, 1995. ("Workshop Report on Pay Station Service Charge in Response to Commission Decision 94-09-065".)

D. Results of PSSC Workshop

At the workshop, representatives of the IECs stated that the costs of modifying billing systems to bill and remit the PSSC could lead to bankruptcy. Following discussions, CACD made the following recommendations.

> 4. IECs carrying less than 3 percent of the traffic (non-coin intraLATA carrier access calls from pay telephones) should be exempt from billing, collecting and remitting the PSSC to pay telephone providers until a procedure and/or technology has been developed to implement the PSSC without undue financial hardship on the exempt IECs. Currently, the PSSC would apply to AT&T Communications of California, Inc. (AT&T), MCI, Sprint, and LDDS METROMEDIA Communications (LDDS).
>
> 5. CACD shall review any suggested procedure for the exempt IECs to implement the PSSC and determine if there is any financial undue hardship on the exempt IECs.

Thus, any potential financial hardship imposed on IECs with minimal resources would be greatly mitigated under CACD's recommendations for implementation of the PSSC.

E. Review of PSSC Expansion Denied by Supreme Court

On October 30, 1995, the California Association of Long Distance Telephone Companies (CALTEL) petitioned the California Supreme Court for review of the decision to expand the PSSC to all non-sent paid intraLATA calls from pay telephones. Among other things, CALTEL argued that the PSSC was unreasonable because it was not "cost based", that it creates significant billing problems for IECs, and that the parties to the settlement that gave rise to the PSSC did not intend this use of the PSSC. These claims are identical to those made in several of the protests to the advice letter.

On February 14, 1996, the Supreme Court denied CALTEL's petition for writ of review.

F. FCC to Establish Per Call Compensation Plan

The Federal Telecommunications Act was enacted on February 8, 1996. Section 276 of the Act provides that within 9 months of enactment, the Federal Communications Commision "shall take all actions necessary... to prescribe regulations that -- (A) establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and intersate call using their payphone, except that emergency calls and telecommunications relay service calls for hearing disabled individuals shall not be subject to such compensation; ..." The Act further provides "To the extent that any State requirements are inconsistent with the Commission's regulations, the Commission's regulations on such matters shall preempt such State requirements."

Passage of the Act does not necessarily preempt this Commission's jurisdiction to review Advice Letter No. 17014. The FCC is not due to act for approximately 9 months. Since the FCC has not yet acted, one cannot conclude that the requirements imposed upon Pacific by approval of the advice letter are inconsistent with the FCC's regulations. Moreover, delay by this Commission would only exacerbate the revenue losses to Pacific.

III. NOTICE

A copy of this advice letter was mailed to competing and adjacent utilities, parties of record for D.90-06-018 (the decision adopting the PSSC), and other parties who requested a copy. Notice of Pacific's Advice Letter No. 17014 was published in the Commission's Daily Calendar on July 1, 1994.

IV. PROTESTS

Timely protests to the advice letter were filed by the following ten entities:

MCI Telecommunications Corporation (MCI),
Division of Ratepayer Advocates (DRA),
CALTEL,
California Payphone Association (CPA),
Operator Service Company (OSC),
Telecommunications Resellers Association (TRA),
Hertz Technologies, Inc. (HERTZ),
Phone Club USA, Inc. (Phone Club),
World Telecom Group, Inc. (World), and
Sprint Communications Company L.P. (Sprint).

A summary of the protests and Pacific's responses are as follows:

A. Unfair Impact Upon IECs

* Three of the protestants believe that Pacific's advice letter would effectively regulate IEC behavior.

Pacific replied that the PSSC is a charge to the end user for use of the pay telephone to make a non-coin intraLATA call, that IECs are already regulated through Pacific's tariffs for pay telephones, and that the PSSC does not limit the behavior of the IECs through Pacific's tariffs.

* Six protests state that this advice letter creates significant billing problems for IECs.

