

Decision 00-11-015 November 2, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission’s Own
Motion to Consider Adoption of Rules
Applicable to Interexchange Carriers for the
Transfer of Customers Including
Establishing Penalties for Unauthorized
Transfer.

Rulemaking 97-08-001
(Filed August 1, 1997)

Investigation on the Commission’s Own
Motion to Consider Adoption of Rules
Applicable to Interexchange Carriers for the
Transfer of Customers Including
Establishing Penalties for Unauthorized
Transfer.

Investigation 97-08-002
(Filed August 1, 1997)

O P I N I O N

I. Summary

In this decision, the Commission modifies Decision (D.) 00-03-020 to limit disconnection of basic exchange service to nonpayment of basic exchange service charges, rejects certain parties’ interpretation of “unique name” for billing purposes, applies the 60-day limit for service provider change requests to all carriers, and makes several clarifications to the Subscriber Complaint Reporting Rules.

II. Background

On April 3, 2000, AT&T Communications (AT&T), MCI WorldCom (Worldcom¹), and Sprint Communications (Sprint) filed an application for rehearing of D.00-03-020. In D.00-05-052, the Commission ordered that the Application for Rehearing be re-docketed as a petition for modification. In the re-docketed petition for modification the petitioners requested that the Commission modify the requirement that the name appearing on the carrier's Certificate of Public Convenience and Necessity (CPCN) be used on customer bills to allow carriers to use other names "so long as it is abundantly clear who the entity is." The petition also sought to have billing for corporate affiliates excluded from the complaint reporting requirements. The petition proposed that the Commission, having done away with local disconnect for nonpayment of long distance, should instead institute a policy of allowing Local Exchange Carriers (LEC) to block access to all long distance providers for nonpayment of charges to a long distance provider.

On May 31, 2000, the California Small Business Association (CSBA), California Small Business Roundtable, Utility Consumer Action Network, and The Utility Reform Network (TURN) filed a joint petition to modify D.00-03-020. The joint petition noted that the Federal Communications Commission (FCC) had adopted an order that gave states the option to assume responsibility for addressing slamming complaints. The joint petition recommended that the Commission reopen this proceeding to assume this responsibility, adopt any

¹ As of May 1, 2000, MCI WorldCom, Inc., changed its name to WorldCom, Inc. For clarity of the record, we will continue to refer to WorldCom as MCI in this decision.

needed procedures, seek additional resources from the State Legislature, and inform consumers of their rights.

On June 13, 2000, Pacific Bell, Roseville Telephone Company, Ponderosa Telephone Company, Sierra Telephone Company, Citizens Telephone Companies, Evans Telephone Company, Calaveras Telephone Company, Ducor Telephone Company, Cal-Ore Telephone Company, ForestHill Telephone Company, Kerman Telephone Company, and Siskiyou Telephone Company filed a petition for modification of D.00-03-020. These petitioners sought:

(1) clarification of the term “interexchange carrier” in Ordering Paragraph 4, (2) a determination of whether Ordering Paragraph 7 applied to all service providers or only competitive local carriers, (3) assignment of the responsibility for ensuring the “unique” name of the service provider uses, as well as a definition of the term, and (4) a finding that failure to comply with the information reporting requirements will be excused where the billing telephone company does not possess the required information.

On June 14 and 15, 2000, the assigned Administrative Law Judge (ALJ) issued rulings allowing the parties to file and serve responses and replies to the petitions for modifications.

On June 30, 2000, OAN Services, Inc., (OAN) filed its response to the petitions for modification. OAN stated that it had no way of knowing a particular service provider’s “unique name” and thus requested a finding that a sworn statement from the service provider would shield them from liability under this rule. OAN also stated that it does not possess several pieces of information required by the rules to be reported. OAN also supported reopening this docket to address the issues raised by the FCC decision.

TURN and the Commission's Office of Ratepayer Advocates (ORA) filed a joint response to the MCI, AT&T, and Sprint application for rehearing on April 20, 2000. As provided in the ALJ ruling, on June 30, 2000, TURN and ORA also filed responses in opposition to the petitions for modification filed by Pacific Bell (and several other incumbent local exchange carriers) and the re-docketed petition for modification filed by MCI, AT&T, and Sprint. On July 11, 2000, TURN and ORA also filed a reply to the other parties' responses.

