BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Institution Investigation on the Commission's Own Motion into the Billing Practices and Conduct of Legacy Long Distance International, Inc. (Legacy) to Determine if Legacy Violated the Laws, Rules, and Regulations Governing the Manner in which California Consumers are Billed for Phone Services.	I. 10-06-013

MOTION OF LEGACY LONG DISTANCE INTERNATIONAL, INC. (U5786C) FOR RELIEF FROM REQUIREMENT TO FURTHER IDENTIFY DOCUMENTS ALREADY IN THE POSSESSION OF CPSD

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Ordering Paragraph No. 2 of the Order Instituting Investigation ("OII") herein required that Legacy Long Distance International, Inc. ("Legacy") respond completely to specified questions, and include in its responses "reference to supporting documents [title of document, author, recipients, and date]." However, Legacy did not specifically identify supporting documents because Legacy believed, in good faith, that the need to specifically "identify" each such document was obviated by the fact that CPSD already had the supporting documents in its possession, as was noted by Legacy in its response.

For example, in responding to question no. 1, Legacy largely relied on copies of documents it obtained through data requests to CPSD, such as copies of communications and other documents relating to the complainants referred to in CPSD's investigative reports and communications between CPSD and various ILECs regarding their switch records. With respect to question nos. 2, 3, and 4, and, to some degree, question no. 1, Legacy's responses are supported by documents maintained by Legacy, such as documents relating to operator verification procedures, documents relating to tariff filings, documents relating to Legacy's

failures to make certain tariff filings, and documents relating to alleged violations or sanctions in other states. However, during the course of CPSD's investigation, Legacy had already furnished these documents to CPSD in response to numerous data requests. In addition, Legacy provided CPSD with a very substantial number of other documents. Further, Legacy is continuing to undertake an internal investigation and expects to produce other documents to CPSD.

Nevertheless, CPSD is now demanding that Legacy go back through all the documents and specifically identify each and everyone of them, by title of document, author, recipients, and date, even though CPSD has spent the last three years perusing them and knows, as well as Legacy, what they say and show. Further, CPSD has stated that it finds Legacy's failure to identify the documents "troubling" because of the extension of time granted to Legacy to respond to the OII.

Admittedly, CPSD's demand seems to be consistent with the strict letter of Ordering Paragraph 2 (after all, CPSD's attorneys presumably wrote or played a part in writing that ordering paragraph); but, it is nonetheless abusive and unnecessary. Legacy is not a large company and it does not have endless financial or human resources to devote to this purposeless task. Moreover, Legacy would note that a substantial reason why Legacy required additional time to respond to the OII was because it did not have many of the documents that CPSD had relied on in preparing the reports upon which the OII was based. As a result, Legacy was left in the dark and unable to respond to many of the allegations until it received and had an opportunity to review and understand the nearly three thousand pages of documents ultimately produced by CPSD.

In judicial proceedings, identification of documents in the manner demanded by CPSD is ordinarily deemed unnecessary when the documents themselves are, or have been,

produced. See, e.g., Code of Civil Procedure §§ 2030.210(2) and 2030.230. And, Legacy believes that this same policy should be deemed to have been implicit in Ordering Paragraph No. 2's directive that Legacy identify documents.

Notably, CPSD has had nearly all the relevant documents for three years. In the case of documents furnished by Legacy, the documents were organized by reference to specific inquiries, such as CPSD's requests for Legacy's AMA records and other records pertaining to specific customers and CPSD's requests for documents relating to the alleged 16 other state sanctions or investigations. In the case of documents furnished to Legacy by CPSD, those documents, too, were organized by category, by CPSD itself, based on Legacy's data requests.

Thus, CPSD already has the documents in organized form and has had far more time that Legacy to determine which documents correspond to which of the allegations CPSD has made. Indeed, with the exception of the 1 hour 11 minute type duplicate billing issue, which was a complete surprise to Legacy, CPSD already knew, way before the OII was issued, what Legacy's responses to the OII allegations would be because Legacy had addressed them, in detail, years ago, and, therefore, knows what documents support Legacy's position.

Any suggestion that CPSD has any real need for Legacy to now identify any of these documents is completely meritless. There should simply be no need for Legacy to now have to go through a process of identifying (by title of document, author, recipients, and date), for example, the ILEC switch record documents that show that particular calls to customers who deny receiving them were actually made; CPSD clearly should have undertaken that task itself, completely, before making the allegations that led to the OII.

Therefore, by this motion, Legacy requests that it be relieved of any requirement to specifically identify documents that it obtained from CPSD through data requests or that it has

already produced to CPSD. Alternatively, Legacy requests that the parties be directed to meet and confer to determine which of these documents truly need to be further identified in some special manner and to determine an efficient and useful way to do so.[1]

Respectfully submitted this 1st day of October 2010.

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[1] Legacy has suggested, for example, that it could mark documents, including those received from CPSD, with Bates stamp numbers (a portion of the documents were so marked by CPSD, but most were not), and then supplement its response with identification of supporting documents by Bates stamp numbers. Even then, however, there are great number of documents as to which even this limited identification procedure would be nonsensical, such as tariff filings (which Legacy did provide to CPSD). Thus, Legacy believes that before it is required to "identify," through any method, documents that it has already submitted to CPSD or that CPSD produced to Legacy, that Legacy and CPSD be required to meet and confer to determine which of these documents truly need to be identified and to determine an efficient and useful way to do so.

CERTIFICATE OF SERVICE

I, Lisa Vieland, certify that I have on this 1st day of October 2010 caused a copy of the foregoing

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to be served on all known parties to I.10-06-013 listed on the most recently updated service list available on the California Public Utilities Commission website, via email to those listed with email and via U.S. mail to those without email service. I also caused courtesy copies to be hand-delivered as follows:

ALJ Timothy J. Sullivan
California Public Utilities Commission
State Building, Room 5106
505 Van Ness Avenue
San Francisco, CA 94102

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 1st day of October 2010 at San Francisco, California.

/s/ Lisa Chapman
Lisa Chapman

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Service List I.10-06-013
Last Updated 8/23/10

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