Pacific replied that the billing problems are not unsurmountable. AT&T has stated that it has the ability to bill and collect the PSSC. Three other states, Florida, Alabama and Utah, have ordered IECs to assess a PSSC on appropriate calls.

* Six protests state that this advice letter interferes with and impairs the viability of IEC services.

Pacific replied that the PSSC does not interfere with or impair the viability of IEC services. The surcharge is applicable to the end user and in no way impairs access to an IEC. The PSSC has been considered as "rent" to use a pay telephone to reach a carrier for a call that provides no revenue to the owner of the pay telephone

B. Unfair Advantage to Pacific

* Three protests assert a failure to substantiate the $2.9 million in lost annual revenues.

Pacific replied that work papers have been provided to CACD showing the development of the $2.9 million loss in annual revenues.

* Two protests state that this advice letter is an attempt to recover alleged competitive losses from the IECs.

Pacific replied that this advice letter cannot be an attempt to recover alleged competitive losses from the IECs because the effect of the PSSC is revenue neutral.

* Two protests claim that this advice Letter is an inappropriate attempt to increase Pacific's intraLATA compensation at the outset of intraLATA competition.

Pacific denies this because the revenues forecast to be collected by the PSSC were offset by rate decreases for other services, specifically, an initial 5 cent reduction to the credit card and operator assistance rate, and subsequently by the Message Toll Service (MTS) surcharge. The IRD decision recognized the revenue effect of the MTS surcharge in rates and eliminated the MTS surcharge effective January 1, 1995.

* One protest states that the mandatory PSSC should be classified as a Category I rate element and thus must be introduced via an application

Pacific replied that the PSSC is an existing rate and the advice letter only clarifies the applicability of the PSSC. The issue of the PSSC applying to a Category I service does not apply in this case.

C. Arguments Dismissed by the Supreme Court

* Two protests state that the mandatory surcharge on IEC customers is not based on the underlying cost of the alleged "service."

Pacific replied that although the PSSC is not cost justified, it is revenue neutral to Pacific. The PSSC is set to shift the cost of providing pay telephones to those who actually use them.

* Three protests state that the now expired 1990 pay telephone settlement (D.90-06-018) did not intend that the PSSC would apply to 10XXX, 950-XXXX, 1-800 and 1-700 IEC services.

Pacific replied that the 1990 pay telephone settlement, which spawned the PSSC, intended free access to IECs for calls such as 10XXX, 950-XXXX 1-800 and 1-700. This access is provided to the IECs. The PSSC applies only when a subsequent non-coin intraLATA call is completed. The PSSC was not assessed upon 1-800 access and calling card calls in 1990 because Pacific was told that this traffic was only "incidental." During the last year with the advertising of 1-800-COLLECT and similar services, the volume of these types of calls has increased dramatically with corresponding resultant revenue loss to Pacific.

C. Implementation Problems

* One protest states that the PSSC would apply to prepaid calling card calls using the different carrier accesses.

Pacific replied that the PSSC does **not** apply to prepaid calling card calls.

* Three protests state that the PSSC would be applied to interLATA calls because of the probable inability to distinguish between inter and intraLATA toll free calls.

Pacific replied that the PSSC applies only to intraLATA calls. The issue of distinguishing calls between intraLATA and other types of calls can be addressed in the billing procedures.

D. Jurisdictional Issues

* One protest asserted that the advice letter improperly addresses the issue of Dial Around Compensation because that subject is being resolved at the federal level by the Federal Communications Commission (FCC).

Pacific replied that the FCC will address interstate calling, while the advice letter addresses only intrastate intraLATA calling.

V. DISCUSSION

Upon its review of the advice letter, the protests filed and Pacific's response to the protests, CACD recommends that this advice letter be approved. The workpapers submitted by Pacific demonstrated that the $2.9 million revenue loss reported by Pacific was not an annual amount but the accumulation of revenue losses for the years 1992, 1993 and 1994. The 1994 annualized revenue loss is $2.022 million.