In all their filings, TURN and ORA oppose the LECs' requested change to the decision to limit disconnection of local service for nonpayment of third party toll service. TURN and ORA contend that such an interpretation was contrary to the Commission's intent to prohibit LECs from disconnecting local service for nonpayment of any long distance service, including that provided by the LEC. TURN and ORA also stated that the Commission had excluded the issue of full toll denial from the re-docketed petition for modification. To the extent it was not, TURN and ORA vigorously opposed such a policy because it is both anti-consumer and anti-competitive. TURN and ORA stated that full toll denial would not further the Commission's goal of making long distance carriers' billing and collection practices similar to those in other competitive industries. Allowing one carrier to prohibit access to all other service providers is unprecedented in competitive industries. In their reply comments, TURN and ORA oppose the request of the Association of Communications Enterprises (ASCENT) (formerly known as the Telecommunication Resellers Association) to take comments or hold workshops on the full toll denial issue, and OAN's interpretation of CSBA's petition as requesting that the Commission "re-explore" the issues addressed D.00-03-020, but rather only to address the discrete issues raised by the FCC's recent order.

On July 11, 2000, Pacific Bell filed its reply to the parties' comments on its petition for modification. Pacific Bell agreed with ASCENT that international toll has never been included within the definition of interexchange service. Pacific Bell also stated that it did not intend to advocate a change to D.00-03-020 to would allow an incumbent LEC to disconnect local service for nonpayment of long distance where the LEC provided both services. Pacific Bell proposed alternative language to accomplish its narrow objective.

On June 30, 2000, MCI filed a response to the LECs' petition to modify. MCI stated that limiting the definition of the services for which a LEC could not disconnect local service to those services provided by a third party would allow a LEC to disconnect local service for nonpayment of its own long distance service. MCI opposed such a change.

MCI also stated that it agreed with the LEC petitioners that the definition of "unique name" should include trade names as stated in the FCC Truth-in-Billing decision. MCI also supported the LEC petitioners in their request that Rules 3 and 5 of the Subscriber Complaint Reporting Rules be limited to information that the Billing Telephone Company possesses.

On June 30, 2000, GTE California Incorporated (GTE) filed its response to the petitions to modify. GTE supported the modifications requested in the LEC petition and MCI, AT&T, and Sprint petition. GTE took no position on the CSBA petition.

ASCENT filed a response to the petitions for modifications on June 30, 2000. ASCENT opposed LEC petitioners' request that interexchange service be defined to include international toll service. ASCENT stated that expanding the time limit for submitting service provider change requests from just competitive local carriers (CLCs) to including interexchange carriers (IXCs) would have little

effect because IXCs have substantial commercial incentives to promptly make such changes. ASCENT also opposed the LEC petitioners' request that the Commission allow a Billing Telephone Company to accept certification from a service provider that the service provider is using its unique name in billings it submits. ASCENT stated that this proposal was "regulatory overkill" and that the rule leaves the means by which the unique name is verified to the Billing Telephone Corporation. ASCENT also addressed the definition of "unique name." ASCENT contended that determining a unique name is a highly subjective process and that carriers should be allowed to select any name they want so long as the carrier complies with the requirements of the Secretary of State. ASCENT also supported using the FCC standard but only on a voluntary basis.

ASCENT opposed the regulation proposed by the LEC petitioners that would limit Billing Telephone Companies to producing information they possess. ASCENT stated that there might be situations where the Billing Telephone Company should have the requested information. The LEC petitioners' proposal would protect the Billing Telephone Company in instances where it should but does not possess the information. Finally, ASCENT supported the request of AT&T, MCI, and Sprint that the Commission consider full toll denial or other means to protect carriers from fraud by customers.

