

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Communications Division  
Carrier Oversight & Programs Branch**

**RESOLUTION T-17327  
September 22, 2011**

**R E S O L U T I O N**

RESOLUTION T-17327. Amendment of Telco Industry Rules Under General Order 96-B Establishes Telco Industry Rule 10-Service Lists for Advice Letter Filings.

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**SUMMARY**

This Resolution amends the Telco Industry Rules established by General Order 96-B; to facilitate opportunities for comment by interested parties and the public. The proposed Telco Industry Rule 10 will expand the requirements for utilities filing Advice Letters to require service of the Advice Letter on: (i.) adjacent and competing<sup>1</sup> utilities, (ii.) other persons as directed by the Director of the Communications Division for particular Advice Letters, (iii.) The Utility Reform Network and Utility Consumers' Action Network, who are independent consumer advocacy organizations, (iv.) other utilities or persons requesting such notification pursuant to General Rule 4.3, and (v.) to the extent practical, utilities shall maintain separate Advice Letter service lists, and shall identify the separate lists at the utility's Internet site pursuant to General Rule 4.3, for the following categories:

- Interconnection Agreements
- Changes in rates, terms and conditions of service, or initiation of new service
- Eligible Telecommunication Carrier designation requests
- Compliance filings
- General Rate Case filings

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<sup>1</sup> For the purpose of serving Advice Letters, "adjacent" is defined as telecommunication carriers with a common Service Territory [with the utility filing the Advice Letter]. "Competing carrier" is defined as any telecommunications carrier providing any telecommunications services within a common geographic Service Territory [as the utility filing the letter].

- Grant applications

## **BACKGROUND**

Service list rules for Advice Letters (AL) filed by utilities were originally established in General Order (G.O.) 96-A<sup>2</sup> (Rules Governing the Filing and Posting of Scheduled Rates, Rules, and Contracts Relating to Rates, Applicable to Gas, Electric, Telecommunications, Water, Sewer Systems, Pipeline and Heat Utilities). Under G.O. 96-A, Section III, G<sup>3</sup>:

Utilities shall furnish a copy of the advice letter, and a copy of each of the related tariff sheets to the following: (1) Competing utilities either privately or publicly owned, (2) Adjacent utilities either privately or publicly owned, (3) Utilities either privately or publicly owned, having requested such notification, (4) Other interested parties having requested such information, (5) In the event of increases, affected customers where practical, (6) In the event that the Utility seeks to enter an agreement with the customers under terms deviating from filed tariffs, the Utility shall provide customer with a copy of the advice letter filing, and notification.

While the processing of Tariff Sheet (TS) and AL filings under G.O. 96-A served the Commission well in the past, these processes were seen as inadequate in light of the increased volume and variety of TS's and AL's being submitted for review in more recent years. In response the Commission defined, clarified and streamlined the Utility Tariff and Advice Letter filing process, by, among other things, implementing new service list rules through D.05-01-032<sup>4</sup> (Third Interim Order Adopting Certain Requirements Regarding Advice Letter Filing, Service, Suspension and Disposition) on January 13, 2005. The new rules were set forth in Appendix A to G.O. 96-A as interim rules to enable utilities to distribute their Advice Letters effectively and efficiently. The

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<sup>2</sup> Approved by Res. No. U-1083, Jan. 2, 1962. Effective March 1, 1962.

