

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Long-Term Number Portability)	
Tariff Filings)	CC Docket No. 99-35
)	
Ameritech Operating Companies)	
)	
GTE System Telephone Companies)	
)	
GTE Telephone Operating Companies)	
)	
Pacific Bell)	
)	
Southwestern Bell Telephone Company)	

**JOINT REFUND PLAN OF
SOUTHWESTERN BELL TELEPHONE COMPANY
AND PACIFIC BELL**

SBC Communications Inc., (“SBC”) on behalf of Southwestern Bell Telephone Company (“SWBT”) and Pacific Bell, submits this Joint Refund Plan in accordance with the Memorandum Opinion and Order, released in this docket on July 16, 1999 (“Order”).

I. Introduction

On January 15, 1999, SWBT and Pacific Bell filed revisions of their long-term number portability service tariffs, assessing new end user charges and modifying the database/query charges already in effect (“Original Filings”).¹ On January 29, 1999, the Competitive Pricing Division suspended these tariffs for one-day, allowing them to go into effect February 1, 1999, subject to investigation.² On February 26, 1999, the Common Carrier Bureau identified the areas for investigation.³ On June 22 and 23, 1999,

¹ SWBT Long-Term Number Portability Tariff, Transmittal No. 2745; Pacific Bell Long-Term Number Portability Tariff, Transmittal No. 2029.

² *Long-Term Number Portability Tariff Filings, Memorandum Opinion and Order*, 11 FCC Rcd 2186 (1999).

³ *Long-Term Number Portability Tariffs, Order Designating Issues for Investigation*, 14 FCC Rcd 3367 (1999).

respectively, SWBT and Pacific Bell filed revised tariffs (“Revised Filings”).⁴ By its Order, the Commission concluded the investigation and held the Revised Filing rates of SWBT and Pacific Bell to be reasonable and lawful. It further ordered a refund of the revenues received relating to the difference between the Original Filings and the Revised Filings for that period of time in which the Original Filing rates were assessed.⁵ These refunds are further subject to interest compounded daily at the Internal Revenue Service quarterly underpayment interest rate.

II. End User Surcharge Refund

The end user surcharge rates contained in the Original Filings were \$0.50 per line for Pacific Bell and \$0.48 per line for SWBT. The Revised Filing rates are \$0.34 for Pacific Bell and \$0.33 for SWBT. For SWBT, its Revised Filing rate was put into effect on July 6, 1999, while Pacific Bell’s Revised Filing rate was put into effect July 7, 1999.

SWBT and Pacific Bell will commence the making of refunds to active customers of record within 60 days of the Bureau’s approval of this Refund Plan.⁶ The principal owed shall be calculated based upon the monthly surcharge amount applicable to the individual customer⁷ over the period in which the customer was charged the Original

⁴ SWBT Long-Term Number Portability Tariff, Transmittal Nos. 2764 and 2765; Pacific Bell Long-Term Number Portability Tariff, Transmittal No. 2056.

⁵ Order, . 176.

⁶ Credits in the amount of the refunds will appear on customer bills. For SWBT business and residential customers, billing is rendered on the odd-numbered days of each month. For Pacific Bell residential and business customers (including resale customers), the billing is rendered on the 1st, 2nd, 4th, 5th, 7th, 8th, 10th, 11th, 13th, 14th, 16th, 17th, 19th, 20th, 22nd, 23rd, 25th, 26th and 28th. For Pacific Bell Feature Group A customers entitled to refunds, the billing will be rendered the 1st, 2nd, 4th, 7th, 10th, 13th, 14th, 17th, 20th, 22nd, 25th and 26th.

⁷ The monthly surcharge for PBX and Plexar customers will be adjusted to reflect a 9:1 ratio in accordance with the Commission’s *Third Report and Order*, CC Docket No. 95-116, 13 FCC Rcd. 11701 (1998). Similarly, the surcharge for ISDN-Primary Rate Interface (“PRI”) customers will be adjusted to reflect a 5:1 ratio.

Filing rate.⁸ For SWBT customers the principal will be \$0.15 times the time period during which the customer was charged the Original Filing rate of \$0.48 per line. In Pacific Bell, the principal will be \$0.16 per line times the time period the Original Filing rate was charged.⁹ The principal for PBX and Plexar customers will be nine times the standard rate difference¹⁰ while the principal for PRI customers will be five times the standard rate difference.¹¹

Interest will be calculated on a daily compounded basis using the applicable IRS quarterly underpayment rate. For the first quarter, this rate was 7% while for the second and third quarters the rate is 8%. The daily compounded interest credited to the customer will be rounded to the nearest cent.

III. Non-Recurring Charges

The Commission directed Pacific Bell and SWBT to refund with interest the amount of any nonrecurring charges during the months carriers were assessed these charges relating to default queries, with the exception of the initial charge associated with the first default query.¹² The refund being made to an individual N-1 carrier will equate to the amount of the nonrecurring, disallowed charges collected from the carrier

⁸ With the assumption that refunds will be made by the end of November 1999, the principal plus interest afforded to SWBT end-users will be between \$0.01 per line and \$0.81 per line, depending upon when the customer connected service. Similarly, again assuming refunds are made prior to the end of November 1999, Pacific Bell end-users will receive between \$0.01 per line and \$1.02 per line.

⁹ The principal will include any fractional charge assessed the customer related to the monthly surcharge.

