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12-30-09
11:38 AM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish Rules Governing the Transfer of Customers from Competitive Local Carriers Exiting the Local Telecommunications Market.

Rulemaking 03-06-020
(Filed June 19, 2003)

ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS ON DRAFT GUIDELINES AND PRINCIPLES AND DENYING MOTION FOR OFFICIAL NOTICE

This ruling requests comments on draft Guidelines for Competitive Local Exchange Carrier (CLEC) Involuntary Exits from Local Exchange Service Market (Attachment 1), draft Principles for CLEC-to-CLEC/Incumbent Local Exchange Carrier (ILEC) End User Migrations (Attachment 2), and revised Mass Migration Guidelines (Attachment 3). Comments are due on or before January 15, 2010.

This ruling denies the California Association of Competitive Telecommunications Companies' (CALTEL) August 26, 2009, Motion for Official Notice of the fact that there is no Federal Communications Commission (FCC) four-day porting interval requirement for multi-line ports.

Comments

Parties have submitted comments, consensus positions and comments on the consensus positions. Those pleadings were the basis for the attached draft guidelines and principles. However, internal concerns have prompted revisions to portions of the guidelines and principles on which the parties generally or partially concurred. In addition, certain changes to the Mass Migration Guidelines were suggested in reply comments, and some of those changes have

been incorporated in the revised Mass Migration Guidelines (Attachment 3). Efficient resolution of this proceeding necessitates a further round of comments to permit parties to address the revisions to the guidelines and principles. Comments on the attached guidelines and principles are due on or before January 15, 2010.

Motion for Official Notice

CALTEL's motion requested official notice that existing FCC rules or regulations contained no four-day porting interval for multi-line ports. CALTEL asserts that the fact that there is no four-day porting interval for multi-line ports meets Rule 13.9 of the Commission's Rules of Practice and Procedure requirement that the matter may be judicially noticed by the State of California, since it is a matter not reasonably subject to dispute. CALTEL notes there is general agreement among telecommunications carriers that there is no four-day interval for multi-line ports and that Verizon California Inc. (Verizon) states in comments before the FCC that ports that involve 2-19 lines should not have an indefinite time to complete. CALTEL asserts that Verizon's comments and the general agreement are sufficient to permit the Commission to take official notice under California Evidence Code § 452(g) that provides courts may take judicial notice of facts and propositions that are of such common knowledge within the territorial jurisdiction of the court that they cannot reasonably be the subject of dispute. In addition, Verizon's FCC comments demonstrate that the fact is not reasonably subject to dispute and is capable of immediate and accurate determination under Evidence Code § 452(h). Cox California Telcom, L.L.C. dba Cox Communications, two telecom of California lp, and Time Warner Cable Information Services filed comments on September 10, 2009, in support of

CALTEL's motion, because the fact there is no FCC four-day porting interval for multi-line ports is common knowledge.

Verizon and Pacific Bell Telephone Company d/b/a AT&T California (AT&T) filed responses on September 10, 2009, opposing CALTEL's motion. Verizon asserts the FCC's requirement that carriers provide local number portability in compliance with the North American Numbering Council's (NANC) Local Number Portability Administration Selection Working Group report to the FCC demonstrates there is no limitation to simple ports. In fact, the old service provider must complete the port within the due date set by the new service provider but no earlier than three business days after the firm order confirmation receipt date.¹ AT&T asserts CALTEL has failed to provide any objective proof for a finding that the Commission can take official notice that there is no FCC four-day porting interval requirement. The pleadings of other parties merely assert propositions, and CALTEL offers nothing that proves the FCC's porting intervals are common knowledge at the Commission. AT&T concurs with Verizon that the FCC's rules apply to multi-line ports.

CALTEL filed a reply on September 21, 2009, stating that it had met the requirements for official notice of the fact that there is no FCC four-day porting interval for multi-line ports. CALTEL asserts it is sufficient to rely on comments of parties to this proceeding, both in comments in this docket and in proceedings at the FCC, to take official notice.

I decline to take official notice of the fact that there is no FCC four-day porting interval for multi-line ports. If reliance on the comments of parties were

¹ These rules will be subject to a new one-business-day porting interval for simple ports after a transition period.

INFORMATION REGARDING SERVICE

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Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated December 30, 2009, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

N O T I C E

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