

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
<i>Computer III</i> Remand Proceedings)	CC Docket No. 90-623
Bell Operating Company Safeguards)	
and Tier 1 Local Exchange Company)	
Safeguards)	
)	
Filing and Review of Open Network)	CC Docket No. 88-2
Architecture Plans)	Phase I

**Petition For Declaratory Ruling That Waivers Are Not Needed
Or, In The Alternative, For Permanent Waivers, Or For Extensions of
Waivers That Will Expire December 15, 1999 And December 15, 2000**

Pacific Bell and Nevada Bell hereby file this petition for a declaratory ruling that they do not need waivers of the state tariffing requirement for the complementary network service ("CNS") Dual Telephone Coverage (Call Forwarding To Multiple Locations). In the alternative, Pacific Bell and Nevada Bell petition to have made permanent, or extended for three years, their existing waivers. Pacific Bell and Nevada Bell included Dual Telephone Coverage in their 1989 ONA Plan Amendment at Appendix AA-2. No other Bell Operating Company included this service in its ONA Plan. The Commission granted Pacific Bell's and Nevada Bell's current waivers on May 19, 1998.¹ Pacific Bell's waiver will expire on December 15, 1999, and Nevada Bell's waiver will expire on December 15, 2000. Pacific Bell and Nevada Bell request a

¹ *Pacific Bell and Nevada Bell Petition for Extensions of Waiver*, CC Docket Nos. 88-2, Phase I and 90-623, Order, 13 FCC Rcd 10260 (1998). The FCC granted the original waivers in *Pacific Bell and Nevada Bell Notice and Petition for Removal of the Structural Separation Requirement and Waiver of Certain Federal and State Tariffing Requirements*, CC Docket Nos. 90-623, 88-2, Phase I, DA 93-587, *Memorandum Opinion and Order*, 8 FCC Rcd 3982, para. 11 (1993).

declaratory judgment that waivers are not needed or, in the alternative, for good cause shown, they request permanent waivers or extensions for three years until December 15, 2002 for Pacific Bell and until December 15, 2003 for Nevada Bell.

Background

Pacific Bell and Nevada Bell are making this filing because they have not developed and tariffed Dual Telephone Coverage as a unique and individual ONA service or in the way anticipated in their previous waiver requests (*i.e.*, to include directing calls to different locations based on time-of-day or day-of-week). Pacific Bell and Nevada Bell offer a combination of state tariffed network call forwarding services that provide the capability for Dual Telephone Coverage as described in their 1989 ONA Plan Amendment. As a combination of other tariffed network services, however, it was not necessary to include Dual Telephone Coverage in their 1989 ONA Plan Amendment. And in 1989 it was too “speculative and futuristic” to have included Dual Telephone Coverage with the intention that it be a unique service with advanced features such as time of day delivery. In previous waiver requests, Pacific Bell and Nevada Bell have explained that inclusion of Dual Telephone Service in their Amendment was a mistake. Nonetheless, in reviewing the language of the ONA Plan Amendment and the individual types of call forwarding services that Pacific Bell and Nevada Bell offer, which customers can purchase in combinations, Pacific Bell and Nevada Bell have come to realize that they provide what they said they would in the 1989 ONA Plan Amendment, and that no waiver is needed, as further explained below.

I. The Commission Should Declare That Pacific Bell and Nevada Bell Have Adequately Satisfied Their ONA Plan For Provision Of Dual Telephone Coverage and That No Waivers Are Needed.

Pacific Bell's and Nevada Bell's sole description of Dual Telephone Coverage in their 1989 ONA Plan Amendment (Appendix AA-2) was as follows: "This capability allows a subscriber/user to selectively redirect calls arriving at his/her station set to two (and sometimes more than two) different answering points including multiple messaging services based on specific call situations."

The capability of redirecting calls to two or more answering points exists for many call situations by combining existing Pacific Bell and Nevada Bell services which are variations of Call Forwarding or Hunting.² For instance, a customer can have his or her calls forwarded to one number using Call Forwarding Service. That same customer can select up to 10 specific numbers for which calls are to be forwarded to a different number using Select Call Forwarding Service. That same customer can then dial in at any time (24 hours a day, seven days a week) and redirect his or her Call Forwarding Service to yet another number, without affecting the destination of the calls that were designated to be forwarded subject to Select Call Forwarding Service.