Pacific's rebuttal to the protests persuades the staff that the protests lack merit and should not be used to reject this advice letter. However, some of the protests merit further discussion.

One of the parties asserts that the application of the PSSC to all intraLATA calling transforms the PSSC into a rate element of intraLATA calls. Under D.89-10-031, intraLATA calling was a monopoly service, and the increase in intraLATA rates represented by the PSSC must be sought by application and not by advice letter filing. However, D.94-09-065 authorized competition for intraLATA service, thus enabling changes to its rates to be sought by advice letter filing. Even assuming that the PSSC surcharge may be characterized as a rate element, that protest was rendered moot by D.94-09-065

Some of the protestants claim that the expansion of Pacific's authority to bill, collect, and remit the PSSC to pay telephone owners does not authorize the IECs to charge their end users the PSSC increment. Some of these calls are billed by an IEC. The rates charged by IECs for intrastate calls are regulated indirectly through Pacific's tariffs for the PSSC and by Commission-approved rate caps applicable to calls made by the end user. To remove any doubt about the ability of IECs to recover the PSSC from end users, the Commission should order the IECs to amend their tariffs accordingly

Allegations that the task of billing, collecting and remitting the PSSC to the owner of the pay telephone would create a hardship for IECs were addressed extensively in the PSSC Workshop held in early 1995.

As a result of the workshop, CACD also recommends that IECs carrying less than 3 percent of the non-coin intraLATA carrier access calls from pay telephones be exempted from billing, collecting and remitting the PSSC to pay telephone providers until a procedure and/or technology has been developed to implement the PSSC without undue hardship on the exempt IECs.

Although the Workshop Report included LDDS METROMEDIA Communications (LDDS) as carrying more than 3 percent of the non-coin intraLATA carrier access calls from pay telephone, more recent data from Pacific Bell show that LDDS does not. Thus, the PSSC would be implemented at this time by AT&T, MCI and Sprint.

At that time, AT&T stated that it has the ability to bill and collect the PSSC. Three other states, Florida, Alabama and Utah, have ordered IECs to assess a PSSC on appropriate calls. The PSSC Workshop revealed several alternatives available to IECs: (1) IECs can develop their own billing for the PSSC, (2) IECs can use a billing company, or (3) IECs can employ a revenue allocation procedure that uses updated data every three months. CACD recommends that given the fact that IECs were apprised of their responsibilities to bill, collect, and remit the PSSC in the IRD decision, it is reasonable to require IECs to implement the PSSC within 30 days from the effective date of this resolution.

The workshop report also suggested the need for a periodic process to determine when any other IECs are required to implement the PSSC, that payment for the PSSC should be remitted in advance, accounting for unbillables and uncollectibles, and subject to monthly true ups. The report also clarified that 1-800 subscriber calls from pay telephones carried by the LECs and IECs should be exempt from the PSSC.

The recommendations of the PSSC workshop report represent a balanced approach to the problem of allocating responsibility for compensating owners of pay telephones. The recommendations fairly resolve several of the protests against Advice Letter No. 17014. They should be adopted

FINDINGS

1. Pacific Bell (Pacific) has provided adequate data substantiating the estimated 1994 annual loss from application of the Pay Station Service Charge (PSSC) to the intraLATA carrier access calls to be $2.022 million.

2. Effective January 1, 1995 a non-coin intraLATA call is a Category II service.

3. Application of the PSSC to a Category II service may be requested by advice letter filing.

4. It is reasonable for the IECs to be authorized to collect the PSSC from their end users through amendments to their tariffs which provide for the billing, collecting and remitting of the PSSC.

5. Billing and collection procedures exist whereby the IECs can bill, collect and remit PSSC funds to pay telephone owners.