On July 11, 2000, AT&T, MCI, and Sprint filed their reply to the responses. These petitioners stated that § 2889.9(d) provides the Commission with sufficient discretion to allow carriers that bill only for itself and its affiliates to be subject to relaxed reporting requirements. Specifically, these petitioners stated that the Commission should rule that a Billing Telephone Company that bills only for itself and corporate affiliates is subject only to minimal record-keeping

requirements. (The reply did not provide any detail on the “minimal record-keeping requirements” advocated by the petitioners.) The petitioners also reiterated their support for an alternative to full toll denial.

On July 11, 2000, the Greenlining Institute and the Latino Issues Forum (Greenlining) filed their reply to the parties’ responses. Greenlining took “umbrage” at the IXCs’ attempts to interject the new issue of full toll denial. Greenlining stated that full toll denial is not justified based on the record and should be rejected because it would promote fraud and abuse of customers since failure to pay unauthorized charges will result in loss of toll access. Greenlining agreed with TURN and ORA that no public policy supported denying a customer access to all long distance carriers for failure to pay one long distance carrier.

III. Discussion

Pursuant to Rule 47(h) of the Commission’s Rules of Practice and Procedure, in response to a petition for modification, the Commission may modify the decision, set the matter for further hearing, summarily deny the petition on the ground that the Commission is not persuaded to modify the decision, or take other appropriate action. In response to the three petitions before us, we see four primary issues: the definition of interexchange service for purposes of local disconnect, the definition of unique name, refinements to the Subscriber Complaint Reporting Rules, and the applicability of Ordering Paragraph 7. We will take up each issue in turn below.

A. Clarification of Inter-Exchange and Local Services

Our objective in D.00-03-020 was to free customers from the fear of losing local telephone service so that they would no longer feel compelled to pay unauthorized charges. This objective is also consistent with our universal service

goals (See § 871.5; Universal Service, 68 CPUC 2d 524 (D.96-10-066).) As several parties point out, our language in effecting this change was not free from ambiguity. The Commission's D.00-03-020, Ordering Paragraph 4, in part, states:

“Incumbent local exchange carriers shall file and serve advice letters that contain revised tariffs . . . that conform to the portions of this order eliminating incumbent local exchange carriers’ authority to disconnect local service for nonpayment of inter-exchange service.”

Ambiguity exists because the intraLATA inter-exchange services provided by local exchange carriers are typically referred to as Zone Usage Measurement (ZUM) and Message Toll Service (MTS). Regardless of the terms used to describe a particular inter-exchange service, by definition, a telecommunications transmission between telephone exchanges is an “inter-exchange service.” It is in this regard that the Commission intended “inter-exchange services,” as used in OP 4, to include all inter-exchange services, including intra-LATA, inter-LATA, interstate and international, regardless of carrier class.

In addition, ambiguity exists because the term “local service” can encompass more than “basic service.” Basic service (or basic exchange service), as defined in D.96-10-066, Appendix B, page 5, is one of the many types of “local exchange services” provided by local exchange carriers. Local service consists of, among other service offerings, basic service, custom calling features, and toll (ZUM and MTS) services. The Commission’s references to “local service” in D.00-03-020 inadvertently suggested that all local exchange services, e.g., toll, custom calling features, were included in the list of services for which a local service could be disconnected. Rather, our intent was to protect “basic service” as defined in D.96-10-066 from disconnection resulting from non-payment. The

effect of this modification is to clarify that basic service cannot be denied for non-payment of other services.

Further, the Commission modifies the effect of its ruling to include Carriers Of Last Resort (COLRs) as defined in D.96-10-066. The Commission in D.00-03-020, page 37, states that the key to short-circuiting any dial tone leveraging is a readily available alternative local service provider. The possibility exists that a CLC could serve a market with no readily available alternative service provider. Therefore, the basic service protection rule should apply to all COLRs.

Therefore, we will modify D.00-03-020 as follows.

Page 33, first full paragraph is replaced with:

For these reasons, we intend to limit disconnection of basic residential and single line business service (i.e., Flat Rate and/or Measured Rate services) to nonpayment of non-recurring and recurring charges for basic residential and single line business services, including all mandated surcharges and taxes.