Accordingly, a customer can selectively redirect calls to two or more destinations. Or, in the words of Pacific Bell's and Nevada Bell's 1989 ONA Plan Amendment, "[t]his capability allows a subscriber/user to selectively redirect calls arriving at his/her station set to two (and sometimes more than two) different answering points." Moreover, just as described in the 1989 ONA Plan Amendment, this redirection of calls can include "multiple messaging services based

² These services include (1) Call Forwarding; (2) Select Call Forwarding; (3) Call Forwarding-Variable (Remote Access to Call Forwarding); (4) Forwarded Call Information - Multiple Users; (5) Forwarded Call Information - non-Centrex; (6) Busy Call Forwarding; (7) Call Forwarding Don't Answer; and (8) Call Forwarding Busy Line/Don't Answer.

on specific call situations.” For instance, the call situation of busy or no answer can be the basis for one call redirection service, while the call situation of being from a specific number selected as part of a group of numbers up to ten, can be the basis for another call redirection service. In this manner, call forwarding can be to multiple locations and Dual Telephone Coverage, as described in Pacific Bell’s and Nevada Bell’s ONA Plan Amendment, is achieved.³

Therefore, the Commission should recognize that Pacific Bell and Nevada Bell are providing services that meet the description of Dual Telephone Coverage in their ONA Plan Amendment and declare that they do not need a waiver.

II. If The FCC Finds A Waiver Is Needed, Permanent Waivers, Or Three-Year Extensions, Would Support The Public Interest

Since the time of Pacific Bell’s and Nevada Bell’s 1989 ONA Plan Amendment and their original waiver request, Advanced Intelligent Network (“AIN”) technology has emerged. This technology, together with development of operation support systems and other network changes described below, could allow Pacific Bell and Nevada Bell to provide an advanced form of Dual

³ That Dual Telephone Coverage potentially can include more technologically advanced functionality, such as providing the customer with remote access to redirect calls by time-of-day or day-of-week (“Intelligent Redirect”), does not alter the plain fact that Pacific Bell and Nevada Bell are providing service that meets the description in their ONA Plan. To the extent that Pacific Bell and Nevada Bell envisioned a unique, individual service or more advanced functionality for Dual Telephone Coverage, including it in their 1989 ONA Plan Amendment was a mistake. Pacific Bell and Nevada Bell explained this mistake in their original waiver request, in which they explained that they mistakenly included the CNS Dual Telephone Coverage (Call Forwarding to Multiple Locations) in Appendix AA-2 of their 1989 ONA. Request of Pacific Bell and Nevada Bell for Waiver of Tariffing Requirements for Certain ONA Services, CC Docket Nos. 90-623 and 88-2, Phase I, November 23, 1992, p. 12. Pacific Bell and Nevada Bell had pointed out that technologically advanced forms of this service were “speculative and futuristic” in nature. No other Bell Operating Company included this service in its ONA Plan. Pacific Bell and Nevada Bell submit that it is time to stop tying them to this mistake.

Telephone Coverage under the name “Intelligent Redirect.”⁴ Intelligent Redirect allows calls to be forwarded to multiple locations based on time of day or day of week.

In Pacific Bell’s and Nevada Bell’s previous waiver request, we explained that new services such as Intelligent Redirect cannot exist in a vacuum and must be coordinated with other AIN work and the rational, economic development and provisioning of services that meet customers’ needs.⁵ The Commission recognized this necessary process when it established the criteria for the development of new ONA services to meet the needs of enhanced service providers. Under these criteria, Pacific Bell and Nevada Bell must consider technical and cost feasibility, utility to ESPs, and expected market demand for the service.⁶

Demand for services useful to ESPs and their end users has occurred more briskly in the Multi-Frequency (“MF”)-based networks, rather than in AIN-based networks. ESPs’ demand for call forwarding services has focused on such MF-based network services as Call Forwarding Busy Line Don’t Answer. For instance, voice mail providers and their end user customers want busy or unanswered calls forwarded to the end users’ voice mail machines all the time, not just certain times of day or certain days of the week. Meeting this ESP and ESP end user demand does not require Intelligent Redirect or the AIN infrastructure required for it; the MF network suffices.