6. The recommendations of the PSSC workshop report are reasonable.

IT IS ORDERED THAT:

1. Pacific Bell is authorized to file and make effective a supplement to advice letter 17014 which clarifies the applicability of the Pay Station Service Charge (PSSC), and that the PSSC does not apply to InterExchange Carriers carrying less than three percent of the non-coin intraLATA carrier access calls from pay telephones.

2. All InterExchange Carriers carrying three percent or more of the non-coin intraLATA carrier access calls from pay telephones shall within 30 days of the effective date of this resolution, file and make effective tariffs to provide for billing, collecting and remitting the PSSC, as necessary to implement Pacific Bell Advice Letter No. 17014.

3. The recommendations of the PSSC workshop report dated June 1, 1995, are adopted.

The effective date of this Resolution is today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on March 13, 1996. The following Commissioners approved it:

Wesley Franklin

WESLEY M. FRANKLIN
Executive Director

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, Jr.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

EXHIBIT 2

THE WORKSHOP REPORT

ON

PAY STATION SERVICE CHARGE

IN RESPONSE TO

COMMISSION DECISION 94-09-065

SUBMITTED BY:

COMMISSION ADVISORY AND COMPLIANCE DIVISION

TELECOMMUNICATIONS BRANCH

JUNE 1, 1995

TABLE OF CONTENTS

I. ACKNOWLEDGEMENT

The workshops for the Pay Station Service Charge (PSSC) were conducted by Jody London and Eleanor Szeto of the Commission Advisory and Compliance Division (CACD). S. Robert Weissman wrote the report under the direction of Jack Leutza.

The participants in the workshop are listed in APPENDIX A and represented the Local Exchange Carriers (LECs), InterExchange Carriers (IECs), Customer Owned Pay Telephone (COPT) providers, consumer and pay telephone industry organizations, the Commission's Division of Rate Payer Advocates (DRA) and CACD.

II. FOREWORD

The California Public Utilities Commission (Commission) issued Decision No. (D.) 94-09-065 on September 15, 1994.

Ordering Paragraph 25 of this decision states as follows:

> CACD is directed to convene a workshop on the methods and practices for IECs carrying intraLATA traffic to charge, collect, and remit the pay station service charges for pay telephone calls completed within the LATA and through the IECs' facilities. CACD is directed to file a report with its recommendations by June 1, 1995. (p. 339)

Three duly noticed workshops were held on October 20, 1994, November 17 and 18, 1994, to carry out the Commission's order. The following report identifies the issues, the positions of the participants, and the recommendations of CACD.

III. INTRODUCTION

In D. 94-09-065 the Commission permitted intraLATA competition for local toll calls effective January 1, 1995. In that decision the Commission concluded (Conclusion of Law 132)(p. 325) the following:

> It is fair to require IECs carrying intraLATA traffic to collect and remit to pay telephone providers the PSSC for intraLATA pay telephone noncoin calls completed using the IEC's facilities.

The Commission, in Ordering Paragraph 25 (p. 339), directed CACD:

> . . . to convene a workshop on the methods and practices for IECs carrying intraLATA traffic to charge, collect, and remit the pay station service charges for pay telephone calls completed within the LATA and through the IECs' facilities

MCI Telecommunications Corporation (MCI), Sprint Communications Company L. P. (Sprint) and CALTEL filed petitions to modify D. 94-09-065 to delete Conclusion of Law 132. Pacific Bell (Pacific) and the California Payphone Association (CPA) each protested one or more of these petitions.

CACD staff convened a workshop to discuss the various issues related to implementation of the PSSC on October 20, 1994, with workshops also on November 17 and 18, 1994. The workshop participants identified and discussed the following issues:

1) PSSC applicability
2) Implementing the PSSC by type of call
3) PSSC alternatives for IECs to bill, collect and remit
4) Accounting issues: payment, unbillables and uncollectibles
5) Tariffing the PSSC
6) Implementing the PSSC

The workshop participants included representatives of LECs, IECs, COPT providers, consumer and pay telephone industry organizations and Commission staff.