Page 57, Ordering Paragraph 4 is replaced with:

4. Carriers of Last Resort, as defined in D.96-10-066, shall file and serve advice letters that contain revised tariffs no later than 180 days after the effective date of this order that conform to the portions of this order eliminating such carriers' authority to disconnect basic residential and single line business, Flat Rate and/or Measured Rate service, as defined in D.96-10-066, Appendix B, page 5, for nonpayment of any charge other than nonpayment of non-recurring and recurring charges for basic residential and single line business, Flat Rate and Measured Rate service, including mandated surcharges and taxes calculated on same. Mandated charges do not include charges that are elective for the carrier to recover. Pending such advice letter filings, current tariffs shall remain in effect.

B. Subscriber Complaint Reporting Rules

In D.00-03-020, we adopted the complaint reporting rules required by § 2889.9(d):

The Commission shall establish rules that require each billing telephone company, billing agent, and company that provides products or services that are charged on subscribers' telephone bills, to provide the commission with reports of complaints made by subscribers regarding the billing for products or services that are charged on their telephone bills as a result of the billing and collection services that the billing telephone company provides to third parties, including affiliates of the billing telephone company.

Certain parties sought modifications to several components of the rules. We will address each rule in turn below.

1. Definition of “Billing Telephone Company” and Corporate Affiliates

The rules define “Billing Telephone Company” to include any telephone corporation that provides billing and collection services to a third party, including affiliates. MCI, AT&T, and Sprint contend that where a telephone corporation provides the billing and collection services only to affiliates, the Commission should only impose “relaxed record-keeping and reporting requirements.”

We begin our analysis with the plain words of the statute. While we agree with the petitioners that the statute leaves us discretion in crafting the rules, the statute clearly contemplates a record-keeping and reporting requirement for telephone corporations that bill only for affiliates. Here, the petitioners advocate a “relaxed” requirement but give no hint as to the specifics of such a requirement. Therefore, at this late stage in the proceeding, we will decline the petitioners' invitation to “revisit” these requirements.

2. Record of Billing Disputes

Subscriber Complaint Reporting Rule 3 sets out the specific items each record of a billing dispute must contain. Several of these items have drawn comments from the parties.

Subpart (b) requires the Billing Telephone Company to obtain the “subscriber telephone number and the unique subscriber identifier.” Several parties are unclear as to the meaning of “unique subscriber identifier.” The record reveals no apparent basis for this requirement, so we will delete it. Thus, Rule 3(b) shall be modified as follows: “b. the subscriber telephone number.”

Subpart (j) requires the Billing Telephone Company and billing agent to report the total number of telephone lines billed. OAN requests that we add “working” before telephone lines because billing agents only have information on “working telephone numbers.” This clarification will be adopted.

OAN also requests that we add “to the extent the billing agent possessed the requested information” to the end of the first full paragraph of Rule 3, and at the end of the first full paragraph of Rule 4.² As noted by ASCENT, while the billing agent may not possess the information, perhaps it should possess the information. We also add that notwithstanding the billing agent’s inability or unwillingness to obtain the information, the Commission may require the information to adequately perform its consumer protection function. For this reason, we decline to modify the rules as requested by OAN.

We will, however, modify Rules 3 and 4 as follows:

² Rule 4 was mis-numbered as Rule 5 in the original set of the Complaint Reporting Rules. Attachment A to this decision is a corrected set of the rules reflecting all changes.

Rule 3 (i): for billing agents, the total dollars billed and total amount refunded for each service provider; for billing telephone companies, the total dollars billed and total dollars refunded for each service provider for which the billing telephone company directly bills and each billing agent.

Rule 3(j): for billing agents, the total number of working telephone numbers billed by each service provider; for billing telephone companies, the total number of working telephone numbers billed by each service provider for which the billing telephone company directly bills and each billing agent.

Rule 4(d): for billing agents, the total number of subscribers billed by each service provider for which complaints were received; for billing telephone companies, the total number of subscribers billed by each service provider for which the billing telephone company directly bills and each billing agent.

Rule 4(e): for billing agents, the total dollars billed by each service provider; for billing telephone companies, the total dollars billed by each service provider for which the billing telephone company directly bills and each billing agent.