<sup>3</sup> *Rules for Submissions of Tariff Sheets, Notice*

<sup>4</sup> Each Utility shall maintain at least one Advice Letter service list, which shall include the postal and e-mail addresses, as appropriate, of all persons on the list. To the extent practical, the Utility shall maintain separate lists for different types of Advice Letters (for example differentiating between water Utility districts, customer classes, or particular services), and shall identify the separate lists at the Utility's Internet site, so that persons may request and receive only those Advice Letters of interest. The Utility shall include on the service list any person who requests such inclusion, and may periodically confirm the desire of any currently listed person to remain on the list. On or before the date when the Utility files an Advice Letter, it shall serve the Advice Letter without charge on all persons listed for that type of Advice Letter.

concept was carried forward when the Commission replaced G.O. 96-A with G.O. 96-B in D. 07-01-024<sup>5</sup>. See General Rules 4.3<sup>6</sup> and 4.4<sup>7</sup> requiring utilities to place on their service list any utilities or persons requesting inclusion, and generally favoring service by the Internet. In the same decision, the Commission also adopted Energy and Water Industry Rules under G.O. 96-B, which provided Industry-specific rules for the service of Advice Letters on additional persons.

As a result of the advent of competition in telecommunications markets, and commensurate regulatory changes, including the adoption of the Uniform Regulatory Framework (URF) in California,<sup>8</sup> the Commission addressed the Telecommunication Industry Rules in a separate proceeding, and adopted those rules in D.07-09-019 (Opinion Adopting Telecommunications Industry Rules). This decision authorized Telco Industry Rules under G.O. 96-B on September 6, 2007. These Telco Industry Rules did not include any Industry-specific rules for the service of Advice Letters on additional persons.

## DISCUSSION

The impetus for analysis of AL service lists originated in response to comments CD Staff received. In a letter to the Director of CD dated June 16, 2009, an industry group representing Incumbent Local Exchange Carriers (ILEC's) serving rural and remote area's of California, collectively known as the Small ILEC's<sup>9</sup>, expressed concerns about AL service lists. The issue was an AL filing by a competitor of the a Small ILEC seeking Eligible Telecommunications Carrier (ETC) designation in order to access federal Universal Service Fund (USF) funds for LifeLine. The Small ILEC's were not on the service list, and therefore unaware of the filing and unable to submit comments. Further

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<sup>5</sup> *Fourth Interim Opinion Adopting Remaining General Rules and Industry Rules for Energy and Water as revisions to General Order 96-A*, Jan. 25, 2007.

<sup>6</sup> *Service Lists*

<sup>7</sup> *Service by Internet*

<sup>8</sup> This allowed California's four largest wire line telecommunication carriers greater flexibility in how they charged for voice communication services, products, bundles and promotions

<sup>9</sup> The Small LEC's are the following carriers: Calaveras Telephone Company (U-1004-C), Cal-Ore Telephone Company (U-1006-C), Ducor Telephone Company (U-1007-C), Foresthill Telephone Company (U-1009-C), Frontier Communications West Coast Inc. (U-1020-C), Happy Valley Telephone Company (U-1010-C), Hornitos Telephone Company (U-1011-C), Kerman Telephone Company (U-1012-C), Pinnacles Telephone Company (U-1013-C), The Ponderosa Telephone Company (U-1014-C), Sierra Telephone Company (U-1016-C), The Siskiyou Telephone Company (U-1017-C), Volcano Telephone Company (U-1019-C), and Winterhaven Telephone Company (U-1021-C).

concerns with the current service list process were raised in a letter to the Director of CD dated August 19, 2009, from The Utility Reform Network (TURN). TURN stated:

Following revisions to G.O.96-B, TURN is concerned that consumer advocates are not being notified of important changes to telecommunication services.

After a review of decisions and rulemakings leading up to adoption of G.O.96-B, CD Staff concludes that the Commission did not intend for parties of interest to be left off service list notification, but rather sought to streamline the AL service list process. Because of the regulatory changes resulting from URF, Industry and Consumer groups now need more, not less notification. Since the adoption of G.O.96-B, inclusion on service lists must now be requested on a per-carrier basis from each of the over 800 telecommunication carriers with CPCN authority. This has resulted in parties or entities with interest in specific telecommunication issues not receiving notice, and being unable to submit protests or responses within the twenty-day period. The amendment proposed in this Resolution will correct the situations where notice currently required by G.O.96-B and Telco Industry Rule 3 has been inadequate. The modification will provide parties of interest and utilities the opportunity to comment on AL's filed with CD.