This report contains the recommendations of CACD as directed by Ordering Paragraph 25 in D. 94-09-065.

RECOMMENDATIONS

of the

COMMISSION ADVISORY AND COMPLIANCE DIVISION

CACD recommends that:

1. There should be a level "playing field" between the LECs and the IECs for application of the PSSC for non-coin intraLATA calls.

2. The PSSC should be applicable to completed non-coin (non-sent paid) intraLATA calls including 411, 0- and 1-800-CALLINFO call types that lead to a revenue producing call. Debit card calls and 1-800 subscriber calls from pay telephones carried by IECs are excluded from PSSC application.

3. The IECs should implement a procedure to bill, collect and remit the PSSC (less a processing fee) to the pay telephone vendor.

4. IECs carrying less than 3 percent of the traffic (non-coin intraLATA carrier access calls from pay telephones) should be exempt from billing, collecting and remitting the PSSC to pay telephone providers until a procedure and/or technology has been developed to implement the PSSC without undue financial hardship on the exempt IECs. Currently, the PSSC would apply to AT&T Communications of California, Inc. (AT&T), MCI, Sprint, and LDDS METROMEDIA Communications (LDDS)

5. CACD shall review any suggested procedure for the exempt IECs to implement the PSSC and determine if there is any financial undue hardship on the exempt IECs.

6. CACD shall periodically review data to determine if an exempt IEC is eligible to maintain exempt status.

7. Until IECs have developed procedures to bill, collect and remit the PSSC to pay telephone providers, IECs may use, on an interim basis, an alternate procedure such as a revenue allocation procedure that uses updated data every three months.

8. IECs shall implement the billing, collecting and remitting of the PSSC to the pay telephone providers within 30 days of the Commission order to do so.

9. IECs should remit payment up front for the PSSC, accounting for unbillables and uncollectibles.

10. IECs should submit an advice letter to place the PSSC in their tariffs.

V. BACKGROUND

In the pay telephone Investigation (I) 88-04-029, the Commission in 1990 issued D. 90-06-018, which approved the COPT settlement agreement entered into among pay telephone providers, LECs, and other interested parties. The PSSC was implemented pursuant to this decision. In 1990 only Pacific, GTE California Incorporated (GTEC) and Contel of California, Inc. (Contel) could apply the PSSC. The PSSC was applicable to non-coin intraLATA calls placed from a pay telephone to require end users to compensate pay telephone providers for the use of their equipment. The tariffs filed by the LECs to implement the PSSC was for 0+ intraLATA calls. Pacific, electing to charge the PSSC, also reduced the "calling card surcharge" and the "collect" surcharge by $0.05 to achieve revenue neutrality with the PSSC as set forth in D. 90-06-018.

In June 1994 Pacific filed Advice Letter (AL) 17014 to "clarify" the types of calls to which the PSSC would apply. Pacific in AL 17014 stated that IECs have introduced a variety of non 0+ revenue-producing carrier access calling programs. Pacific also stated that these new call types have significantly reduced those calls to which the PSSC would apply under the literal wording of the tariff. In D. 90-06-018 the Commission recognized that "customers making calls from pay phones should not get a free ride" and applied the PSSC to all 0+ dialed intraLATA calls. Ten protests were filed regarding this advice letter. CACD informed Pacific that Advice Letter 17014 would not become effective pending an order from the Commission.

The Commission issued D. 94-09-065 on September 15, 1994. This decision provided for intraLATA toll competition effective January 1, 1995, included a discussion of the PSSC, and concluded (Conclusion of Law 132) that:

> It is fair to require IECs carrying intraLATA traffic to collect and remit to pay telephone providers the PSSC for intraLATA pay telephone noncoin calls completed using the IEC's facilities.

MCI, Sprint and CALTEL filed petitions to modify D. 94-09-065 to delete or modify Conclusion of Law 132. Pacific and CPA each protested one or more of these petitions.