OAN also requests that we modify Rule 4(b) to reflect the fact that a billing agent would only have complaint information about the complaints it receives, and not about any “other entity receiving complaints.” OAN’s point is well taken. We will modify this rule to limit it to Billing Telephone Companies. Similarly, OAN states that it does not have the “subscriber” information required by Rule 4(c) but rather only working telephone numbers. We will therefore revise Rule 4(c) to require the number of working telephone numbers.

AT&T also pointed out an apparent typographical error in the due dates established for filing the reports required by Rule 4. Each quarterly report is due at the end of the month following the end of the quarter, with one exception. The rule currently requires the report for October, November, and December to be filed on January 1st. The date should have been January 31st.

As modified these rules are:

4(b): Billing Telephone Companies shall report the name, address, and telephone number of each entity receiving complaints;

4(c): the total number of working telephone lines billed for each entity for which complaints were received;

4(fourth "bullet"): Report for October, November, and December due no later than January 31st of the following year.

The Subscriber Complaint Reporting Rules, reflecting all modifications, are attachment A to this decision.

C. Unique Name

Ordering Paragraph 5 requires that the Billing Telephone Companies submit a plan for requiring all entities that use their billing and collection services to provide a unique name for inclusion on the bills and for the Billing Telephone Companies to use in tabulating complaint rates on an entity-by-entity basis. Two issues have emerged: (1) what is the meaning of "unique name," and (2) who is responsible for ensuring that it is used?

We begin with the meaning of "unique name." Section 2890(e)(2)(B) requires that each billing contain the "name of the party responsible for generating the charge." As we noted in D.00-03-020, the identity of the service

provider should be readily available to customers. We resolve this issue differently for certificated and non-certificated service providers.

1. Certificated Carriers

For certificated carriers, the decision requires the name on the bill be the name that appears on the carrier's CPCN. AT&T, MCI, and Sprint request clarification that abbreviations or other references that make it "abundantly clear who the entity is" would be acceptable. Such a clarification is consistent with the text of the decision found on page 40. Our objective is to enable our staff and customers to link complaints to a specific carrier. The petitioners go further, however, and request that the decision be modified to allow for billing under registered fictitious business names. We will slightly modify, and grant this request. Carriers may bill using fictitious business names where (a) the name is properly registered pursuant to Business and Professions Code § 17900 et. seq., and (b) registered with the Commission's Telecommunications Division.

We will conform Conclusion of Law 14 accordingly:

The public interest and § 2890 require that service providers, both Commission-certified or those which are not required to obtain an operating certificate, include their name when billing through incumbent local exchange carriers. The name used on the bill shall be based on the name on the carrier's CPCN, including any properly registered fictitious business names or, in the case of uncertificated service providers, the name on any FCC certificate or business license.

2. Non-Certificated Service Providers

The meaning of "unique name" is more complicated in the context of service providers that are not certificated by the Commission. The decision

requires that these entities bill using the name on their FCC certificate, if any, or its “legal name, disregarding any fictitious business names.”

Several parties pointed to the recent FCC Truth-in-Billing decision,³ which allowed carriers to use their trade names or name by which the carrier is known when billing customers, and requested that the Commission adopt a similar standard.

While considering the parties’ request, we are mindful of the evidence we have received that some service providers do business under several names. In I.99-10-024, our staff has presented sworn declarations, with supporting documentation, showing that certain service providers billed under numerous names. These names were not corporate subsidiaries, registered fictitious business names, or geographically separated efforts, but rather appeared to be unauthorized aliases assumed for the purposes of particular advertising campaigns. Such a fact pattern fails to meet our standard, as articulated by MCI, AT&T, and Sprint, of making it “abundantly clear who the service provider is.”

Accordingly, we will retain our requirement that each service provider bill under its name as it appears on the FCC registration, if any, or the entity’s legal name as registered with California Secretary of State. We agree with ASCENT that the selection of the name is “highly subjective,” and we have no desire to interject this Commission into the name selection process. Nevertheless, we must establish standards that allow customers to identify and distinguish among service providers.