¹⁰ For SWBT PBX/Plexar customers, the principal plus interest will be between \$0.05 per line and \$7.29 per line depending on when they connected service. For Pacific Bell PBX customers, the principal plus interest will be between \$0.05 and \$9.18 depending upon when service was connected.

¹¹ For SWBT PRI customers, the principal plus interest will be between \$0.03 and \$4.05 depending upon when service was connected. For Pacific Bell PRI customers, the principal will be between \$0.03 and \$5.10 depending on service connection.

¹² Order, . 121.

beginning on February 1, 1999,¹³ plus compounded daily interest through the date of refund implementation. These refunds will commence within 60 days of the Refund Plan being approved.¹⁴

At the current time, neither SWBT nor Pacific Bell have a permanent programming solution in place to automatically eliminate succeeding charges after the initial charge associated with default queries by a specific carrier. As a temporary measure, SWBT and Pacific Bell have stopped billing customers this charge, until such time as a permanent solution is implemented. This temporary measure was put into effect by SWBT on July 6, 1999, and Pacific Bell on July 7, 1999. Both companies plan to implement permanent solutions as soon as feasible but at this time do not have a firm implementation date.

IV. N-1 Prearranged and Default Queries

In their Original Filings, Pacific Bell and SWBT initiated the billing for queries once the relevant switch became number portable. The Commission determined that SWBT and Pacific Bell's Revised Filings were "more reasonable" in initiating the billing for queries at the time the first number associated with the relevant NXX is ported.¹⁵ In doing so, the Commission recognized that this process results in a lower demand and thus, a higher query charge.¹⁶

Technically, the Ordering Clause relating to SWBT and Pacific Bell refunds could be interpreted to require these companies to determine, on daily basis, over a period

¹³ For N-1 carriers billed this charge the principal amount of the refund will be between \$214.50 and \$227.28 for each charge collected, depending upon their billing dates. For N-1 carriers billed this charge by Pacific Bell, the principal amount will be between \$235.00 and \$251.69 for each charge collected depending upon their billing dates.

¹⁴ Credit in the amount of the refunds will appear on carriers' bills. Carrier bills are rendered the 5th, 15th and 25th of each month in SWBT and the 1st, 2nd, 4th, 7th, 10th, 13th, 14th, 17th, 20th, 22nd, 25th and 26th of each month in Pacific Bell. For exchange carrier contract billing, the billing date is the fifth working day of the month.

¹⁵ Order, . 141.

¹⁶ Order, . 140.

exceeding five months, when a specific switch has a number ported from an associated NXX. The companies would then need to overlay when any queries were performed related to the identified switches and for what N-1 carriers these queries were made. This analysis would need to be conducted manually since no program exists which would enable the companies to compare data from differing sources and derive the required result. In addition to imposing a significant burden on SWBT and Pacific Bell, the accuracy of this cumbersome process may be called into question. Moreover, given the time-consuming nature of this analysis, the refunding of monies to carriers would be delayed.

As an alternative, SWBT and Pacific Bell propose refunding monies based upon the percentage of number portability capable switches from which numbers have been ported at each month's end. For example, if at the end of February 1999, only 20% of SWBT's number portability capable switches had ported at least one number from the relevant NXX, then all customers for which SWBT performed queries in that month would receive a refund equating to 80% of the charges collected related to that month's queries, plus the appropriate interest. Refunds for succeeding months would be calculated based upon month's end figures related to that percentage of number portability capable switches from which at least one call had at some time been ported.¹⁷

The applicable refund period would commence February 1, 1999, and conclude with the implementation of billing programming which will enable the assessment of query charges associated with only those switches in which at least one number in a relevant NXX has been ported.¹⁸ In SWBT, this programming conversion is scheduled

¹⁷ Currently, approximately 55% of Pacific Bell's switches have ported a number from the relevant NXX and approximately 49% of SWBT's switches have ported numbers from the relevant NXX.

¹⁸ SWBT and Pacific Bell previously estimated that the time required to modify their respective billing systems to bill for queries tied to the porting of numbers from individual switches was 24 to 26 weeks. *See*, Direct Case of Southwestern Bell Telephone Company, filed April 5, 1999, page 19, Direct Case of Pacific Bell, filed April 5, 1999, page 19.

for August 20, 1999; in Pacific Bell this implementation is to take place in early October with regard to September queries.¹⁹

V. Conclusion

This Joint Refund Plan achieves the Commission's directive that SWBT and Pacific Bell refund, with interest, the difference between any and all revenues received under their Original Filings in comparison to their Revised Filings. For this reason, SBC respectfully requests the Bureau's approval of this Joint Refund Plan as submitted.

Respectfully submitted,

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¹⁹ In Pacific Bell, during an interim period, charges will be billed a month in arrears. For example, carriers will be billed in October for queries made in September. This measure is temporary until such time as a permanent solution can be implemented. Currently, Pacific Bell believes it will implement its permanent billing solution in March 2000.

Certificate of Service

On this 16th day of August, 1999, I, Katie Turner, hereby certify that the Refund Plan of Southwestern Bell Telephone Company and Pacific Bell in CC Docket 99-35 have been served upon the parties listed in the Service List attached to the Refund Plan of Southwestern Bell Telephone Company and Pacific Bell.

/s/ Katie Turner

August 16, 1999

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