⁴ Southwestern Bell Telephone Company provides Intelligent Redirect.

⁵ Petition for Extensions of Waiver That Will Expire May 21, 1998, CC Docket Nos. 90-623 and 88-2, Phase I, April 17, 1998, at page 3. (“1998 Waiver Petition”).

⁶ *Amendment of Sections 64.702 of the Commission’s Rules and Regulations (Third Computer Inquiry)*, CC Docket No. 85-229, *Report and Order*, 104 FCC 2d 958, para. 217 (1986).

Accordingly, AIN development has not occurred as quickly as Pacific Bell and Nevada Bell predicted.⁷ In addition, as Pacific Bell explained before, it is replacing its 1AESS switches.⁸ Making changes to provide AIN services through these switches would be a waste of resources since Pacific Bell expects to replace them well before such expense could be justified. Replacing the 1AESS switches, however, is costing hundreds of millions of dollars and requiring a tremendous amount of human resources. The replacement is moving forward, but more slowly than had been expected. Even in the rest of Pacific Bell's network, Pacific Bell would need to make operational and technical changes in order to provide AIN services such as Intelligent Redirect. Pacific Bell would need to revise its operation support systems to accommodate customer ordering, billing, and other functions in connection with Intelligent Redirect. In addition, Pacific Bell still would need to perform some translations in the software of certain of its central office switches.

⁷ Pacific Bell is implementing some AIN services this year, including among others: Non-Emergency 311 for government use for non-emergency 911-type calls in order to free up emergency operators; and Government Emergency Telecommunications/Alternate Carrier Routing, which provides alternate routing paths for calls to specified federal government telephone numbers that will be used in times of government emergencies. For the future, Pacific Bell is considering numerous AIN services in addition to Intelligent Redirect. These services include, among others: Disaster Routing Service with which businesses can select up to three alternative telephone numbers to forward calls to in the event of problems at the customer's business premises; Intellinumber with which businesses can have a single number for all their branches in an area; Outgoing Call Control to restrict outgoing toll calls; Internet Caller ID with which customer can control call treatment via their personal computers, such as to take the call or to forward it to voice mail or to another number; and Caller Preview which intercepts calls with no Caller ID data and prompts the caller to record the caller's name, then calls the original called party and forwards caller ID, allowing the called party to determine if the original call should complete.

⁸ 1998 Waiver Petition at 3.

Nevada Bell continues to be behind Pacific Bell in the application of AIN to services. In addition to gaining the necessary service applications knowledge and capabilities to provide AIN services, Nevada Bell would have to perform all the functions described above concerning Pacific Bell in order to provide Intelligent Redirect.

The Commission should allow this network development to take its course based on customer demand -- not based on what is needed to develop the features of Dual Telephone Coverage beyond Pacific Bell's and Nevada Bell's description of the service in their 1989 ONA Plan Amendment. If the Commission finds a waiver is needed, a permanent waiver would best accommodate this economic network development to meet real customer demand most directly, efficiently, and quickly. If the Commission does not wish to grant a permanent waiver, then a three-year waiver would at least allow time for marketplace and network development to move significantly forward.

III. Conclusion

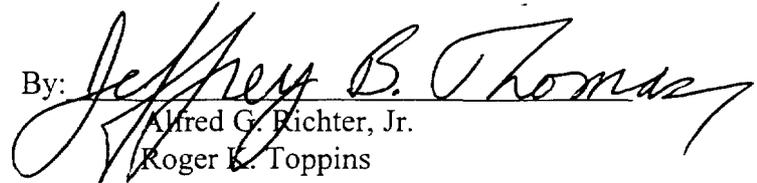
For all the above reasons, the Commission should issue a declaratory ruling that Pacific Bell and Nevada Bell do not need waivers concerning the state tariffing of Dual Telephone Coverage. They have developed and tariffed network services that provide all the capabilities described for Dual Telephone Coverage in their 1989 ONA Plan Amendment. In the alternative, there is good cause for the Commission to find that permanent waivers, or at a minimum

extensions for three years until December 15, 2002 for Pacific Bell and until December 15, 2003 for Nevada Bell, are in the public interest.

Respectfully submitted,

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