³ In the Matter of Truth-In-Billing and Billing Format, CC docket No.98-170, Order on Reconsideration, 14 FCC Rcd. 7492, para. 10, (rel. March 29, 2000).

3. Billing Telephone Company Plans

Therefore, we will maintain our requirement that the Billing Telephone Companies submit a plan for all service providers and certificated carriers to provide a unique identifier for use in customer billings and to tabulate customer complaint rates on a provider-by-provider basis. We will, however, extend the due date for the plans to 90 days from the effective date of this order.

Having established that a unique name is necessary, the next question raised by OAN and the LEC petitioners is who is responsible for ensuring that it is used?

OAN, a billing aggregator, makes the improbable assertion that it cannot be expected to know the name of the service providers for which it is billing. OAN asserts that it should be allowed to rely on the service provider's representations as to the applicable name. Allowing such reliance would not further the public interest.

OAN's proposal would protect the currently existing shield of anonymity that allows unscrupulous service providers to place unauthorized charges on customers' local telephone bills. Customers deserve to know the identity of the entity that claims to be owed money. The statute requires that customers be provided this information.

Billing agents, such as OAN, contract directly with service providers. They are thus in the best position to ascertain the correct legal name of the entity with which they are contracting. We will therefore, require billing agents to provide the correct legal name of the service provider to the LECs.

As a billing aggregator, OAN, however, does not necessarily do business with all service providers. The LECs, assemble all the billings from all the service providers. The LECs are therefore in the best position to ensure the

names provided by the billing agents, as well as the names of service providers for which the LECs bill directly, do not include confusingly similar names. For example, several service providers could have names that result in the same acronym. The LECs are best able to require that the acronym is used only by one service provider. These are the types of details we expect to be addressed in the plan to be filed by the LECs.

D. Ordering Paragraph 7

Pacific Bell points out that the FCC has recently limited the effectiveness of service provider change requests to 60 days. For consistency, we will similarly modify our rule.

Questions have also arisen as to whether Ordering Paragraph 7 applies only to CLCs, or to IXCs and incumbent LECs as well. We see no reason to distinguish among the various carriers, so we will modify the ordering paragraph as follows:

7. Carriers shall not submit and shall not honor service provider change requests submitted more than 60 days after the customer authorized the transfer, unless a written contract between a facilities-based carrier and the customer clearly states that the actual transfer will occur more than 60 days in the future.

E. New Issues

The CSBA, with support from certain other parties, advocates that we take up the FCC's recent order allowing states to assume responsibility for resolving slamming complaints. We decline to do so at this stage in this proceeding.

Similarly, MCI, AT&T, and Sprint argue for consideration of full toll denial or other means by which carriers may attempt to control customer fraud. Given the advanced stage of this proceeding, we will not.

Comments on Draft Decision

The draft decision of the ALJ Bushey in this matter was mailed to the parties in accordance with Pub. Util. Code Section 311(g)(1) and Rule 77.7 of the Rules and Practice and Procedure. The parties filed comments on October 10, 2000, and reply comments on October 16, 2000. All comments and reply comments have been thoroughly reviewed and considered. Where appropriate, changes have been made in the text.

One issue requires additional discussion. Pacific Bell, and the LECs, object to limiting local disconnect to basic local service. Roseville Telephone Company goes so far as to state that “implementation of these changes would not only be confiscatory, but would make it impossible for the [incumbent] LECs to collect money for the services they provide.” Roseville comments at p.1.

In its comments on the draft decision, Pacific Bell seeks limited exogenous factor recovery for the costs of complying with local disconnect prohibition, as modified in this decision. Pacific Bell comments at pages 5-7. Pacific Bell states that it has already incurred “several hundred thousand dollars” implementing its understanding of D.00-03-020, and that it will now have to incur similar costs to implement the modifications in this decision. Pacific Bell expects its costs to reach \$1 million. Pacific Bell, and the other LECs, complain that they had no notice of this “dramatic change in policy.”