In drafting the proposed amendment to Telco Industry Rules, CD Staff reviewed AL service list requirements for Water and Energy Divisions, and utilized the same language where applicable:

(i.) For service list inclusion of adjacent utilities, Water Industry Rule 4.1(2) and Energy Industry Rule 3.5 "adjacent utilities". Due to the large number of telecommunication carriers operating in California, unlike in the Water and Energy Industries, CD Staff is including "competing" utilities among those who must be served with Advice Letters. In addition, to provide further clarity, CD is including a definition of the terms "adjacent" and "competing" in the rule: "Adjacent is defined as telecommunication carriers with a common Service Territory with the utility filing the Advice Letter. Competing is defined as any telecommunication carrier providing any telecommunication services within a common geographic Service Territory as the utility filing the Advice Letter."

(ii.) For service list notification of particular AL's, Water Industry Rule 3.3.

(iii.) For the issue of providing further notice to the public and consumers with interest in particular AL's, CD Staff sought the opinions of TURN and UCAN on the most effective method of service.

(iv.) For other utilities or parties of interest requesting to be placed on service lists, from General Rule 4.3.

(v.) For to the extent practical, utilities shall maintain separate AL service lists, and shall identify the lists at the utility's Internet site, in accordance with General Rule 4.3. In comments filed to T-17327, carriers expressed concerns that the proposed modification would be an administrative burden, and suggested AL service lists should be maintained by category. The Commission finds that establishing specific categories of AL service lists will simplify and facilitate effective service.

The proposed amendment is set forth in Ordering Paragraph No. 1 of this Resolution and immediately below, and will be Telco Industry Rule 10 - Service Lists for Advice Letter Filings.

In addition to G.O.96-B, General Rules 4.3 & 7.2<sup>10</sup> utilities shall furnish a copy of the AL to the following:

- i. Adjacent and Competing utilities. Adjacent is defined as telecommunication carriers with a common Service Territory with the utility filing the Advice Letter. Competing is defined as any telecommunication carrier providing any telecommunication services within a common geographic Service Territory as the utility filing the Advice Letter. Any adjacent or competing utility that does not want to receive Advice Letters from a particular utility may ask that utility to be removed from its Advice Letter service list or lists.
- ii. Other persons or parties as directed by the Director of the Communications Division for particular Advice Letters.
- iii. The Utility Reform Network and Utility Consumers Action Network, independent consumer advocacy organizations, for the purpose of facilitating public comment.
- iv. Other utilities or parties of interest requesting such pursuant to General Rule 4.3.

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<sup>10</sup> *Serving Advice Letters and Related Documents.*

- v. To the extent practical, utilities shall maintain separate Advice Letter service lists, and shall identify the separate lists at the utility's Internet site pursuant to General Rule 4.3, for the following categories:
- Interconnection Agreements
  - Changes in rates, terms and conditions of service, or initiation of new service
  - Eligible Telecommunication Carrier designation requests
  - Compliance filings
  - General Rate Case filings
  - Grant applications

Telecommunication utilities have previously expressed concerns to the Commission regarding the added workload of more extensive service list requirements. CD Staff asserts that since the Commission has provided telecommunication utilities the option of electronic notification via e-mail, and is providing the "All Carrier" service list with e-mail addresses on the Communications Division Service Providers Internet site, the only increased workload incurred will be the compilation of service lists. Once this has been done, a single keystroke will be able to notify the entire service list. CD Staff does not find this procedure to be a burden to telecommunication carriers.

### **COMMENTS**

Public Utilities Code section 311(g)(1) generally requires that a draft Resolution be served on all parties, and be subject to a public review and comment period of 30 days or more, prior to a vote of the Commission on the Resolution. A draft of today's Resolutions was distributed for comment to all telecommunication carriers, The Utility Reform Network and Utility Consumers Action Network.