Pursuant to Ordering Paragraph 25 of D. 94-09-065, CACD convened a workshop to discuss the methods and practices for IECs carrying intraLATA traffic to charge, collect, and remit the PSSC for pay telephone calls completed within the LATA and through the IECs' facilities. This report contains the results of the workshop sessions held in compliance with the Commission order.

VI. OVERALL CONCERNS OF THE PARTICIPANTS

The issues have been grouped by participants in the following way:

MCI, Sprint, LDDS and CALTEL are opposed to extending the PSSC to IECs. Smaller IECs, represented by CALTEL (an IEC trade organization) stated that the costs of modifying billing systems to bill and remit the PSSC could lead to bankruptcy. Larger IECs stated that 1) the cost of modifying billing systems to collect and remit the PSSC is excessive given the amounts of compensation to be collected; 2) recovery of the initial costs of billing system modifications has not been addressed; 3) it is inappropriate to require IECs to bill and collect charges for another entity and that compensation arrangements between carriers and COPT providers should be left to negotiations between the parties; 4) extension of the PSSC to other classes of calls would provide Pacific unwarranted reimbursement for "competitive expense", improper "dial around compensation" or a request for compensation for "competitive losses"; and 5) there is no evidence that the $0.25 level of the PSSC reflects the cost of providing access and that extension of the PSSC to additional call types will not be "revenue neutral" for Pacific.

Pacific and GTEC supported extending the PSSC to the IECs. Pacific, claiming that the PSSC is a revenue neutrality issue, denied that the PSSC revenues were related to "dial around compensation" or constituted a "competitive expense" or a "competitive loss". Pacific stated that the Commission could order the IECs to incorporate a PSSC into their tariffs.

CPA supported the requirement that the IECs carrying intraLATA traffic must charge, collect and remit the PSSC. CPA took the position that fairness dictates that COPT providers should receive compensation for "all non-coin intraLATA calls billed with the participation of an IEC." CPA stated that the PSSC is just and reasonable compensation for an IEC customer's use of public pay telephone equipment. Without such a set use fee, the siting of pay telephones for public use could become uneconomic and the public interest in convenient telecommunication services could be affected by a diminishing number of public pay telephones. G-5 Corporation, San Diego Payphone Owners Association, and Amtel Communications, Inc. supported CPA's position.

AT&T stated that it was ready to implement the PSSC on non-coin intraLATA calls as of January 1, 1995. AT&T has "applied the PSSC to all intraLATA operator-assisted calls made from pay stations since January 1, 1995."

AT&T supported implementation of the PSSC and takes the position that IECs should not be allowed to avoid this obligation simply because it is difficult to implement and bill or because IECs shall incur costs.

At the November 17, 1994, PSSC workshop, Sprint distributed to all parties a document (APPENDIX B) that contained issues to consider at the workshop. Pacific distributed to all parties a document (APPENDIX C) entitled PAY STATION SERVICE CHARGE: Bill, Collect and Remit Alternatives.

VII. ISSUES

The issues discussed by the workshop participants related to the "methods and practices for IECs carrying intraLATA traffic to charge, collect and remit the PSSC." For this, the following issues were identified and discussed: 1) PSSC applicability; 2) implementing the PSSC by type of call; 3) PSSC alternatives for IECs to bill, collect and remit; 4) accounting issues: payment, unbillables and uncollectibles; 5) tariffing the PSSC; and 6) implementing the PSSC.

ISSUE # 1

PSSC APPLICABILITY

The participants defined the types of calls to which the PSSC would apply. The participants listed various types of non-coin calls or non-sent-paid calls to which the PSSC could apply including:

0- (if it results in a revenue producing call)
0+
10-XXX
950-XXXX
1-800-XXX-XXXX
1-700-XXX-XXXX
1-500-XXX-XXXX
411 (if it results in a revenue producing call)
Calling card calls
Collect calls
Third party calls
Debit card or prepaid calling card calls