In its reply comments, TURN stated that the February 11, 1998, Assigned Commissioner’s and Assigned ALJ’s Ruling contemplated prohibiting disconnection for “long distances service charges and other non-local service

related charges.” TURN also quoted from its own comments from May 1999 where it advocated limiting local disconnect to local service only because “local telephone service is a necessity.” Accordingly, TURN concludes that the ILECs had notice that the Commission was considering a rule that would limit their authority to disconnect local service for non-payment of basic local service only, excluding extra services such as call waiting or caller ID.

TURN’s reply comments are persuasive. We, therefore, find that Pacific Bell and the other ILECs had notice that we were considering such a rule. As for Pacific Bell’s request for limited exogenous factor recovery, we decline to take up this issue at this stage in proceeding.

Findings of Fact

1. The Commission issued D.00-03-020 on March 6, 2000.
2. Several parties filed petitions to modify D.00-03-020.

Conclusions of Law

1. The Commission is persuaded to modify D.00-03-020 as set out in the Ordering Paragraphs.
2. Other than as set out in the Ordering Paragraphs, all petitions for modification should be denied.

O R D E R

IT IS ORDERED that:

1. Decision 00-03-020 is modified by adopting the following replacement portions of the decision:

Page 33, first full paragraph:

“For these reasons, we intend to limit disconnection of basic residential and single line business service (i.e., Flat Rate and/or Measured Rate services) to nonpayment of non-recurring and recurring charges for basic residential and single line business services, including all mandated surcharges and taxes.

We will conform Conclusion of Law 14 accordingly:

The public interest and § 2890 require that service providers, both Commission-certified or those which are not required to obtain an operating certificate, include their name when billing through incumbent local exchange carriers. The name used on the bill shall be based on the name on the carrier’s Certificate of Public Convenience and Necessity including any properly registered fictitious business names or, in the case of uncertificated service providers, the name on any FCC certificate or business license.

Page 57, Ordering Paragraph 4:

“4. Carriers of Last Resort, as defined in D.96-10-066, shall file and serve advice letters that contain revised tariffs no later than 180 days after the effective date of this order that conform to the portions of this order eliminating such carriers’ authority to disconnect basic residential and single line business, Flat Rate and/or Measured Rate service, as defined in D.96-10-066, Appendix B, page 5, for nonpayment of any charge other than nonpayment of non-recurring and recurring charges for basic residential and single line business, Flat Rate and Measured Rate service, including mandated surcharges and taxes calculated on same. Mandated charges do not include charges that are elective for the carrier to recover. Pending such advice letter filings, current tariffs shall remain in effect.”

Subscriber Complaint Reporting Rules:

As reflected in Attachment A to this decision.

Ordering Paragraph 5:

“No later than 90 days after the effective date of decision addressing the petitions for modification, Billing Telephone

Companies shall submit an advice letter containing a plan for requiring all entities which use their billing and collection services to provide the unique name of the carrier or service provider as specified in this decision for inclusion in the bill and for the Billing Telephone Companies to tabulate consumer complaint rates on an entity-by-entity basis.”

Ordering Paragraph 7:

“7. Carriers shall not submit and shall not honor service provider change requests submitted more than 60 days after the customer authorized the transfer, unless a written contract between a facilities-based carrier and the customer clearly states that the actual transfer will take more than 60 days in the future.”

2. In all other respects, the petitions to modify are denied.

3. The effective date referenced in Ordering Paragraph 1 above is coincident with the effective date of this order. The due date for filings to comply with Ordering Paragraph 1 shall be calculated from the effective date of this decision.

4. Rulemaking 97-08-001 and Investigation 97-08-002 are closed.

This order is effective today.

Dated November 2, 2000, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
CARL W. WOOD
Commissioners

Attachment A

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Subscriber Complaint Reporting Rules

Definitions:

Billing Agents: Any entity which provides billing service for service providers directly or indirectly through a billing telephone company.

Customer Complaint: Any written or oral communication to a Billing Telephone Company or Billing Agent from a person or entity which has been billed for a charge which the person or entity alleges was unauthorized or resulted from false, deceptive, or misleading representations and which was billed, either directly or indirectly, through a billing telephone company.

Service Provider: The person or entity that originates the charge or charges that are billed to the subscriber.

Billing Telephone Company: A telephone corporation that bills a subscriber for products and services provided by a third party, including corporate affiliates.