The Communications Division received timely comments and replies to comments from both carriers and consumer advocacy organizations, in response to Draft Resolution T-17327.

Comments from carriers raised the following contentions:

- Proposed modifications are an administrative burden to carriers filing Advice Letters.
- Proposed modifications would unnecessarily burden carriers who do not want to receive Advice Letters.
- Clarification of "adjacent" and "competing" utilities is necessary.
- TURN and UCAN should not be named in the General Order.

The Commission has considered the parties comments, and provides the following responses:

*The proposed modifications are an administrative burden to carriers filing Advice Letters.*

The Commission does not find the proposed modification to be an administrative burden since General Rule 4.4 allows for service of Advice Letters by Internet on any person providing an e-mail address. The “All Carrier” service list on the commission’s web site contains e-mail addresses. Once the initial service list has been compiled, Advice Letters can be served with a send command. Carriers have the capability to send out thousands of monthly bills with various rate structures, plans and minutes. The maintenance of a service list requires limited resources, and should not be a hardship.

*The proposed modifications would unnecessarily burden carriers who do not wish to receive Advice Letters.*

General Rule 4.3 encourages (to the extent practical) that utilities shall maintain separate lists for different types of Advice Letters. The Commission agrees with comments from the Small LEC’s and Cox Communications suggesting categories of Advice Letter service lists. Therefore, carriers shall maintain separate service lists for the following categories of Advice Letters:

- Interconnection Agreements
- Changes in rates, terms and conditions of service, or initiation of new service
- Eligible Telecommunication Carrier designation requests
- Compliance filings
- General Rate Case filings.
- Grant applications.

In any event, we have added a provision to Industry Rule 10, allowing a utility to be removed from the list of adjacent and competing carriers that receive the Advice Letters filed by any particular utility. To the extent that carriers have separate categories of service lists, this will enable an adjacent or competing carrier to receive only the specific kinds of Advice Letters that it is interested in. .

*A clarification of “adjacent” and “competing” is necessary.*

The Commission agrees that there needs to be a clarification of “adjacent” and “competing” utilities. The definitions have been added to Industry Rule 10, and are discussed in the Discussion section of this Resolution. Carriers seeking to identify adjacent utilities can find these by area code, county, company name and service type through this link:

[https://delaps1.cpuc.ca.gov/pls/public\\_cpuc/f?p=trs:1:2636291998020903](https://delaps1.cpuc.ca.gov/pls/public_cpuc/f?p=trs:1:2636291998020903)

It is the responsibility of the carrier to identify its own competitors. .

*TURN and UCAN should not be named in the General Order.*

The Commission has no rule prohibiting the name of an entity in a General Order. Here, the Commission is seeking an efficient method of informing the public about Advice Letters filed by carriers. In this instance, we find that the naming of TURN and UCAN to receive these Advice Letters is an appropriate means of informing the public. TURN stated its willingness to facilitate notice to the public in Northern California, and UCAN stated its willingness to do the same in Southern California. In addition, there is no language in the proposed modification that would prevent any other consumer advocacy organization from requesting removal or inclusion from a service list.

After review and consideration of the issues raised in comments filed, the Commission is making changes to the Resolution where appropriate. With these changes, the Commission believes the service list requirements will be an effective and efficient means of resolving identified service list deficiencies.

## **CONCLUSION**

After comments received from telecommunication carriers and public advocacy organizations, CD staff conducted an analysis and found that the current procedures for notification of telecommunication AL filings under G.O. 96-B are inadequate. The proposed amendment to G.O. 96-B, Telco Industry Rule 10 will expand notification of telecommunication AL filings to include placement on service lists of adjacent and competing utilities, and for particular AL's the Director of CD may require notice to other interested parties or utilities. This would be consistent with Industry Rules previously adopted for the Water and Energy Divisions and the competitive nature of the Telco Industry. The proposed amendment would also facilitate further notification to the public by including consumer advocacy organizations on service lists. The proposed amendment, adding Telco Industry Rule 10 is set forth in Ordering Paragraph No. 1 of this Resolution.