1. Authorization Required: Prior to billing or causing to be billed any charge to a subscriber on a telephone corporation bill, the service provider shall obtain the subscriber's authorization. The requirements for written authorizations are set out in Pub. Util. Code § 2890(c). Oral authorizations must contain the same information as written authorizations. All disputed oral and written authorizations for which no record of verification is available are

Attachment A

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subject to a rebuttable presumption that the charges are unauthorized. With regard to direct dialed telecommunications services, evidence that a call was dialed is prima facie evidence of authorization.

2. Billing for Authorized Charges Only: Billing telephone companies may bill subscribers only for authorized charges. Billing agents and service providers may not submit, directly or indirectly, charges for billing through a billing telephone company that have not been authorized by the subscriber.

3. Records of Billing Disputes: Every billing telephone company shall maintain accurate and up-to-date records of all customer complaints made to or received by it for charges for products or services provided by a third party, including corporate affiliates. Such records shall be retained for three years. Every billing agent shall maintain accurate and up-to-date records of all customer complaints regarding charges billed through a billing telephone company made to or received by it. In the case of billing telephone companies, the records shall also include information on all consumer complaints received involving entities that bill directly or indirectly on the billing telephone company's bill. In the case of billing agents, the records shall also include all consumer complaints received for service providers that use the billing agent to bill for the

Attachment A

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Subscriber Complaint Reporting Rules

service provider on the telephone corporation bill. These records shall include the following information:

- a. the subscriber name;
- b. the subscriber telephone number;
- c. the name of the service provider responsible for the charge complained about;
- d. the name of the billing agent or agents, if any;
- e. the amount of the alleged unauthorized charge and the date the charge was incurred and billed;
- f. a description of the product or service billed;
- g. the number of contacts by the subscriber;
- h. the disposition of the dispute;
- i. for billing agents, the total dollars billed and total amount refunded for each service provider; for billing telephone companies, the total dollars billed and total dollars refunded for each service provider for which the billing telephone company directly bills and each billing agent; and
- j. for billing agents, the total number of working telephone number billed by each service provider; for billing telephone companies, the total number of working telephone numbers billed by each service provider for which the billing telephone company directly bills and each billing agent.

These records shall be provided to Commission staff promptly upon request. Staff may request that any billing telephone company or billing agent provide some or all of this information to the staff on a continuing basis and the entity shall comply with all such requests.

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Subscriber Complaint Reporting Rules

4. Quarterly Calendar Month Summary Report: All billing telephone companies and billing agents shall create a calendar month summary report which shall include the following information:

- a) the total number of consumer complaints received each month for each service provider and billing agent;
- b) Billing Telephone Companies shall report the name, address, and telephone number of each entity receiving complaints, billing agents are exempt from Rule 4.b;
- c) the total number of working telephone numbers billed for each entity for which complaints were received;
- d) for billing agents, the total number of subscribers billed by each service provider for which complaints were received; for billing telephone companies, the total number of subscribers billed by each service provider for which the billing telephone company directly bills and each billing agent;
- e) for billing agents, the total dollars billed by each service provider; for billing telephone companies, the total dollars billed by each service provider for which the billing telephone company directly bills and each billing agent.

The Calendar Month Summary Report shall be submitted to the Director of the Commission's Consumer Services Division pursuant to the following schedule:

- Report for January, February, and March due no later than April 30th
- Report for April, May and June due no later than July 31st

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Subscriber Complaint Reporting Rules

- Report for July, August and September due no later than October 31st
- Report for October, November, and December due no later than January 31st of the following year.

If no complaints exist, in lieu of this report, a letter shall be sent to the Director of the Consumer Services Division affirmatively stating that no complaints exist for the quarter.

5. Effect of Failure to Supply Report. Pursuant to § 2889.9(f), any billing agent which fails to submit its report in a timely fashion may be the subject of a Commission decision or resolution ordering the billing telephone company to cease providing billing and collections service to that billing agent or service provider, in addition to the Commission's other remedial statutory authority as provided in § 2889.9(b).

(End of Attachment A)