## **FINDINGS**

1. Service list notifications for utilities filing Advice Letters were established under General Order 96-A.

2. Procedures for service list notifications of Advice Letters with the Commission were amended under General Order 96-B, with Industry-specific rules adopted for the Water and Energy Industries, but not for the Telco Industry.
3. Because of competitive issues raised by the Telecommunications Act of 1996 and the subsequent Universal Regulatory Framework proceeding, Telco Industry Rules were adopted separately.
4. The Communications Division received comments from the telecommunication industry and consumer advocacy organizations regarding the lack of notice provided under the current service list rules.
5. After completing a review, the Communications Division found inadequacies in the current Telco Industry Rules.
6. The proposed amendments to Industry Rules are consistent with: applicable statutes and Commission orders, Advice Letter requirements of the Water and Energy Divisions, and the competitive nature of the Telco Industry.
7. Comments were timely received within the 15 day comment period, and Replies to Comments were timely received within 5 days following the initial Comment period.
8. The maintenance of a service list only requires limited resources, and should not be a hardship, given the ability to serve Advice Letters by Internet.
9. Pursuant to General Rule 4.3, Carriers shall, to the extent practical, maintain separate service lists for the following categories of Advice Letters: Interconnection Agreements; Changes in rates, terms and conditions of service, or initiation of new service; Eligible Telecommunication Carrier designation requests; Compliance filings; General Rate Case filings; Grant applications.
10. A provision should be included in Industry Rule 10, allowing a utility to be removed from the service list(s) of "adjacent and competing" carriers that receive the Advice Letters filed by any particular utility.
11. The terms "adjacent" and "competing" utilities should be defined.
12. Naming TURN and UCAN in the Industry Rule 10 to receive Advice Letters filed by carriers is an appropriate means of informing the public.

**THEREFORE, IT IS ORDERED** that:

1. The Telco Industry Rules of General Order 96-B are amended to read:

**Industry Rule 10- Service Lists for Advice Letter Filings.**

When filing any Advice Letter, the Utility shall serve it on the following persons (in addition to General Order 96-B, General Rules 4.3 & 7.2):

- i. Adjacent and competing utilities. Adjacent is defined as telecommunication carriers with a common Service Territory with the utility filing the Advice Letter. Competing is defined as any telecommunication carrier providing any telecommunication services within a common geographic Service Territory as the utility filing the Advice Letter. Any adjacent or competing utility that does not want to receive Advice Letters from a particular utility may ask that utility to be removed from its Advice Letter service list or lists.
- ii. Other persons or parties as directed by the Director of the Communications Division for particular Advice Letters.
- iii. The Utility Reform Network, and the Utility Consumers Action Network, independent consumer advocacy organizations, for the purpose of facilitating public comment.
- iv. Other utilities or persons requesting such notification pursuant to General Rule 4.3.
- v. To the extent practical, utilities shall maintain separate Advice Letter service lists, and shall identify the separate lists at the utility's Internet site pursuant to General Rule 4.3, for the following categories:
  - Interconnection Agreements
  - Changes in rates, terms and conditions of service, or initiation of new service
  - Eligible Telecommunication Carrier designation requests
  - Compliance filings
  - General Rate Case filings
  - Grant applications

2. Telecommunications carriers shall comply with Industry Rule 10 no later than 60 days after the adoption of this Resolution.

3. The Commission shall publish the revised Telco Industry Rules on the Commission's Internet site, and serve this Resolution on all Telco carriers.

This Resolution is effective today.

I certify that the foregoing Resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on \_\_\_\_\_, the following Commissioners voting favorable thereon:

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PAUL CLANON  
Executive Director